HOUSE OF REPRESENTATIVES—*Thursday, October 12, 1995*

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

DESIGNATION OF THE SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
October 12, 1995.

I hereby designate the Honorable STEVEN C. LATOURETTE to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

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

With the cluttered agendas of each day and with the demands and duties that mark our time, we pray, O God, that we will also see the glories and the miracles of daily life. With so many obligations that press on every side and the anxieties that mark troubled days, may we experience the abiding peace that Your presence allows. With the temporary fads and the transitory ideas that crowd our existence, we pray, O loving God, that we will cling to the timeless truths and the eternal hopes that are Your gift to us. In Your name, we pray. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from New York [Mr. SCHUMER] come forward and lead the House in the Pledge of Allegiance.

Mr. SCHUMER led the Pledge of Allegiance as follows:

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

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain fifteen 1-minute speeches per side.

NBC STORY ON DAVIS-BACON UNCOVERS FRAUD AND ABUSE

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

Mr. BALLENGER. Mr. Speaker, the Davis-Bacon Act has long outlived any usefulness that it may have had. The rationale for the act has never been very persuasive, but it remains law, adding millions to Federal construction costs.

Last night, NBC news highlighted the Davis-Bacon Act as part of their series entitled "The Fleecing of America." NBC reported on an Oklahoma investigation that has uncovered fraud and abuse in the administration of the Federal Davis-Bacon Act.

In three specific cases, the Oklahoma Department of Labor found instances where survey data on phantom projects was submitted and ghost employees were identified, presumably with the intent of inflating prevailing wage determinations. Basing the wages on inflated and perhaps fraudulent data would drive up costs of Government construction projects, wasting limited taxpayer dollars.

Scandals of this nature only further erode public confidence in the Government procurement process. This type of fraud and abuse must be stopped. Join me and the 119 cosponsors of H.R. 500, in supporting repeal of the Davis-Bacon Act.

INS CASHING THE CHECKS AND NOT PROVIDING THE SERVICE

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

Mr. GUTIERREZ. Mr. Speaker, how would you feel if you walked into a McDonalds, paid $5 for your Big Mac, fries, and a Coke, and were told, "Thanks for your money. We'll give you your food in a year or so."

Would you say, "No problem, I'll wait." No; you would say that is outrageous, unacceptable, scandalous.

Well, today the Immigration and Naturalization Service is currently saying to every citizenship applicant, "Thanks for your $95 application fee. Now wait 16 months and we will see if we get to you."

They are taking the money. They are cashing the check. They just are not providing the service. Let us be clear, at a time when some Members of Congress want to deny basic Government services to permanent residents, this delay is not merely an inconvenience, it is a threat to the very services many people rely on every day.

We have tried to make clear to the INS how urgent this crisis is. No luck. Maybe they do not understand English.

Ustedes han tomado nuestro dinero. Ahora, cumplan su promesa. Hagan su trabajo.

!Hagan a nuestra gente ciudadanos!

EARNED INCOME TAX CREDIT GETS PORKER OF THE WEEK AWARD

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

Mr. HEFLEY. Mr. Speaker, the earned income tax credit [EITC], is designed to help workers not poor enough for welfare, and may have been a good idea at first, but it has turned into a bureaucracy out of control.

In hearings last year, both the Treasury Secretary and the IRS Commissioner admitted that the fraud and overpayment rate in the $20 billion program could be as high as 45 percent. Get that: $9 billion in waste. It should come as no surprise that the IRS actually made the problem worse.

The agency's 1992 experiment that gave about $400 million in EITC benefits to those who had not applied but seemed entitled only created a monster: $175 million of erroneous payments. Part of it was poorly recorded paperwork. After all, 90 percent of the benefit checks, up to $2,500 each, go to those who pay no income taxes in the first place—including illegal aliens and prisoners.

For wasting money through a nearsighted bureaucracy, the earned income tax credit get my Porker of the Week Award.

SENIORS LOCKED OUT AND LOCKED UP WHILE THE DOCTORS MAKE A DEAL

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

Mr. SCHUMER. Mr. Speaker, yesterday two contrasting events showed just where the Republican majority wishes to take us on Medicare. On the one hand, Mr. Speaker, Speaker GINGRICH was in the room with the doctors, the AMA, and they were negotiating a deal. On the other hand, Mr. Speaker, a group of seniors who wished to be heard were actually arrested and handcuffed, although the charges were later dropped, for daring to try and speak to one of the committees that has their future in its hands. Simply, the doctors were in a room cutting a deal. I ask, Why weren't the seniors at the table?

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

All they got, Mr. Speaker, was locked out and locked up.

Mr. Speaker, if the doctors made a deal and got their cut, the only cut the seniors got was to their benefits. This shows what is going on here. Very simply, they are lining up the providers and giving them what they want and telling the beneficiaries, the senior citizens who have worked so hard, "You are going to suffer."

Mr. Speaker, we must stop this Medicare plan. It is unfair, unwise, and unbalanced.

ONLY THE REPUBLICAN PLAN SAVES MEDICARE

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

Mr. EWING. Mr. Speaker, after languishing for months without a plan to save Medicare, the Democrats have at least finally proposed something, even though it does not address the heart of the problem.

Their plan to find $90 billion in Medicare savings is not about saving Medicare; it's about saving Democrats for the next election. The Democrat plan does nothing but postpone Medicare's bankruptcy for 3 years. Furthermore, under the Democrat plan, when the baby boomers begin retiring in 2010, Medicare will be more than $300 billion in the red.

The Republican plan, on the other hand, makes a real attempt to address what is a long-term problem. Changes will be made in an attempt to make a 1960's program both functional and affordable in the 1990's. And our plan will make Medicare solvent through 2010.

Mr. Speaker, there are two plans to change Medicare. But only one saves it. And it's being offered by the Republican Party.

BACKROOM DEALS BEING MADE WHILE SENIOR CITIZENS GET ARRESTED

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

Ms. DELAURO. Mr. Speaker, if you want to understand how the special interests are winning out over the public interest in this Congress, just read today's newspapers. There are two stories about two different groups who came to Washington to protest parts of the Republican Medicare cuts. One group got a private meeting with the Speaker of the House. The other group got arrested.

When the American Medical Association and its high paid lobbyists came to Capitol Hill, they were given a closed-door meeting with Speaker GINGRICH. A backroom, billion-dollar deal was made and the AMA reversed its position and endorsed the Medicare cuts. When the National Council for Senior Citizen's came to Capitol Hill, its members got no meeting with the Speaker, its members got arrested. Yesterday, 15 senior citizens were arrested and taken away in handcuffs. Their crime? Asking to participate in our democracy.

Mr. Speaker, the Republicans are not afraid to listen to the special interests. Why are Republicans afraid to listen to the people?

HOW CAN THIS BE CALLED A CUT?

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

Mr. KIM. Mr. Speaker, the part A in Medicare is going to be bankrupted which has been financed by FICA payroll taxes. That is not enough. Beneficiary pay half, employer contribute the other half. That is not enough. What we trying to do is trying to fix the bankruptcy part A program without raising taxes of those younger people.

Let us take a look at the part B. This is financed by one-third by beneficiary, two-thirds by the other taxpayers. Used to be half and half. If we do nothing, it is going to end up 10 percent paid by beneficiary, 90 percent by the other taxpayers, which is not fair.

All we are trying to do is maintain the ratio, one-third as is now by beneficiary, and two-third by the other taxpayers. How could my colleagues call that a cut? Is it really cut? We are trying to fix part A and part B from bankruptcy without cutting it. I am tired of this rhetoric.

REPUBLICAN LEVEL OF INTOLERANCE RISES TO NEW HEIGHTS

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

Mr. KLINK. Mr. Speaker, yesterday, October 11, 1995, is a day of infamy as 15 senior citizens were taken prisoner of war in the Republicans' assault on America. These gray-haired ladies in wheelchairs and veterans walking with canes were not mugged in some back alley. They were hauled off in handcuffs from the Committee on Commerce of the U.S. Congress.

Mr. Speaker, 1 week earlier dozens of Republican lobbyists lined up, streamed into our committee, took mailbags full of letters in support of the Republican rape of Medicare, but that was fine because the leadership agreed with that position, and no effort was made to stop them. In fact, even though the letters came from nonexistent senior citizens, that action was endorsed. But when live senior citizens in an orderly manner tried to approach the dais yesterday to ask why no Medicare hearings had occurred on the legislation, they were silenced immediately.

Mr. Speaker, the Republican level of intolerance rose to new heights in a disgraceful show of authority and force to these seniors, and, I repeat, some in wheelchairs, others walking with the aid of canes, were arrested, handcuffed, and taken out of the people's House and taken to the big house.

MORE HEALTH CARE CHOICES

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

Mr. KNOLLENBERG. Mr. Speaker, the new majority plan to save Medicare includes new health care choices for seniors.

I heard something about unfairness over here a moment ago, but currently this is unfair. Medicare recipients are limited to a one-size-fits-all type of contract designed 30 years ago. It is time to expand those options. Why? Because giving seniors the right to choose from a variety of quality health care plans will create competition among health care providers, it will drive down costs, and it will allow seniors to pick a plan that meets their individual health care needs.

My colleagues, our plan is about more choice, not less. More; we do not force seniors to give up their current coverage. If a senior likes the current system, he or she can stay in traditional fee-for-service Medicare. No questions asked. But if a senior wants to try something new, maybe a plan that covers prescription drugs and limits out-of-pocket costs, there is one for him. We provide that option.

Mr. Speaker, more health care choices for seniors, not less. It is that simple.

MONEY BUYS ACCESS—PROTEST GETS YOU ARRESTED

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

Mr. MILLER of California. Mr. Speaker, today, senior citizens can choose their doctor, their hospital, any kind of medical care they went under current Medicare rules. Why are the Republicans offering more choice; why are the Republicans forcing more choice? Because the Golden Rule Insurance Co. gave $157,000 to GOPAC, the political arm of Speaker GINGRICH, another $45,000 to Speaker GINGRICH's two campaigns. They sponsored Speaker GINGRICH's TV show, and they have given almost $2 million to Republican causes. That is why they want to force senior citizens into medical savings accounts.

Mr. Speaker, I say to my colleagues, if you have money, you have access to

the Republican plan for Medicare. The doctors met with Speaker GINGRICH in the middle of the markup of the Medicare bill in the Committee on Ways and Means. They got $3 billion—$3 billion. Golden Rule gives money to campaigns; they got millions of dollars, hundreds of millions of dollars, in businesses.

Senior citizens approached the chairman of the committee yesterday and asked about the future of Medicare. They were arrested. I say to my colleagues, if you have money, you can cut deals. If you need health care, you get arrested.

□ 1015

SAVE, PRESERVE, AND STRENGTHEN MEDICARE

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

Mrs. KELLY. Mr. Speaker, yesterday we took a number of positive steps forward in our effort to save, preserve, and strengthen Medicare.

The House Ways and Means Committee passed their portions of the Medicare Preservation Act and the American Medical Association—one of the largest health care providers in the country—endorsed the House Republican plan.

When I first ran for Congress, Mr. Speaker, I ran on the promise of reform—repeal of the status quo and change for the better.

Our Medicare plan delivers on this promise of reform. By increasing seniors control of their health care dollars, providing greater choice of providers and ensuring long-term solvency, we are keeping our word.

There are those who will continue to throw stones at us from the sidelines, but as we enter the final phase of our efforts to save Medicare, I would encourage them to join us.

The American people are sick of the politics-as-usual mentality that they are expressing and want us to save Medicare.

The medical care of 37 million people is on the line, and until the Democrats face up to this fact rather than their own reelections, the American people will continue to discount all that they say and all that they do.

THE REPUBLICAN PLAN IS A MERCY KILLING OF MEDICARE

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

Mr. DOGGETT. Mr. Speaker, the bloom is finally off the Republican pay-more-get-less plan. There it is, in all its ugly splendor. Let us look at the real details of the plan. To protect the Medicare trust fund, let us drain 4 years of revenues from the fund. To fight Medicare fraud, cut any fraud law enforcement. To reduce soaring medical costs, let us permit doctors to charge higher fees. That is the only way they will support the plan. To secure last-minute support from one of America's fattest lobbies, let us give them a sweetheart deal that they say will mean billions of dollars for them.

Yes, this is real Republican doctoring of Medicare, doctoring it up so all Americans will know what it is. But the model for that doctoring is Dr. Kevorkian. Our Republican colleagues really have in mind a mercy killing for Medicare. To save Medicare, let us kill it. That is the real Republican pay-more-get-less plan.

DEMOCRATS ARE SCARING SENIOR CITIZENS ON MEDICARE ISSUE

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

Mr. CHABOT. Mr. Speaker, the Democrats in Congress would like everyone to believe that Republicans are cutting Medicare, allegedly to give tax cuts to the rich. That is garbage and they know it. First of all, we are not cutting Medicare. Our plan will slow the growth, give seniors more options, all in order to save, protect, and preserve Medicare, to keep it from going bankrupt.

Second, our tax cuts in the Contract With America are paid for. They were paid for last April, when we passed our bill on the floor. Who will benefit from these tax cuts? Every family in America. Our $500 tax credit for children is the main part of our tax relief package. Do Democrats think any family with a child is rich? Apparently they do. They seem to think that anybody who has a job in America is a rich person. I do not think that is true.

Mr. Speaker, together we should be working to save Medicare, not just trying to scare our senior citizens, which apparently is what the Democrats are stooping to doing.

CUTS IN MEDICARE WOULD HURT OUR MOST VULNERABLE CITIZENS

(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, I rise today to protest as strongly as I can the disastrous cuts the Republicans are proposing for Medicare and Medicaid. In my small State of Vermont, 67,000 senior citizens and disabled Vermonters will have to pay higher premiums and higher deductibles for a weakened Medicare system. Most of those 67,000 Vermonters today are having a hard time paying for their prescription drugs and other health care needs. Cuts in Medicare will be absolutely disastrous for them. To add insult to injury, the Republican Medicaid cuts will be terrible for low-income seniors, for the children, who are the most vulnerable people in our society. In Vermont, at least 20,000 Vermonters, low-income kids, low-income elderly, and low-income disabled, stand at risk of losing their entire Medicaid coverage. That is wrong.

NO AMERICAN SOLDIER SHOULD SERVE UNDER THE UNITED NATIONS HIGH COMMAND

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

Mr. FUNDERBURK. Mr. Speaker, last year when American soldiers were killed over Iraq, Vice President GORE told the widows and orphans of those men they died in the service of the United Nations. Mr. Speaker, I cannot think of a more outrageous statement made by any American official in years.

The Clinton administration now has struck again. This time they are considering prosecuting a young American soldier, Specialist Michael New, who refused to put on the blue uniform of the United Nations, and refused to serve in Macedonia under a general from Finland.

Specialist New understands his soldier's oath. He pledged to wear the American uniform and to lay down his life for our country and our Constitution. Nowhere did he swear allegiance to the United Nations Charter or promise to obey the orders of his superiors in the United Nations high command.

Mr. Speaker, I hope they understand that down at the White House before they tell another American family that its husband, father, son, or brother died in the service of the United Nations. I do not believe any American soldier should serve under U.N. command.

TOP 10 REASONS WHY REPUBLICANS REFUSE TO HOLD HEARINGS ON THEIR MEDICARE CUTS

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

Mr. ENGEL. Mr. Speaker, from the home office in Bronx, NY, the top ten reasons why Republicans refuse to hold hearings on their Medicare cuts:

No. 10. Republicans figure seniors can't hear, so why bother holding hearings?

No. 9. It might interfere with the O.J. press coverage.

No. 8. It's easier to arrest seniors than to listen to them. (At least they can get health care in jail, not under the Republican plan.)

No. 7. The more you know about their plan the sicker you'll get.

No. 6. Republicans would rather give tax cuts to the wealthy than health care to Grandma.

No. 5. They want to keep seniors in the rocking chair, not in the witness chair.

No. 4. Republicans saw a product in the National Enquirer that makes Medicare obsolete.

No. 3. Why hold hearings when a tax break for the rich can buy diamond earrings?

No. 2. Mugging Medicare recipients is easier if you do it in the dark.

No. 1. Ah, who needs a second opinion. There's one side to every story.

NOW WE KNOW WHO IS LYING ABOUT MEDICARE REFORM

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

Mr. GENE GREEN of Texas. Mr. Speaker, yesterday the Republicans finally conceded that their so-called Medicare reform plan would extend the Medicare trust fund only to the year 2006 instead of 2010, as they have been claiming. In fact, they claimed on this floor yesterday early in the morning that their plan would extend the Medicare trust fund until the year 2010. Now the Republican majority realizes they only need $90 billion to stabilize the trust fund until the year 2006 and not $270 billion to stabilize to the exact same year.

It is very interesting to note that the Democrats have an alternative plan that would assure the solvency to 2006 by only cutting the necessary $90 billion. What we need is to be asking our friends on the other side, Why are you cutting three times more than you need to stabilize the fund, and you are only stabilizing it to 2006? Be honest about it, it is going to tax cuts. At this point I suppose we should ask the Republican majority, why are you increasing premiums, deductibles, copayments, and making extreme reductions in payments to hospitals to provide a budget-busting tax cut?

There is a country western song in Texas that is popular now. It is called "I Let Her Lie." The people know now who is the one that is doing the lying.

AMERICANS WANT THE WASTE CUT OUT OF MEDICARE

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

Mr. STEARNS. Mr. Speaker, as we press ahead with the most important business before this Congress, strengthening Medicare, the American people need to understand just how much waste can be cut out of this program for senior citizens. Last Thursday I was home in my district for a series of town meetings with seniors to discuss the Medicare plan.

At one of these meetings I had a constituent, Mrs. Hill of Ocala, stand to her feet to offer one example of the waste in the system. This is it, right here in my hand. It seems Medicare part B reimbursed beneficiaries no matter how small the cost, in this case 1 cent. What is Mrs. Hill going to do with the check for 1 cent? The time she spent opening the envelope was worth 1 cent. The postage alone to send this check is worth 32 cents, or 32 times its value. I bet the paper and ink used to print this check cost more than 1 cent.

Mr. Speaker, conservative estimates put the amount of waste, fraud, and abuse in Medicare at $20 billion. With stories like Mrs. Hill's it is little surprise. Our seniors demand and deserve that we root out waste, fraud, and abuse for Medicare. They are right, and we should.

ARRESTS ON CAPITOL HILL MAKE A SAD DAY FOR SENIOR CITIZENS

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

Mr. PALLONE. Mr. Speaker, I was astonished yesterday, as a member of the Committee on Commerce, to watch while a group of about 15 or 20 senior citizens came into the room, asked to speak, were denied the opportunity to speak or say anything about Medicare which is going to affect them so greatly, and then were told that they were going to be arrested, were actually arrested, handcuffed, put into a paddy wagon, and taken down to the Capitol Police to be booked or whatever.

I know the charges were eventually dropped, but it was a very sad day to know there was really no opportunity for these seniors and for America's seniors in general to be heard on an issue so important as Medicare. Then I watched as the Republican leadership on the committee proceeded to mark up a Medicare bill that essentially destroyed Medicare as we know it. What that bill will do is to force most seniors into HMO's or managed care. It will make those who would like to continue to be able to choose their hospital, their doctor, in a traditional fee-for-service program more and more be squeezed out of that program where they have no choice. It is a sad day for America.

REPUBLICANS WILL PRESERVE AND PROTECT MEDICARE

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

Mr. TIAHRT. Mr. Speaker, I want to talk about a credibility gap and a short history lesson. Many remember last spring, right here on the floor of the House, they talked about nutrition programs, and how the Republicans were going to slash nutrition programs and cause children to starve.

I was in the Dodge Edison Elementary School this Monday, and Dr. Larry Reynolds is doing a very fine job of running that institution. None of the children were starving, not one was reported. In fact, ask yourselves, have you heard of any children all across this Nation in public schools starving? The answer is no. That is the credibility problem.

Those who were telling us that there were going to be starving children were wrong, absolutely wrong. Now we hear things like "The Republican plan is going to kill Medicare. There are sweetheart deals, disastrous cuts. Savings are going to pay for tax cuts." The credibility gap rises again. We are going to preserve and protect Medicare for our parents and for our grandparents. We have a specific plan. It is realistic. It is in plain English. It is up front.

Parents will have the right to choose what kind of health care. They will have the right to stay with their current doctor and their hospital. There is no credibility gap in the Republican plan. We delivered growth for nutrition programs. We will preserve and protect Medicare.

HOW MANY SENIOR CITIZENS WILL THE REPUBLICANS ARREST TODAY?

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

Mrs. SCHROEDER. Mr. Speaker, after watching what happened in this House yesterday, I feel like taking this well and yelling at the other side: "Hey, hey, what do you say, how many seniors are you Republicans going to arrest today?"

This is supposed to be the people's House. I was totally outraged that people in wheelchairs, that seniors who were frail, that are absolutely no physical threat to anyone, are arrested and taken away because they are asking questions of the people's representatives; imagine, how dare they? That is wrong.

I hope the leadership on the other side of the aisle apologizes to parents. I stand here in the name of my parents, my grandparents, and everyone else. That is not the America they fought for. I think we all ought to stand firm and say, "We want an apology, and we want the elderly of America to know they are welcome here, and they are able to ask questions of elected leaders here, and they should be able to get answers from elected leaders here about this wonderful thing they are supposedly doing for them, not to them."

□ 1030

MEDICARE SHIM-SHAM

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

Mr. HASTERT. Mr. Speaker, I have sat here this morning and listened to Member after Member on the other side trying to shim-sham the American people of what happened as far as Medicare. Well, I guess when you do not have a Medicare plan, I guess when you do not have an idea, you try to distort the issue. As a matter of fact, what you try to do is take some poor, innocent, old people and use them as your sham to bring them as a stage prop, to use the director of Information Services for the National Council of Senior Citizens, who gets almost $70 million of their $74 million budget out of the taxpayers' pocket. I guess that is what you do to misinform the American people, to try to distort the issues.

Mr. Speaker, what we are trying to do in Medicare is to preserve the Medicare system that the President's own trust fund said is going broke. What we are trying to do is give the people of this country a choice and to preserve a system, because they deserve a better way.

REPUBLICANS RAMMING THROUGH MEDICARE PLAN

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

Mrs. MALONEY. Mr. Speaker, three decades ago the Democrats gave American seniors peace of mind when they created Medicare. Medicare led to a 50-percent drop in the number of seniors living at the poverty level. It led to a 50-percent increase in the number of seniors that have health care. While in control of Congress for 30 years, the Democrats gave life and protection to Medicare.

Yesterday the Republicans arrested seniors that wanted to listen and learn more about Medicare at some of the hearings and meetings that are taking place here. The Democrats giveth, and the Republicans taketh away.

The new majority is ramming through a plan that needlessly slashes $270 billion and doubles Medicare premiums, and those additional premiums are not even going into the Medicare trust fund. The Republicans say they are saving Medicare because it is in a crisis. I say, the only crisis to Medicare is that the Republicans are in power.

TAX AND SPEND OUTDATED

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

Mr. SOLOMON. Mr. Speaker, I stand here this morning in shocked amazement when I ponder the word "responsibility." I have just listened to most of the people on that side of the aisle stand up here and speak. As I look through this National Taxpayers Union Foundation rating of those that spend, spend, spend, and tax, tax, tax, almost every one of those on the other side who have stood up to speak appear on this list as the biggest taxers, the biggest spenders in this Congress.

Mr. Speaker, when I came to this Congress 18 years ago, I came here as a small businessman with the responsibility to meet a payroll for 100 different families. I still have this perspective. I received a phone call sitting in my office at 6:30 this morning from a senior citizen from my district and she said, "JERRY, you have a responsibility to do what is right, to protect the Medicare system."

That is what we are here today to do, to keep it from going bankrupt. My colleagues know it is going bankrupt under its present course. We need to be responsible on this floor. We need to give people the freedom to choose their own doctors, and not to force some bureaucratically approved HMO down on them. Our program gives Americans this choice and saves the system from bankruptcy. My colleagues better start thinking about the word, "responsibility" because people are not going to continue to buy this tax, tax, tax, spend, spend, spend attitude around here any longer.

BACK ROOM DEALS FOR THE WEALTHY

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

Mr. BROWN of Ohio. Mr. Speaker, 2 days ago the American Medical Association cut a back room deal with Speaker GINGRICH for them for $15 billion out of the Medicare fund because the AMA contributes $1 million to Republican political campaigns. Yesterday an elderly woman came into the Committee on Commerce on which I sit and simply stepped forward, said she wanted to talk about Medicare and was told she could not speak and then she was arrested, taken out of the room with a dozen other senior citizens, handcuffed, fingerprinted at the police station and booked.

Think about it. Lobbyists in the back room cutting a deal with NEWT GINGRICH, senior citizens not even allowed in the committee room simply because they want to talk about Medicare, and they are arrested. Lobbyists in the back room cutting deals with the Speaker, multi-billion-dollar deals, senior citizens in the hearing room arrested because they wanted to talk about something that mattered every day in their lives, all in the name of tax cuts for the wealthy. It is wrong, Mr. Speaker.

THE POWER TO CHOOSE

(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, I cannot help but respond to the comments of the gentleman who just spoke before me because I happened to be in that room two nights ago and what he said was simply wrong. I know it is against the rules to call people liars in here, so I shall not do that. I will just say that everything he said is wrong.

Doctors in this country under the new Medicare plan are going to give back in lost revenues about $26.1 billion. They are not happy with that, but they are happy with the overall thrust of the bill, which will, for the first time in 30 years, bring market forces to play for seniors just as well as it has for other people in the health care arena. People who want to keep their own system in Medicare as they have right now have that right. No one is going to be forced to change. But if you want to try something different, something that all the rest of America has been using in the last 20 years in changes in health care delivery, whether it is HMO's, managed care, or high deductible insurance policies, they will have that choice.

The important thing to note is this: They will choose, not a bureaucrat, not a politician in power; they will choose.

REPUBLICANS AND DEMOCRATS CAN WORK IT OUT

(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, news reports say that John Wayne Bobbitt, bearing roses and chocolates, went acourting the same woman who tried to steal his family jewels once before. That is right. The same news sources say that ex-wife Lorena says, I quote, "As far as I am concerned, this matter is cut and dried."

Mr. Speaker, the reports say John Bobbitt is not discouraged. He said he will try again. Now, think about this. If the Bobbitts, John Bobbitt specifically, can set his pride aside on the side of the road and try and resolve differences, Democrats and Republicans can work out what differences exist with Medicare. Think about it. In fact, if this couple can resolve their differences, all of America can work out our problems. With that, Mr. Speaker, I yield back the balance of any outstanding matter in this 1-minute.

APPOINTMENT OF CONFEREE ON H.R. 4, PERSONAL RESPONSIBILITY ACT OF 1995

The SPEAKER pro tempore (Mr. LATOURETTE). Without objection, Mr. TANNER is appointed as a conferee on the bill (H.R. 4) to restore the American family, reduce illegitimacy, control welfare spending, and reduce welfare dependence.

There was no objection.

The SPEAKER pro tempore. The Clerk will notify the Senate of the change in conferees.

PERMISSION FOR SUNDRY COMMITTEES AND THEIR SUBCOMMITTEES TO SIT TODAY DURING THE 5-MINUTE RULE

Mr. PACKARD. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit today while the House is meeting in the Committee of the Whole House under the 5-minute rule: the Committee on Agriculture, the Committee on Banking and Financial Services, the Committee on Commerce, the Committee on Economic and Educational Opportunities, the Committee on Government Reform and Oversight, the Committee on International Relations, the Committee on the Judiciary, the Committee on Resources, the Committee on Science, the Committee on Small Business, and the Committee on Veterans' Affairs.

It is my understanding that the minority has been consulted and that there is no objection to these requests.

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

There was no objection.

LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1996—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore. The unfinished business is the further consideration of the veto message of the President on the bill (H.R. 1854) making appropriations for the legislative branch for the fiscal year ending September 30, 1996, and for other purposes.

Mr. PACKARD. Mr. Speaker, I ask unanimous consent that the message, together with the accompanying bill, H.R. 1854, be referred to the Committee on Appropriations.

The SPEAKER pro tempore. Without objection, the veto message of the President on the bill, H.R. 1854, is referred to the Committee on Appropriations.

There was no objection.

GENERAL LEAVE

Mr. PACKARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the veto message of the President to the bill H.R. 1854, and that I may include tabular and extraneous material.

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

There was no objection.

CONFERENCE REPORT ON H.R. 1976, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 235 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 235

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 1976) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1996, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore. The gentleman from Georgia [Mr. LINDER] is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. HALL], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 235 is a simple resolution providing for consideration of the conference report making appropriations for the Department of Agriculture, Rural Development, the Food and Drug Administration, and Related Agencies for fiscal year 1996. House Resolution 235 waives all points of order against the conference report and against its consideration. I am pleased that the rule was unanimously approved by the Rules Committee.

This was a productive conference and it is important to note that the conference report provides a total of $63.2 billion, which is $4.8 billion less than was appropriated last year. The conference report is also $3.3 billion lower than the amount requested by the Clinton administration, and $630 million lower than the Senate-passed bill.

It is clear that the appropriators have to balance an assortment of concerns and make difficult choices with limited funding at their disposal this year. I want to recognize Chairman BOB LIVINGSTON and Subcommittee Chairman JOE SKEEN for their efforts to keep the appropriations language as close as possible to the provisions included in the original House bill during the conference with the Senate.

The product of their work under extraordinarily tight fiscal constraints will help guarantee that the available funding is spent where it is needed most.

Among the notable appropriations and provisions in the conference report is funding for rural water and waste disposal grants and loan, funding for conservation programs to sustain agricultural productivity, the retention of a provision prohibiting the use of Market Promotion Program funds by the mink industry, and the establishment of priorities for the women, infants and children nutrition program. While the conference report makes its contribution to balance the budget and continue the consolidation of the Department of Agriculture, this bill also effectively maintains functions that are crucial to the health and safety of the American consumer and to the future success of this Nation's farming communities.

I am encouraged to note that the Clinton administration has indicated that it is supportive of this bill. In light of this support, I hope that the President will sign it. I urge my colleagues to support the rule so that we may proceed with debate and consideration of the underlying legislation.

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

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

Mr. Speaker, I would like to commend my colleague from Georgia, Mr. LINDER, as well as my colleagues on the other side of the aisle for bringing this rule to the floor.

House Resolution 235 makes it in order to consider the conference report on H.R. 1976, the Department of Agriculture and related agencies appropriation bill for fiscal year 1996, and waives all points of order against the conference report. The Rules Committee reported the rule without opposition by voice vote.

The conference report on H.R. 1976 appropriates a total of $63.1 billion. I believe the conferees did a good job of setting priorities under difficult budget constraints and I commend the leadership of Mr. DURBIN and Chairman SKEEN.

I am especially pleased that the bill includes $3.7 billion for WIC. This is one of the most effective Federal antihunger programs that provides food and nutrition to low-income women, infants, and children.

I am also pleased with the funding levels for international food aid, which is one of the best U.S. international programs. In my travels to the developing nations such as Bangladesh, Ethiopia, and Peru, I have personally seen

United States grain save the lives of hungry people during times of famine. It is fitting that this bill gives high priority to the title II portion of Public Law 480 which provides food for people threatened by a humanitarian crisis or natural disaster.

Mr. Speaker, I urge adoption of the rule.

□ 1045

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

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. SKEEN. Mr. Speaker, pursuant to the rule just adopted, I call up the conference report on the bill (H.R. 1976) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1996, and for other purposes.

The Clerk read the title of the bill.

GENERAL LEAVE

Mr. SKEEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and that I be permitted to include tables, charts, and other extraneous material.

The SPEAKER pro tempore (Mr. LATOURETTE). Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 28, 1995, at page H9628.)

Mr. OBEY. Mr. Speaker, it is my understanding that since the gentleman from New Mexico [Mr. SKEEN] is in support of the conference report as it now stands, as is the gentleman from Illinois [Mr. DURBIN], the ranking Democratic member on the subcommittee, that the rule provides that the time be allocated with at least one-third being given to a Member who is at this point opposed to the proposal. Given that rule, I would ask that one-third of the time be assigned to me.

The SPEAKER pro tempore. Since the gentleman from Illinois [Mr. DURBIN] does not appear to be present, the Chair is going to assume that the gentleman from Illinois [Mr. DURBIN] is in favor of the conference report because he signed it. Therefore, pursuant to the rule, the time will be allocated 20 minutes to the gentleman from New Mexico [Mr. SKEEN], 20 minutes to the gentleman from Illinois [Mr. DURBIN], and 20 minutes to the gentleman from Wisconsin [Mr. OBEY].

The Chair recognizes the gentleman from New Mexico [Mr. SKEEN].

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

Mr. Speaker, I am pleased to bring before the House today the conference report on H.R. 1976 which appropriates funds for fiscal year 1996 for Agriculture, Rural Development, the Food and Drug Administration and related agencies.

The House approved the bill on July 21 by a vote of 313 to 78. The Senate passed its version of the bill on September 20 by a vote of 97 to 3. House and Senate conferees met on September 27 and approved the report which was printed in the CONGRESSIONAL RECORD of September 28 and which is before the House today.

Mr. Speaker, the conference report has an appropriation of $63.1 billion which is $4.8 billion below last year's appropriations bill and $3.8 billion below the fiscal year 1996 request. It is right at the committee's allocation for budget authority for discretionary spending.

There were two limitation provisions against mandatory programs in the House bill. These were agreed to by the authorizing committee. The Senate repeated these two limitations in their bill and added five more. In conference, we persuaded the Senate to drop three of these five new limitations. It was our understanding that the two we kept were not being used for savings by the authorizing committee in fiscal year 1996. Since then the situation for one of these limitations has changed, but it was adjusted so the authorizing committee can still capture $570 million in out year savings.

Before recommending this bill to my colleagues, I want to once again point out that although we always refer to this as the Agriculture appropriations bill, the scope of programs which this bill supports touches and improves the lives of every American, every day. This is a bill for rural America, for urban America, for every constituency represented in this body.

To begin with, this bill supports a system of agriculture which allows less than 2 million farmers and ranchers to deliver an abundant supply of food to 260 million Americans. It also is the basis for an export system that this year is delivering a record $50 billion in sales overseas, supporting jobs in the agriculture, food processing, and transportation industries in every one of our great States, territories and the Commonwealth of Puerto Rico. That same system also continues nearly 50 years of American leadership in delivering food aid to fight hunger and disease in other countries.

Included in this bill are the appropriations for the food safety programs which protect our food supply as well as the Food and Drug Administration's programs to ensure the safety of medicines and medical devices.

The bill continues strong support for the Women, Infants, and Children Feeding Program and food stamps as well as feeding and nutrition programs for preschool and school-age children, the elderly, and the homeless.

I would say to all of my colleagues that during the August recess, many of your offices contacted the subcommittee to express concern about rural housing and development programs, asking us to add money back into these programs if possible. I am pleased to tell my colleagues that we were, in fact, able to do this. The conference report provides for a loan level for section 502 direct housing of $1 billion and $1.7 billion for guaranteed housing loans. This was possible, in part, because the subsidy rate for the section 502 direct loan program has dropped by nearly one third since we first marked up the bill. In addition, we were able to increase the House level of funding for rural water and sewer programs to $488 million.

Finally, the bill continues strong levels of support for research, conservation, and environmental protection throughout the country.

Mr. Speaker, on a personal note, I want to once again thank all my Democratic and Republican colleagues on the subcommittee, each and every one of whom made valuable contributions to this bill. My special thanks go first to the former chairman of the subcommittee and now the ranking member, the distinguished gentleman from Illinois and my good friend, DICK DURBIN. I also extend sincere thanks to our Democratic colleagues MARCY KAPTUR, RAY THORNTON, and NITA LOWEY. And to my Republican colleagues I also want to say thanks for all their help and hard work in getting us here today: JOHN MYERS, JIM WALSH, JAY DICKEY, JACK KINGSTON, FRANK RIGGS, and GEORGE NETHERCUTT.

I would also like to point out that both the distinguished chairman and ranking member of the full committee were active in the work on this bill from subcommittee markup through the conference, and I want to also thank the gentleman from Louisiana [Mr. LIVINGSTON] and the gentleman from Wisconsin [Mr. OBEY] for their efforts.

Mr. Speaker, this is a good, bill. It was created in a bipartisan process and deserves bipartisan support. The White House has indicated that the President will sign this bill. If you support the conference report you can go home and tell your constituents that you did a lot for them for fiscal year 1996 and a lot for them in the future because it does its fair share to reduce the deficit and downsize the Government.

The statement of managers accompanying the conference report inadvertently fails to explain the conference committee's agreement regarding Agricultural Research Service

[ARS] laboratories proposed for closure in the President's fiscal year 1996 budget. The conference agreement provides funding to maintain the El Reno, OK; Sidney, MT; Clemson, SC; and Miami, FL, ARS laboratories. The other locations not transferred to non-Federal ownership, as proposed by both the House and Senate, are to be maintained as ARS worksites. The Houma facility is to be used as a worksite of the ARS center in New Orleans, LA.

The conference report concurs with Senate report language that the Food and Drug Administration not proceed further with a cosmetic hotline. It should, instead, evaluate existing programs to promote the voluntary reporting of serious adverse reactions to cosmetics.

Mr. Speaker, I urge all my colleagues to vote "aye" on the conference report for H.R. 1976.

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

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

Mr. Speaker, I would like to join my chairman, the gentleman from New Mexico [Mr. SKEEN], in saying at the outset that this subcommittee, despite the tremendous challenges which we have had to provide funding for the U.S. Department of Agriculture, the Food and Drug Administration, the Commodity Futures Trading Commission, and other important agencies, despite these challenges and despite the fact that the resources available are so limited, it has been a genuine pleasure to work on this subcommittee.

We have our differences, we have our battles, but I think that the people of this country would be proud of the way that they are handled. Virtually every issue is handled on a bipartisan basis. We strive to find a commonsense solution. Quite honestly, I think that is what people expect of Congress and expect of their elected representatives in both the House and the Senate. It is one of the reasons why I have enjoyed this subcommittee so much over the years, both as chairman and as the ranking minority member.

I want to salute the gentleman from New Mexico [Mr. SKEEN] for his leadership. It has been a tough, tough year. Not only did you have budgetary restraints, the new mantle of leadership puts you in a tougher position than you have seen in the past, and you have handled it so well. It is a great source of satisfaction to you, I am sure, and to all of us to have been part of this process.

I want to salute my colleagues, my Democratic colleagues who have played such an important role on our side of the aisle: the gentleman from Arkansas [Mr. THORNTON], the gentlewoman from New York [Mrs. LOWEY], the gentleman from Wisconsin [Mr. OBEY], and, of course, sitting right next to me during the course of the deliberations, the gentlewoman from Ohio [Ms. KAPTUR]. All of them made a significant contribution.

Let me tell you about the pluses and minuses, and I think the chairman has pointed to them.

I am very happy to report that the level of funding for the Women, Infants and Children supplemental feeding program has been maintained at what I consider a very responsible level at a very tough time. The gentleman from New Mexico and all Members know of my commitment to this program. I honestly believe that if we do not invest our dollars in the women of America who are in fact lower income and disadvantaged and pregnant, that we will pay a very dear price.

We have to make certain that these women are given the very best in medical care and in nutritional care, as well, so that they have a good pregnancy and give birth to a healthy baby. That is the best investment in the future of this country we can make.

This committee is the ag subcommittee but it is also by and large a nutrition subcommittee. When we assign priorities to nutrition in America, there is no higher priority than pregnant women and their small children. The WIC Program takes care of them.

I thank the chairman for taking care of them this year. He has maintained a commitment which we all have the highest respect for in the future of this program. We cannot let up in the future years. We have got to keep this commitment very much alive.

I am concerned that even though we have improved some figures on rural development, we still are far short of what we need. The chairman lives in small town America, as do I, he in the southwestern part of the United States, myself in the Midwest. Small towns in this country are really facing great pressures, economic pressures. They need to make sure that resources are available to modernize their infrastructure and to provide for housing. We help them. Unfortunately, we are not going to help them enough.

I hope we can find creative ways, perhaps with less Government money but with better results in the future, and that is what we are striving to do. I am glad that we were able to restore some of the money for research in this bill, because ag research is so critically important. When you consider that some 17 percent of our gross domestic product comes from the production and sale of food and fiber in America, it is a major industry in the economic fabric of our country. Yet when you look at the research dollars from the Federal level that are dedicated to this industry, they are very small, $1.1 billion roughly given by this Government out of a $1.5 trillion budget for research purposes. Quite honestly, when you look at money invested in the Pentagon or other areas of research, the amount given here is minuscule. What we ask of the people involved in research here is substantial, to come up with new ways to grow crops, to do it in a safe way.

One of the issues that we got involved in in this committee, a debate which was resolved on the floor of the House, was over the new standards for meat and poultry inspection in America. It has been my experience to meet one woman in Chicago who lost her 6-year-old son to contaminated meat. E. coli bacteria, literally in the course of 4 or 5 days, took the life of her son. It is still devastating, this long afterwards, for her to speak of it. But she understands, as all of us must, that modernizing meat and poultry inspection is in the best interests of America.

We have got to get beyond the old days, the 1908 days of Upton Sinclair's jungle where the Federal inspectors stood by and if they did not smell something funny or it did not look odd, they approved the meat. We are in a new era and our meat and poultry inspection has to come of age with it. I am glad we are dedicated to that happening.

Also the market promotion program, that was a big hassle and one that went late into the night. We finally, I think, came to a good conclusion. This is a good program. We are going to dedicate resources where they are needed the most. We have to maintain our competitive edge around the world.

□ 1100

Now there is one provision in the bill which I disagree with, and it relates to chickens, and I do not know if we will get into this debate today over frozen and fresh chickens. If we do, I will have my opportunity to speak to it, but I think quite honestly that we have taken the wrong course when it comes to this important issue.

When a consumer goes in a store in America and sees a chicken labeled as fresh, that consumer should, of course, be confident that they are buying a fresh chicken, but unfortunately the poultry industry has decided that they can freeze a chicken down to zero degrees and still call it fresh.

My colleagues, all of us know by common sense that is not the case. A fresh chicken tastes differently than one that has been frozen, and a fresh chicken may cost a little more than one that has been frozen, but the poultry industry, in order to protect their profit margins, want to continue to basically hoodwink consumers in this country and not tell them the true story about whether or not that poultry product has ever been frozen. Most people, men and women, who work in the kitchen at home know that once a chicken is frozen it is not desirable to refreeze it, it is not a good idea, and yet consumers may not know any better based on how it is labeled.

So, the administration tried to move to a new category, one that I think is fairly bizarre, called hard-chilled, whatever the heck that means, hard enough to be a bowling ball, but they called it hard-chilled. I think it is frozen, and I think we ought to just level with consumers.

Unfortunately, Mr. Speaker, in this bill we basically say we are not going to, we are going to continue to play the game. The poultry people are going to put the label "fresh" on something that has been frozen as hard as a bowling ball, and the consumers will not know any better, and, quite honestly, I think that is a mistake, and I voted against it in committee.

Mr. Speaker, I do not know if that issue will come up today in deliberation, but, if it does, I hope that we have a chance to rectify that.

But, having said that, I will not make of that wart the whole face. I will say that in fact this is a great bill. It is one that was worked on long and hard by staff and Members, and I congratulate my chairman.

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

Mr. OBEY. Mr. Speaker, I yield myself 7 minutes.

Mr. Speaker, first let me say that, when I left, or when the bill left the House originally, I opposed it because I thought that the reductions that were provided for rural sewer and water and rural housing were very much too deep to reflect a fair share of the required spending reductions in the budget which were assigned to rural America.

Mr. Speaker, I think people often forget there is as much poverty in rural America, in fact more, than there is in urban America, and we, as a society, have a tendency to ignore that.

I want to congratulate the gentleman from New Mexico [Mr. SKEEN] and the gentleman from Illinois [Mr. DURBIN] because I think that they have done probably the best job that was possible to do in restoring some of those unfair reductions and achieving a better balance within the bill in terms of the reductions that are required. And I guess, while I am uncomfortable with some of the reductions, I guess I would have to say that I think people in rural America want spending reductions as much as anybody else, and, if they do, then they have to expect them to be applied to programs that affect rural America just like everybody else.

So, while I still have great misgivings about some of the squeeze that this will put on our rural communities, I cannot really quarrel with the judgments that the committee has made. And I think it is a substantially improved bill, and I really do not want to urge anyone to vote against it because of what I am going to say here this morning. But I am taking the well because I am concerned with the item that was mentioned by the gentleman from Illinois [Mr. DURBIN], and I will have a motion to recommit at the proper time because I think that, while this bill is a reasonable bill in terms of its spending reductions, I think that is unreasonable with respect to the fraudulent labeling of poultry products which it allows to continue.

Mr. Speaker, let me simply summarize what that situation is:

The insane situation that the conference agreement would continue allows poultry to be labeled as fresh if its internal temperature is 1 degree above zero and below 40 degrees Fahrenheit. Only poultry chilled to zero degrees or below would have to be labeled as frozen under the existing situation.

Now it is that existing situation which has led to considerable consumer confusion and to court cases. In fact, in one legal action striking down what was a fairly sensible California State law, Mr. Speaker, a U.S. appeals court wrote the following:

> We affirm this absurdity. Congress has given Federal bureaucrats the power to order that frozen chickens be labeled fresh.

Now to remedy that situation, Mr. Speaker, the Food Safety and Inspection Service has tried to stop that fraudulent labeling. They reviewed some 26,000 comments from the public and from interested parties, and they decided that in the interests of consumer protection and honesty in advertising they decided to require that in order to be labeled fresh, poultry must have an internal temperature not lower than 26 degrees, because 80 percent of the water in a chicken is frozen at that temperature. And they decided as a concession, as a concession to the poultry processing industry, that chicken with temperature greater than zero, but less than 26, would be labeled as hard-chilled rather than frozen.

But even that was not good enough for some of the special interests, Mr. Speaker, and so unfortunately the other body, the Senate, agreed to a proposition, and the conferees in turn agreed to that Senate action, which would continue the present absurdity of letting obviously frozen poultry be labeled as fresh. It will mean that the large special interests in the poultry industry will have won another battle in their ongoing effort to keep the American consumers as uninformed as possible as far as labeling is concerned. Under this turkey of an agreement they will continue to label as fresh, poultry that is chilled down to 1 degree Fahrenheit.

Now why is that important to the special interests? Because they can charge more and get away with it in the marketplace for poultry which is labeled as fresh rather than frozen, and that mislabeling has led consumers to overpay for what they are buying to the tune of up to $1 billion, and so it just seems to me that to allow this rip-off to continue is something which the Congress simply should not do.

Mr. Speaker, I come from a rural area myself, and I want to see as many agriculture products sold as possible around the country, but I do not want to see them sold under false pretenses, and to suggest that a piece of poultry which is chilled to 1 degree above zero is not frozen or at least hard-chilled is to me to revamp the Webster's dictionary definition of what indeed is fresh.

So, Mr. Speaker, I will be offering a motion to recommit which asks the House to reject that specific provision in the conference report so that this conference committee can go back and do what is honest, tell the American public what it is they are buying when they are buying something that is labeled fresh, and, if it is not fresh, for God's sake tell them. I think the Congress would be better off if we take that approach. I think the industry itself would have more credibility and certainly the consumer would be better informed than they would be under this turkey of an arrangement which the committee is bringing us here today.

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

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

Mr. Speaker, I rise in opposition to the gentleman's motion, and I appreciate all the great things he said because we had a good working relationship. There is a lot of controversy in dealing with this poultry situation. We had a very interesting exchange of ideas in the conference committee as well, learned more about chickens than I ever really wanted to know. We in the West, if we do not freeze it, we do not eat it, because it is transported such long distances. So I am always amazed at the arguments that we get into. However, if we say it is fresh, and under false pretenses it has been frozen, I really object to that as well. But I will oppose the gentleman's motion for recommittal because the Senate bill, passed bill, included a provision that delays the implementation of a poultry-labeling regulation until legislation is enacted directing the Secretary of Agriculture to promulgate such a regulation or the House and Senate authorizing committees receive and approve a revised proposal. The conference agreement includes this provision, and let me tell my colleagues why.

When we were getting ready to conference with the Senate, we asked both the Department and the poultry industry if there were some alternative or compromise language that could be substituted for the Senate language which everyone could live with. The response from the Department was that they did not have an alternative proposal, and, even though they did not like the Senate language, they could live with it. The poultry industry stated that they did not want to delay the

regulations. They just wanted two changes made to the Department's proposed regulations, but deferred to the conferees to negotiate. Since the administration did not seem to think the Senate language was worth a compromise proposal and the industry was unwilling to officially propose an alternative on its own, the original Senate language was retained. I am confident from the statements made before conference from the poultry industry and the Department that a compromise can be reached, a compromise that will be acceptable to the authorizing committee. Therefore, I ask my colleagues to defeat any motion to recommit so that we can move on to the passing of the conference report and would appreciate a "no" vote.

Now I want to thank the gentleman from Illinois and the gentleman from Wisconsin for their kind remarks. It has been great working with both of them. The association has been good. We have got a great committee. We also have a great staff, and I want to give them credit for the hard work they do on both sides and tell them how much we appreciate the time they give and also the guidance they give.

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

Mr. Speaker, I do not want to beat a dead chicken, but I do want to try to make clear what this issue is all about. It may strike some people as odd or even amusing that Members of Congress and this great legislative body are talking about frozen chickens today, but what is at stake here is a lot of money.

Mr. Speaker, if a chicken can be sold as fresh, it means a much greater profit for the company that is selling that chicken. I have no objection to people selling fresh chickens as fresh chickens and making the money that might be attendant to that sale. What I object to, what the gentleman from Wisconsin [Mr. OBEY] objects to, what people in the administration object to, is deceptive labeling, deceptive advertising.

Mr. Speaker, if a consumer walks into the supermarket, that consumer ought to be confident that what is labeled on that product is a fact. Today a consumer can walk into the poultry section and see in a plastic bag a chicken which is labeled fresh and not know that that chicken has been frozen as hard as a bowling ball.

Now of course the people who sell the chickens would like us to believe that they are all fresh regardless of how much they have been frozen or to what temperature they have been brought to, but that is not right.

A few years ago Dr. Kessler of the FDA angered some of the food giants who were running around the grocery store and labeling everything "fresh." Bottled spaghetti sauce and canned products were being called "fresh." Mr. Speaker, consumers had a right to be suspicious, and Kessler said:

Your suspicions are well founded. Make that labeling accurate. When a consumer makes a purchase, let them know that their hard-earned dollars are being spent on something they actually want to purchase.

So he took on some of the giants in the industry on behalf of this administration, and I am glad he did because it meant better labeling, and it made for authentic and more honest labeling, and now when it comes to poultry products, once again we are fighting some of the giants of this country. They want to sell these chickens, mislabel them, call them fresh. They want the consumers to fall for it, pay more, so that they can get more profit out of the sale.

Mr. Speaker, frankly we spend a lot of time in Congress changing laws. We cannot change the laws of physics. The laws of physics tell us water freezes at 32 degrees Fahrenheit and that chickens freeze, because of their water content, at 26 degrees Fahrenheit.

□ 1115

So this administration tried to come up with a reasonable compromise, came up with a bizarre term called hard chilled, something between zero degrees and 26 degrees; I have never quite understood it.

The Chicago Sun Times came up with an editorial a few weeks ago. They thought this was a pretty simple idea. What they said was this: "We can help the bureaucrats and the Congressmen out. If chickens are frozen, let us call them frozen. If they are thawed but used to be frozen, call them previously frozen. If they have never been frozen, call them fresh."

There used to be an old commercial on television about chickens, saying parts is parts. Well, this debate is about whether fresh is fresh, and I will tell the Members, it goes far beyond the chuckling we have had on the floor this morning. There is a lot of money at stake, and what is even more important, what is at stake here is consumer confidence across this country. Our Government is entrusted with the power and authority to regulate advertising so when we walk into the supermarket and see something on the counter and it is labeled, it is labeled honestly and accurately. This is not a buyer beware situation. It is a situation where the consumers have the right to know so their hard-earned dollars are spent on products they actually want to buy and the deception is taken away. I am going to join my friend, the gentleman from Wisconsin [Mr. OBEY], in supporting his motion to recommit on an otherwise very good bill.

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

Mr. SCHIFF. Mr. Speaker, I yield 2½ minutes to the gentleman from Arkansas [Mr. DICKEY].

Mr. DICKEY. Mr. Speaker, I would like to speak against this motion, and want to stress one thing, that this is not a consumer issue. This issue has come up because of the situation that exists in California, so what I call it is a California market protection motion. What happens is that California cannot raise chickens, process them, and sell them as cheaply as we can in the southern States, in Arkansas, my State, and other States, and ship them out there. So what they want to do, rather than this being a consumer issue on that side, what they want to do is allow them to sell chickens by the pound for a higher amount in California than in other States. We think the consumer wants the price lower. We think the consumer is not harmed by this in any way.

If we had our way, when we first started all this we would not have the Government intrusion. We would say, "Okay, we are not going to label this at all." That is like saying the Government comes in and says, "We are going to label this pretty or not pretty." It is that irrelevant to the issue. Six hundred million pounds of chickens in 1 year's period of time were sent out with an 800 number, an 800 number that says, "If you are dissatisfied with this labeling or with this food or this product in any way, call us." Less than 50 came in in 1 year.

The consumers are not being harmed by this. We need to keep it like it is and not start meddling with it, particularly just to take care of one State's situation, where they want to charge more.

As far as the charges are concerned, I understand chicken is something like $1 a pound, somewhere around there. We are not talking about a great differential if we are sitting there with chicken at that price. We are not talking about a great differential. What we are trying to do is deliver chicken safer, so the retailer cannot have so many shipments in a period of time that it would burden them. They want to be able to hold the chickens so they can put it into the retail market in a safe way. That is what is behind this. It is a matter of Government intrusion, and we should not have done it in the first place, but now that we have it, we need to keep it for the sake of the price of chicken.

Mr. OBEY. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, one of the previous gentlemen on this side of the aisle said this issue is, and I have forgotten what reason he gave, but he indicated this issue was here because people were concerned about bureaucrats. This issue is here for one very simple reason: because Tyson's chicken company and a number of others like them want to sell what is in essence frozen products and label them fresh, and earn extra money because they can charge the fresh rather than the frozen price. That is why this issue is here. They got their

friends in the Senate to swallow it and push it down our throats.

Shoppers, I think, know the difference between fresh and frozen. It seems to me it is time that Congress learned that, too. Chickens hard enough to hammer nails are not fresh. They should not be labeled as being fresh. One of the other gentlemen said, "Oh, this is just a California issue." I am not from California, I am from Wisconsin. I believe in legitimate labeling of agricultural products, whether they are chickens or whether they are BGH-laced milk. I want that label to show what the consumer is buying. My farmers do, too. I certainly know my consumers do.

The issue here is very simple. If you think that the consumer ought to know that they are not buying fresh chicken when they purchase chicken that is frozen down to 1 degree, then vote for my motion to recommit. If Members think the industry ought to be able to continue to scam them and continue to deceive consumers into thinking that they are buying fresh chicken when they are not, then stick with the committee. It is just that simple.

Mr. SCHIFF. Mr. Speaker, I think we have let the chicken issue be well thought out, Mr. Speaker.

Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Speaker, I thank my distinguished colleague, the gentleman from New Mexico [Mr. SKEEN], chairman of the committee, for yielding me this time.

Mr. Speaker, despite all the hard work by so many on this bill, including the gentleman from New Mexico [Mr. SKEEN], the chairman of the Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies of the Committee on Appropriations, I reluctantly rise to register my disappointment with the Agriculture appropriations conference report, and on a related note, the real lack of progress Congress is making on bringing real reform to agricultural price support and subsidy programs. Despite statements from the leadership that this session would bring genuine reform of Federal agricultural policies, it seems that at the end of the day very little may change with regard to sugar, tobacco, cotton, and other programs. The sugar program is of particular concern to those of us from the State of Florida and, in fact, what compels me to be here today. It is a Federal program that continues the direct involvement of the Federal Government in the marketplace—where it does not belong. In addition, the sugar program has a unique impact on Florida because it artificially supports and encourages farming a crop that is known to damage the Everglades ecosystem and Florida Bay—true national treasures. If this Congress falls short of achieving the repeal of sugar's benefits, I hope the committee will work with the Florida delegation to deal with the consequences of this Federal program for our State—possibly by using dollars from Florida sugar producers to bolster efforts to save the Everglades and Florida Bay. This is the absolute minimum I will accept.

Mr. DURBIN. I yield 2 minutes to the gentleman from New York [Mr. SCHUMER].

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

Mr. Speaker, I rise in opposition to this agriculture appropriations bill. In fact, I do not know why we are voting on an agriculture appropriations bill when we have not dealt with major issues of reform of the agriculture program.

The bottom line is a simple one, that many of us, particularly colleagues on the other side of the aisle, were promised that we would have an open debate on an authorization bill. Then we were told it would not be an authorization bill, but we would be allowed to have some input before reconciliation. What we read in the newspapers is all sorts of deals are being cut, so that, for instance, the sugar program, which I think is one that is way out of line, it is socialism if there ever was in America, where we tell people, "This is the price we are going to pay you, this is what you can grow, this is what you cannot grow," we are not even going to have an opportunity to deal with that issue.

In my judgment, it makes no sense to vote for an agriculture appropriations bill unless there is reform. I would say to my colleagues on the other side of the aisle, they come here saying, "Government is the source of all evil," they come here saying, "We have to have less Government," they come here saying that "Government control is the worst thing in America," but when it comes to agriculture, they take a bow, they take a duck. This is the most intrusive area of Government in our entire economy.

If Members are going to be consistent, if they are going to say "Government is no good to build public housing, Government is no good to build our roads, and Government is no good in health care," why the heck, in a program that is more outdated and more antediluvian than any other, do we say, "Oh, no, in agriculture, we leave it alone."

I think it would be a disgrace to pass this bill. I know that all the various agriculture interests are fighting over a more limited pie, but before we appropriate the money, we ought to see what the program is going to be. Is there going to be reform? Are all the promises that, "Oh, yes," as the chairman of the Committee on the Budget promised me, "there is going to be the same reform there as everywhere else," we have not seen one jot of reform. We have not seen any changes. All we have seen is a lot of just the same thing we have seen in Medicare, "Do not do this in public; behind closed doors, maybe we can work something out."

I say to my colleagues, whether they are liberal or conservative, Republican or Democrat, to vote the money on an appropriations bill before we see what measure of reform comes about is stupid from a policy point of view, it is stupid from a political point of view, it makes no sense, and I would urge with all due respect to my good friend who is the ranking member of the subcommittee and ranking member of the committee, as well as the chairpeople of both, that we should not be voting on this kind of bill right now. I would urge my colleagues to defeat it.

Mr. OBEY. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I would simply like to say that I significantly disagree with the gentleman who just spoke. I do not think people should be confused by the debate that is going on with respect to basic farm programs and this appropriation bill. This appropriation bill has very little to do with that debate.

I would point out the gentleman from New York [Mr. SCHUMER] says if we are going to be cutting housing, that we should not exempt agriculture. I would point out that this is the appropriation for rural America, and it does cut housing in rural America as well. Rural America is not being exempted from these reductions. They are not being exempted from the budget squeeze. In fact, one of my concerns about this bill is that I think that in areas such as rural sewer and water and housing, this bill is not adequate enough. That is not the fault of the subcommittee. They tried to do everything they could within the limitations provided to them.

Mr. Speaker, I would simply hope, as I said earlier, I do not want anyone to vote against this bill because of my comments on the frozen chicken issue, which is a very separate issue. I think this committee has done a fairly balanced job under very difficult circumstances in trying to allocate the budget actions. I do not agree with every action taken in the conference, but I think it is certainly a far better bill than the bill that left the House. I think people need to understand that in fact, rural America is taking a significant hit in the overall budget and in this bill.

Mr. Speaker, I agree with the gentleman that the basic agricultural programs are screwed up, and I would not vote to continue them because, for one example, the milk marketing order system in this country substantially discriminates against small family farmers in my region of the country, and unfairly benefits the same region of the county which is, I think, speaking out the most loudly in favor of this

frozen chicken fraud, which the committee is about to perpetrate. I urge with the gentleman that those basic farm programs are screwed up, but that has very little to do with what the committee is doing on the programs in this bill.

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Mr. SKEEN. Mr. Speaker, I yield 2 minutes to the gentleman from Delaware [Mr. CASTLE].

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

Mr. Speaker, I rise in strong support of the conference report on the Agriculture appropriations bill.

The conference report is almost $5 billion less than the 1995 level, so it is making a significant contribution to reducing spending to get to a balanced budget. These are real cuts.

In making these cuts, I realize Chairman SKEEN and the members of the committee had some very difficult decisions to make. During House consideration of the Agriculture appropriations bill, I and many other Members who represent rural areas expressed concern over the size of the proposed reduction in the section 502 Rural Housing Program. At that time, Chairman SKEEN and Representative DURBIN promised that they would try to provide adequate funding for this program during the conference with the Senate. They have made good on that promise.

In the original House bill, the committee was forced to make almost a 50-percent cut in the 502 Rural Housing Program. Because of the changes made in conference, the bill will now provide $1.2 billion in loans to help low-income Americans in rural areas purchase their own homes. The 502 Direct Loan Program is the only affordable homeownership program that serves low and very-low income families in rural areas.

The typical direct loan borrower is working and is making $15,165 per year. These are hardworking people trying to achieve the American dream of owning their own home. The 502 Direct Program is the most effective program to help them make that dream a reality.

This program works. It helps people who would otherwise be unable to afford a home, make the step to homeownership. While these families have very low income, they pay their mortgages.

There is currently a 2- to 3-year waiting list for these loans.

Construction of these homes provides new jobs, an expanded tax base for schools and other investments and increased sales and other tax revenues. A single family 502 direct home generates 1.75 jobs, $50,201 in wages, and $20,560 in annual tax revenues to rural America. In short, the program not only provides homes to low-income rural families, it provides jobs and tax revenues to rural communities.

The conference committee has done a good job in balancing priorities among all our agriculture and rural programs. I strongly support the conference report and urge my colleagues to approve its passage.

Mr. SKEEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas [Mr. ROBERTS].

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

Mr. Speaker, I rise in admiration and respect for the gentleman from New Mexico [Mr. SKEEN] and his able staff, but in reluctant opposition to the bill.

Mr. Speaker, I rise in reluctant opposition to this bill for several reasons.

Earlier this year the Committee on Agriculture and the Appropriations Committee conducted a series of discussions and meetings with leadership over the issue of mandatory and discretionary spending and which committee should receive credit for any reductions in these accounts.

From these talks an agreement was forged with the Speaker, the Appropriations chairman, the Budget chairman and myself as chairman of the Agriculture authorizing committee, in which the Appropriations Committee pledged, for the purpose of deficit reduction, to stay within the bounds of discretionary accounts and the Agriculture authorizing committee would in turn stay on the mandatory side of the ledger. This was a fair compromise. I am including a copy of that agreement for publication in the RECORD.

This bill before us today is a disappointing violation of the spirit and letter of that agreement. It's not only disappointing for what it will do to the policy reform efforts the Committee on Agriculture is attempting, but also for the precedent it sets for the next 7 years of budget deficit reduction efforts in the Congress.

This bill avoids the tough choices required in budget balancing and it is crafted using accounting gimmickry—the bill merely shifts funds from the mandatory side of the ledger over to the discretionary side—simply put: robbing Peter to pay Paul.

I have no doubts that this bill's supporters can make good justifications for every project and program in this document. Each probably has considerable merit. There is only one very troubling problem: each account that is maintained and increased is done so at the expense of farm commodity and conservation programs. At a time when the Agriculture Committee is laboring to reform outdated New Deal Era farm programs and help farmers and ranchers adapt to a market driven economy, cuts made to mandatory programs will cripple this effort by making it impossible for the Agriculture Committee to make necessary changes.

I am further opposed to this bill because it represents business as usual. First, and foremost, when the other body marked up the 1996 Agriculture Appropriations bill, they added $1.2 billion in spending over the House passed level. Conferees agreed to keep over $600 million of this amount in the bill before us today.

It should be instructive for my colleagues to look at what this bill before us does in terms of additional spending. The bottom line: we are spending $3 million more on special research grants at a time when there is a growing consensus that we should be putting more money into competitive research grants.

To this end we in the Agriculture Committee have been conducting an extensive review of the $1.7 billion we spend on agricultural research and extension each year. We have sent out an extensive set of questions to our Nation's agricultural research community and asked for their input on how to better direct limited research dollars. I believe this $1.7 billion can be spent in a more efficient manner and I will work with the Appropriations Committee next year to coordinate the overhaul of our Nation's research effort.

Equally disappointing is the House's capitulation to the Senate's spending on CSREES buildings and facilities account. Having no compunction about dipping into mandatory accounts to pay for these new university research buildings, the Senate decided it was critical to fund $57 million worth of new buildings.

No less alarming is the level spent in this bill for salaries and expense at the Consolidated Farm Services Agency and the Natural Resources Conservation Service Agency; $1.5 billion, $1.5 billion to administer $7 billion worth of mandatory farm and conservation programs. That's 20 cents for every dollar spent on commodity and conservation programs. We can and should spend less in this area—taxpayers demand nothing less. The Appropriations Committee should look to this and other accounts like it next year before it comes over to the Agriculture Committee's mandatory accounts for its required savings.

The bottom line on this bill is truly found on its bottom line: it spends over $600 million more than the bill we in this body passed over 2 months ago. I urge my colleagues to reject this conference report.

I include for the RECORD a letter from Chairman LIVINGSTON to me, as follows:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, July 13, 1995.

Hon. PAT ROBERTS,
Chairman, Committee on Agriculture, U.S. House of Representatives, Washington, DC.

DEAR CHAIRMAN ROBERTS: This is to confirm the agreement relating to budget responsibilities in future agriculture appropriations and authorization legislation. We all recognize the need to reform our budget process. A part of that reform should be a review of both mandatory and discretionary spending accounts. We further recognize that there are gray areas—areas where appropriations reductions to mandatory spending can advance our mutual policy and deficit reduction goals.

However, as a general policy it is our intention that beginning in FY 1997 all discretionary spending reductions will be attributed to the Appropriations Committee, and all mandatory spending reductions will be attributed to the Agriculture Committee. Any future situation that deviates from the general policy will require consultation and agreement between the two committees. But as part of an effort to move the FY 1996 Agriculture Appropriations Bill through the House, this agreement will provide a clear basis for managing the federal funds devoted

to supporting farmers and the rural sector as we move toward a balanced budget.

Sincerely,

NEWT GINGRICH,
Speaker.
JOHN KASICH,
Chairman, Budget Committee.
BOB LIVINGSTON,
Chairman, Appropriations Committee.

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

Mr. Speaker, several minutes ago I yielded to the gentleman from New York. That was a triumph of courtesy over common sense, because I disagree with him so much and yet respect, of course, his right to express his point of view.

It troubles me for him to take the floor and to criticize this bill because it has not reformed agriculture in America. The bottom line is we have done many things in this subcommittee to bring significant reform in the area of agricultural policy.

Two years ago we made, I think, a significant advance in terms of reforming crop insurance in this country, a program that was costing taxpayers over $200 million a year, and because of provisions in our bill we have pushed forward a reform that will literally save billions of dollars for taxpayers over the life of the program.

Again, in the area of housing which the gentleman from Delaware [Mr. CASTLE] just addressed, because of investigations by this subcommittee, by actions in this subcommittee we have pushed for reforms in the authorizing legislation on housing programs that will mean that the taxpayers' dollars will be more carefully guarded. It also means that, frankly, we will be building more and better housing at a lower cost. You cannot beat that.

The bottom line is, if you want to reform agriculture, you have to go to the Committee on Agriculture. I sincerely hope the gentleman from Kansas [Mr. ROBERTS] who just rose and said he opposed this bill will have second thoughts when it comes to final passage.

We have done our job. We have accepted our responsibility. We were told to pass an appropriations bill. We worked long and hard to do it.

Now I hope his Committee on Agriculture will accept its responsibility. I hope for the first time since Franklin Roosevelt's New Deal, we will not see the Committee on Agriculture drop the ball and fail to write a farm bill. I served on that Committee on Agriculture many years ago. I served on the Committee on the Budget, too.

When I hear people on the Committee on Agriculture saying they are going to let the Committee on the Budget write the farm bill now, I am worried. There are bean growers on the Committee on Agriculture; there are bean counters on the Committee on the Budget. Let us put the farm bill in the hands of the bean growers, the people who understand agriculture, who live in small town America.

I sincerely hope the gentleman from Kansas who takes exception to our bill will roll up his sleeves in his own committee and address real agricultural reform. I think that is only fair. We have tried our best to stay out of any area in this bill that might offend him. I am sure there have been areas where we have crossed the line. It was not intentional.

But I hope that he accepts his responsibility and the responsibility of his Committee on Agriculture. I will join him in that effort. I think all members of the subcommittee will join him in that effort.

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

Mr. OBEY. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I am in a position under which, as I said earlier, because of the customs of the House, if I am in a position to offer the motion to recommit to try to correct this outrageous consumer fraud that is going on with respect to frozen chickens, then I really am virtually required to vote against the conference report.

As I have indicated, I do so with great reluctance, because I think that the committee has done a pretty good job in restoring some of the reductions that were originally in this bill for rural sewer and water and housing. I think that responsible folks in rural America recognize that they have to accept their fair share of reductions. So while I do not agree with all of the reductions, I think the committee has done a reasonable job, given the limitations it has been operating under.

I do want to say, Mr. Speaker, that the opposition of the House Committee on Agriculture to this bill reminds me of the old story about Leo Durocher when he managed the New York Giants. Durocher was hitting ground balls to Eddie Stanky and Stanky dropped a couple. So Durocher said, "Stanky, give me a glove. Let me show you how to play second base." He took the glove and went out to play second base, and the very first ball hit to Durocher, he dropped. He turned to Stanky and said, "Stanky, you have second base so screwed up, nobody can play it."

I would suggest right now that agriculture policy has been so screwed up by the House authorizing committee through the years, both in the past and in this session, that nobody can unscrew it. So what we are faced with is a ridiculous situation in which it appears like the Committee on the Budget is going to be writing farm policy, and what a lot of people on the Committee on the Budget know about cows, you can put in your left ear.

It just seems to me that while I think there are good reasons to vote for this recommittal motion, and while I am required, because I am offering the recommittal motion, to vote against the bill, I think that this bill needs to be evaluated fairly in contrast to what is coming out of the House Committee on Agriculture.

All I can say is that I see the chances of anything good for my dairy farmers coming out of the House Committee on Agriculture are slim and none, because we are being given a choice between either swallowing what is essentially on that bill the status quo, which really puts Midwest dairy farmers at a huge economic disadvantage, or else swallowing the idea that we ought to in essence end all farm programs. It seems to me that we ought to be able to do better than that, but obviously we are not going to be given that opportunity.

I just wanted to say that to keep everything in balance before we vote on this turkey of a chicken proposal that is in this committee bill.

Mr. SKEEN. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. WALSH].

Mr. WALSH. Mr. Speaker, I rise in strong support of the conference report on the agriculture appropriations. I would like to congratulate our chairman, the gentleman from New Mexico [Mr. SKEEN], and our ranking member, the gentleman from Illinois [Mr. DURBIN], for the excellent job that they did in conference in holding to most of the House positions. I think they have really worked hard to bring a bill to the floor that even the critics can support, or may have a small problem with, but overall, this is a good, solid bill.

Let me give you some of the reasons why we should vote for this. First of all, it is almost $5 billion below last year's level. It supports the reorganization of the USDA. It consolidates and reduces by 25 percent the funding available for USDA congressional affairs activities. It reforms the market promotion plan, the market promotion program.

It dramatically increases funding from the original bill for rural housing, which is of critical importance to our rural communities, and in New York, where we do have, believe it or not, rural communities, this is a big help. It provides $488 million for rural water and waste disposal grants and loans, which is critical, given the difficulty that small communities have in meeting EPA standards. It provides additional funding for WIC, which is a very important and popular program.

There are so many reasons to vote for this and so few not to. I would really urge a "no" vote on the motion to recommit. This bill is far too important to recommit it back to the conference because of basically a dispute between Arkansas and California chicken farmers. That is really what it

comes down to. Please give us the opportunity to pass this on to the President. Vote "no" on the motion to recommit, vote "yes" on final passage.

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

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

Mr. Speaker, in closing, I would like to remind all of my colleagues that this bill represents a lot of hard choices and a lot of hard work, as every appropriations bill should. We have to look to the taxpayers who pay for these programs and who use them every day, whether they are urban farmers, such as the gentleman from New York, who shops in the Cheerio basket division, and I have great admiration for him because he is a great cause-promoter, but this is a tough job.

It is one that has to be done, and I think we have done an excellent job. I appreciate the hard work that has gone into the bill, all the effort that was made by everybody on that particular committee, particularly the gentleman from Illinois [Mr. DURBIN] and the gentleman from Wisconsin [Mr. OBEY].

The bottom line is that this bill is a responsible bill and it cuts spending and meets our budget targets. We would not and we could not be here today if it did not do so. At the same time, the bill provides our farmers and ranchers the resources to produce an abundant, safe supply of food, and that is what these folks demand day by day and count on, a safe, adequate supply of food.

There is no place on Earth any better than right here in the United States because of the kind of work that we do on this committee and other committees dealing with agriculture products. We may have our debate, but in the end, that is the essence of what we are doing.

This is an essential bill for women, children, senior citizens, and the poor. It provides shelter and economic opportunity in rural areas and makes sound investments in research, education and the environment for the future prosperity of this great country.

Mr. Speaker, I respectfully ask my colleagues to vote "aye" on this conference report and to vote "no" on the motion to recommit. At this point in the RECORD I would like to insert a table.

FY 1996 AGRICULTURE APPROPRIATIONS BILL (H.R. 1976)

	FY 1995 Enacted	FY 1996 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE I - AGRICULTURAL PROGRAMS						
Production, Processing, and Marketing						
Office of the Secretary	2,770,000	2,886,000	10,227,000	12,801,000	10,227,000	+7,457,000
Executive Operations:						
Chief Economist		4,240,000	3,948,000	3,814,000	3,948,000	+3,948,000
Office of the Assistant Secretary for Economics	540,000					-540,000
World Agricultural Outlook Board	2,498,000					-2,498,000
National Appeals Division		12,166,000	11,846,000	11,846,000	11,846,000	+11,846,000
Office of Budget and Program Analysis	5,795,000	5,899,000	5,899,000	5,899,000	5,899,000	+104,000
Office of Small and Disadvantaged Business Utilization		724,000				
Total, Executive Operations	8,833,000	23,029,000	21,693,000	21,559,000	21,693,000	+12,860,000
Chief Financial Officer	580,000	4,952,000	4,133,000	4,133,000	4,133,000	+3,553,000
Office of the Assistant Secretary for Administration	596,000	616,000	596,000	596,000	596,000	
Agriculture buildings and facilities (USDA)	135,193,000	135,774,000	135,774,000	135,774,000	135,774,000	+581,000
Payments to GSA	(87,957,000)	(89,971,000)	(89,971,000)	(89,971,000)	(89,971,000)	(+2,014,000)
Building operations and maintenance	(18,614,000)	(20,216,000)	(20,216,000)	(20,216,000)	(20,216,000)	(+1,602,000)
Repairs, renovations, and construction	(28,622,000)	(25,587,000)	(25,587,000)	(25,587,000)	(25,587,000)	(-3,035,000)
Advisory committees (USDA)	928,000	885,000	800,000	650,000	650,000	-278,000
Hazardous waste management	15,700,000	15,700,000	15,700,000	15,700,000	15,700,000	
Departmental administration	26,187,000	87,347,000	27,986,000	27,986,000	27,986,000	+1,799,000
Office of the Assistant Secretary for Congressional Relations	1,764,000	1,838,000	3,797,000	1,764,000	3,797,000	+2,033,000
Office of Communications	8,198,000	8,890,000	8,198,000	8,198,000	8,198,000	
Office of the Inspector General	63,418,000	64,739,000	63,639,000	63,639,000	63,639,000	+221,000
Office of the General Counsel	25,992,000	27,860,000	27,860,000	27,860,000	27,860,000	+1,868,000
Office of the Under Secretary for Research, Education and Economics	520,000	535,000	520,000	520,000	520,000	
Economic Research Service	53,936,000	54,665,000	53,131,000	53,526,000	53,131,000	-805,000
National Agricultural Statistics Service	81,424,000	89,837,000	81,107,000	81,107,000	81,107,000	-317,000
Agricultural Research Service	714,689,000	709,810,000	705,610,000	707,000,000	710,000,000	-4,689,000
Human Nutrition Information Service	(10,618,000)					
Buildings and facilities	42,318,000	30,200,000	30,200,000	30,200,000	30,200,000	-12,118,000
Total, Agricultural Research Service	757,007,000	740,010,000	735,810,000	737,200,000	740,200,000	-16,807,000
Cooperative State Research, Education, and Extension Activities:						
Research and education activities	432,387,000	432,212,000	389,172,000	421,622,000	421,929,000	-10,458,000
Native Americans Institutions Endowment Fund		(4,600,000)	(4,600,000)	(4,600,000)	(4,600,000)	(+4,600,000)
Buildings and facilities	60,560,000			57,838,000	57,838,000	-2,722,000
Extension Activities	438,744,000	437,552,000	413,257,000	439,681,000	427,750,000	-10,994,000
Total, Cooperative State Research, Education, and Extension Activities	931,691,000	869,764,000	802,429,000	919,141,000	907,517,000	-24,174,000
Office of the Assistant Secretary for Marketing and Regulatory Programs	605,000	625,000	605,000	605,000	605,000	
Animal and Plant Health Inspection Service:						
Salaries and expenses	44[illegible],651,000	430,279,000	433,664,000	429,379,000	431,921,000	-11,730,000
Special fund, user fees 1/	(9[illegible],660,000)	(100,254,000)	(100,254,000)	(100,254,000)	(100,254,000)	(+3,594,000)
Buildings and facilities	4,973,000	12,541,000	12,541,000	4,973,000	8,757,000	+3,784,000
Total, Animal and Plant Health Inspection Service	448,624,000	442,820,000	446,205,000	434,352,000	440,678,000	-7,946,000
Agricultural Marketing Service:						
Marketing Services	56,591,000	50,607,000	46,662,000	46,517,000	46,517,000	-10,074,000
New user fees	(4,452,000)	(3,887,000)	(3,887,000)	(3,887,000)	(3,887,000)	(-565,000)
(Limitation on administrative expenses, from fees collected)	(57,054,000)	(58,461,000)	(58,461,000)	(58,461,000)	(58,461,000)	(+1,407,000)
Funds for strengthening markets, income, and supply (transfer from section 32)	10,309,000	10,451,000	10,451,000	10,451,000	10,451,000	+142,000
Payments to States and possessions	1,200,000	1,200,000	1,000,000	1,200,000	1,200,000	
Total, Agricultural Marketing Service	68,100,000	62,258,000	58,113,000	58,168,000	58,168,000	-9,932,000
Grain Inspection, Packers and Stockyards Administration	23,314,000	23,679,000	23,058,000	23,289,000	23,058,000	-256,000
Inspection and Weighing Services (limitation on administrative expenses, from fees collected)	(42,784,000)	(42,784,000)	(42,784,000)	(42,784,000)	(42,784,000)	
Office of the Under Secretary for Food Safety		580,000	450,000	440,000	440,000	+440,000
Food Safety and Inspection Service	525,820,000	594,889,000	540,365,000	563,004,000	544,906,000	+19,086,000
Lab accreditation fees 2/	(1,000,000)	(1,000,000)	(1,000,000)	(1,000,000)	(1,000,000)	
Total, Production, Processing, and Marketing	3,181,200,000	3,254,178,000	3,062,196,000	3,192,012,000	3,170,583,000	-10,617,000
Farm Assistance Programs						
Office of the Under Secretary for Farm and Foreign Agricultural Services	549,000	570,000	549,000	549,000	549,000	

FY 1996 AGRICULTURE APPROPRIATIONS BILL (H.R. 1976) — continued

	FY 1995 Enacted	FY 1996 Estimate	House	Senate	Conference	Conference compared with enacted
Consolidated Farm Service Agency:						
Salaries and expenses		811,771,000	788,388,000	805,888,000	795,000,000	+795,000,000
Agricultural Stabilization and Conservation Service, salaries and expenses	790,217,000					-790,217,000
(Transfer from export loans)	(589,000)	(608,000)	(589,000)	(589,000)	(589,000)	
(Transfer from P.L. 480)	(1,036,000)	(745,000)	(745,000)	(745,000)	(745,000)	(-291,000)
(Transfer from ACIF)	(200,227,000)	(214,163,000)	(208,446,000)	(214,163,000)	(208,446,000)	(+8,219,000)
Total, salaries and expenses	(992,069,000)	(1,027,287,000)	(998,168,000)	(1,021,385,000)	(1,004,780,000)	(+12,711,000)
State mediation grants	3,000,000	3,000,000	2,000,000	3,000,000	2,000,000	-1,000,000
Dairy indemnity program		100,000	100,000	100,000	100,000	+100,000
Outreach for socially disadvantaged farmers and ranchers	2,995,000	3,000,000		2,000,000	1,000,000	-1,995,000
Total, Consolidated Farm Service Agency	796,212,000	817,871,000	790,488,000	810,988,000	798,100,000	+1,888,000
Agricultural Credit Insurance Fund Program Account:						
Loan authorizations:						
Farm ownership loans:						
Direct	(78,081,000)	(70,000,000)	(35,000,000)	(60,000,000)	(60,000,000)	(-18,081,000)
Guaranteed	(540,674,000)	(540,687,000)	(550,000,000)	(550,000,000)	(550,000,000)	(+9,326,000)
Subtotal	(618,755,000)	(610,687,000)	(585,000,000)	(610,000,000)	(610,000,000)	(-8,755,000)
Operating loans:						
Direct	(500,000,000)	(542,860,000)	(400,000,000)	(550,000,000)	(550,000,000)	(+50,000,000)
Guaranteed unsubsidized	(1,735,000,000)	(1,700,000,000)	(1,700,000,000)	(1,700,000,000)	(1,700,000,000)	(-35,000,000)
Guaranteed subsidized	(230,000,000)	(200,000,000)	(200,000,000)	(200,000,000)	(200,000,000)	(-30,000,000)
Subtotal	(2,465,000,000)	(2,442,860,000)	(2,300,000,000)	(2,450,000,000)	(2,450,000,000)	(-15,000,000)
Soil and water loans:						
Direct		(2,898,000)				
Guaranteed		(1,422,000)				
Subtotal		(4,320,000)				
Indian tribe land acquisition loans	(1,000,000)	(1,000,000)	(750,000)	(750,000)	(750,000)	(-250,000)
Emergency disaster loans	(100,000,000)	(100,000,000)	(100,000,000)	(100,000,000)	(100,000,000)	
Credit sales of acquired property		(45,000,000)	(22,500,000)	(21,696,000)		
Total, Loan authorizations	(3,184,755,000)	(3,203,867,000)	(3,008,250,000)	(3,182,446,000)	(3,160,750,000)	(-24,005,000)
Loan subsidies:						
Farm ownership:						
Direct	10,983,000	16,373,000	8,187,000	14,034,000	14,034,000	+3,051,000
Guaranteed	20,870,000	19,681,000	20,019,000	20,019,000	20,019,000	-851,000
Subtotal	31,853,000	36,054,000	28,206,000	34,053,000	34,053,000	+2,200,000
Farm operating:						
Direct	56,555,000	74,209,000	54,680,000	75,185,000	75,185,000	+18,630,000
Guaranteed unsubsidized	9,360,000	18,360,000	18,360,000	18,360,000	18,360,000	+9,000,000
Guaranteed subsidized	29,425,000	17,960,000	17,960,000	17,960,000	17,960,000	-11,465,000
Subtotal	95,340,000	110,529,000	91,000,000	111,505,000	111,505,000	+16,165,000
Soil and water loans:						
Direct		608,000				
Guaranteed		30,000				
Subtotal		638,000				
Indian tribe land acquisition	123,000	274,000	206,000	206,000	206,000	+83,000
Emergency disaster	26,290,000	32,080,000	32,080,000	32,080,000	32,080,000	+5,790,000
Credit sales of acquired property		8,226,000	4,113,000	3,966,000		
Negative subsidies	-782,000	-296,000				+782,000
Total, Loan subsidies	152,824,000	187,505,000	155,605,000	181,810,000	177,844,000	+25,020,000
ACIF expenses:						
Salaries and expenses	229,735,000	214,652,000	208,935,000	214,652,000	208,935,000	-20,800,000
Administrative expenses	14,031,000	12,606,000	12,606,000	12,606,000	12,606,000	-1,425,000
Total, ACIF expenses	243,766,000	227,258,000	221,541,000	227,258,000	221,541,000	-22,225,000
Total, Agricultural Credit Insurance Fund	396,590,000	414,763,000	377,146,000	409,068,000	399,385,000	+2,795,000
(Loan authorization)	(3,184,755,000)	(3,203,867,000)	(3,008,250,000)	(3,182,446,000)	(3,160,750,000)	(-24,005,000)
Total, Farm Assistance Programs	1,193,351,000	1,233,204,000	1,168,183,000	1,220,605,000	1,198,034,000	+4,683,000
CORPORATIONS						
Federal Crop Insurance Corporation:						
Federal crop insurance corporation fund	219,107,000	1,263,708,000	1,263,708,000	1,263,708,000	1,263,708,000	+1,044,601,000

FY 1996 AGRICULTURE APPROPRIATIONS BILL (H.R. 1976) — continued

	FY 1995 Enacted	FY 1996 Estimate	House	Senate	Conference	Conference compared with enacted
Commodity Credit Corporation:						
Reimbursement for net realized losses	15,500,000,000	10,400,000,000	10,400,000,000	10,400,000,000	10,400,000,000	-5,100,000,000
Hazardous waste (limitation on administrative expenses)	(5,000,000)	(5,000,000)	(5,000,000)	(5,000,000)	(5,000,000)	.....
Borrowing authority (emergency)	1,000,000,000	.....	.....	.....	.....	-1,000,000,000
Total, Corporations	16,719,107,000	11,663,708,000	11,663,708,000	11,663,708,000	11,663,708,000	-5,055,399,000
Total, title I, Agricultural Programs	21,093,658,000	16,151,090,000	15,894,087,000	16,076,325,000	16,032,325,000	-5,061,333,000
(By transfer)	(201,852,000)	(215,516,000)	(209,780,000)	(215,497,000)	(209,780,000)	(+7,928,000)
(Loan authorization)	(3,184,755,000)	(3,203,867,000)	(3,008,250,000)	(3,182,446,000)	(3,160,750,000)	(-24,005,000)
(Limitation on administrative expenses)	(104,838,000)	(106,245,000)	(106,245,000)	(106,245,000)	(106,245,000)	(+1,407,000)
TITLE II - CONSERVATION PROGRAMS						
Office of the Under Secretary for Natural Resources and Environment	677,000	696,000	677,000	677,000	677,000	.....
Natural Resource Conservation Service:						
Conservation operations	556,062,000	645,735,000	629,986,000	637,860,000	629,986,000	+73,924,000
River basin surveys, investigations, and watershed planning	.....	.....	14,000,000	.....	14,000,000	+14,000,000
River basin surveys and investigations	12,970,000	11,210,000	.....	8,369,000	.....	-12,970,000
Watershed planning	10,546,000	7,542,000	.....	5,630,000	.....	-10,546,000
Watershed and flood prevention operations	70,000,000	100,000,000	100,000,000	100,000,000	100,000,000	+30,000,000
Resource conservation and development, Great Plains conservation program, forestry incentives program, and Colorado River Basin salinity control program	.....	.....	36,000,000	.....	.....	.....
Resource conservation and development	32,845,000	28,900,000	.....	27,000,000	29,000,000	-3,845,000
Great Plains conservation program	15,172,000	11,000,000	.....	.....	.....	-15,172,000
Forestry incentives program	6,625,000	6,625,000	.....	6,325,000	6,325,000	-300,000
Colorado River Basin salinity control program	4,500,000	2,681,000	.....	2,681,000	2,681,000	-1,819,000
Wetlands reserve program	93,200,000	210,000,000	210,000,000	77,000,000	77,000,000	-16,200,000
Total, Natural Resource Conservation Service	801,920,000	1,023,693,000	989,986,000	864,865,000	858,992,000	+57,072,000
Consolidated Farm Service Agency:						
Agricultural conservation program	100,000,000	50,000,000	75,000,000	50,000,000	75,000,000	-25,000,000
Water quality incentives program	(15,000,000)	(15,000,000)	(11,000,000)	(15,000,000)	(11,000,000)	(-4,000,000)
Emergency conservation program	.....	3,000,000	.....	.....	.....	.....
Conservation reserve program	1,743,274,000	1,926,370,000	1,781,785,000	1,781,785,000	1,781,785,000	+38,511,000
Total, Consolidated Farm Service Agency	1,843,274,000	1,979,370,000	1,856,785,000	1,831,785,000	1,856,785,000	+13,511,000
Total, title II, Conservation Programs	2,645,871,000	3,003,759,000	2,847,448,000	2,697,327,000	2,716,454,000	+70,583,000
TITLE III - RURAL ECONOMIC AND COMMUNITY DEVELOPMENT PROGRAMS						
Office of the Under Secretary for Rural Economic and Community Development	568,000	586,000	568,000	568,000	568,000	.....
Rural Community Advancement Program	.....	.....	.....	563,839,000	.....	.....
Administrative expenses	.....	.....	.....	58,051,000	.....	.....
Rural Housing and Community Development Service:						
Rural Housing Insurance Fund Program Account:						
Loan authorizations:						
Low-income housing (sec. 502)	(1,200,000,000)	(1,200,000,000)	(550,000,000)	(1,000,000,000)	(1,000,000,000)	(-200,000,000)
Unsubsidized guaranteed	(1,000,000,000)	(1,300,000,000)	(1,700,000,000)	(1,700,000,000)	(1,700,000,000)	(+700,000,000)
Housing repair (sec. 504)	(35,000,000)	(35,000,000)	(35,000,000)	(35,000,000)	(35,000,000)	.....
Farm labor (sec. 514)	(15,915,000)	(16,482,000)	(15,000,000)	(15,000,000)	(15,000,000)	(-915,000)
Rental housing (sec. 515) 3/	(190,476,000)	(220,000,000)	(150,000,000)	(150,000,000)	(150,000,000)	(-40,476,000)
Site loans (sec. 524)	(632,000)	(632,000)	(600,000)	(600,000)	(600,000)	(-32,000)
Credit sales of acquired property	.....	(75,000,000)	(35,000,000)	(42,484,000)	.....	.....
Total, Loan authorizations	(2,442,023,000)	(2,847,114,000)	(2,485,600,000)	(2,943,084,000)	(2,900,600,000)	(+458,577,000)
Loan subsidies:						
Single family (sec. 502):						
Direct	227,520,000	251,880,000	115,445,000	209,900,000	145,833,000	-81,687,000
Unsubsidized guaranteed	17,200,000	2,210,000	2,890,000	2,890,000	2,890,000	-14,310,000
Housing repair (sec. 504)	11,690,000	14,193,000	14,193,000	14,193,000	14,193,000	+2,503,000
Farm labor (sec. 514)	7,911,000	9,482,000	8,629,000	8,629,000	8,629,000	+718,000
Rental housing (sec. 515):						
Direct	100,000,000	92,973,000	82,035,000	82,035,000	82,035,000	-17,965,000
Unsubsidized guaranteed	(1,000,000)	.....	(1,000,000)	.....	(1,000,000)	.....
Credit sales of acquired property	.....	13,073,000	6,100,000	7,405,000	.....	.....
Total, Loan subsidies	364,321,000	383,811,000	229,292,000	325,052,000	253,580,000	-110,741,000
RHIF administrative expenses	389,818,000	395,211,000	385,889,000	389,818,000	385,889,000	-3,929,000

FY 1996 AGRICULTURE APPROPRIATIONS BILL (H.R. 1976) — continued

	FY 1995 Enacted	FY 1996 Estimate	House	Senate	Conference	Conference compared with enacted
Rental assistance:						
(Sec. 521)	517,108,000	565,583,000	530,000,000	535,000,000	535,000,000	+17,892,000
(Sec. 502(c)(5)(D))	5,900,000	5,900,000	5,900,000	5,900,000	5,900,000	.....
Total, Rental assistance	523,008,000	571,483,000	535,900,000	540,900,000	540,900,000	+17,892,000
Total, Rural Housing Insurance Fund	1,277,147,000	1,350,505,000	1,151,081,000	1,255,770,000	1,180,369,000	-96,778,000
(Loan authorization)	(2,442,023,000)	(2,847,114,000)	(2,485,600,000)	(2,943,084,000)	(2,900,600,000)	(+458,577,000)
Self-Help Housing Land Development Fund:						
Loan authorization	(603,000)	(603,000)	(603,000)	(603,000)	(603,000)	.....
Loan subsidy	11,000	31,000	31,000	31,000	31,000	+20,000
Administrative expenses	14,000	.....	.....	.....	.....	-14,000
Community Facility Loans Program Account:						
Loan authorizations:						
Direct 3/	(225,000,000)	(250,000,000)	(200,000,000)	.....	(200,000,000)	(-25,000,000)
Guaranteed 3/	(75,000,000)	(100,000,000)	(75,000,000)	.....	(75,000,000)	.....
Total, Loan authorizations	(300,000,000)	(350,000,000)	(275,000,000)	.....	(275,000,000)	(-25,000,000)
Loan subsidies:						
Direct 3/	21,375,000	(43,600,000)	34,880,000	.....	34,880,000	+13,505,000
Guaranteed 3/	3,728,000	(4,740,000)	3,555,000	.....	3,555,000	-173,000
Total, Loan subsidies	25,103,000	.....	38,435,000	.....	38,435,000	+13,332,000
Administrative expenses 3/	.....	(11,247,000)	8,836,000	.....	8,836,000	+8,836,000
Very low-income housing repair grants	24,900,000	24,900,000	24,900,000	24,900,000	24,900,000	.....
Rural housing for domestic farm labor	10,900,000	10,900,000	10,000,000	10,000,000	10,000,000	-900,000
Mutual and self-help housing	12,650,000	12,650,000	12,650,000	12,650,000	12,650,000	.....
Supervisory and technical assistance grants	.....	2,500,000	.....	1,000,000	.....	.....
Rural community fire protection grants 3/	3,400,000	(3,400,000)	1,000,000	3,000,000	2,000,000	-1,400,000
Compensation for construction defects	495,000	495,000	495,000	495,000	495,000	.....
Rural housing preservation grants	22,000,000	22,000,000	11,000,000	11,000,000	11,000,000	-11,000,000
Rural housing performance partnerships program	.....	90,602,000	.....	.....	.....	.....
Subtotal, grants and payments	74,345,000	164,047,000	60,045,000	63,045,000	61,045,000	-13,300,000
RHCDS expenses:						
Administrative expenses	.....	53,650,000	42,820,000	50,346,000	46,583,000	+46,583,000
(Transfer from RHIF)	(389,818,000)	(382,074,000)	(377,074,000)	(376,860,000)	(377,074,000)	(-12,744,000)
(Transfer from ACIF)	.....	(171,000)	(171,000)	(171,000)	(171,000)	(+171,000)
(Transfer from CFLP)	.....	(11,114,000)	(8,731,000)	.....	(8,731,000)	(+8,731,000)
Total, RHCDS expenses	(389,818,000)	(447,009,000)	(428,796,000)	(427,377,000)	(432,559,000)	(+42,741,000)
Total, Rural Housing and Community Development Service	1,376,620,000	1,568,233,000	1,301,248,000	1,369,192,000	1,335,299,000	-41,321,000
(Loan authorization)	(2,742,626,000)	(3,197,717,000)	(2,761,203,000)	(2,943,687,000)	(3,176,203,000)	(+433,577,000)
Rural Business and Cooperative Development Service:						
Rural Business and Industry Loans Program Account:						
Loan authorizations:						
Direct 3/	.....	(50,000,000)	.....	.....	.....	.....
Guaranteed 3/	(500,000,000)	(750,000,000)	(500,000,000)	.....	(500,000,000)	.....
Total, loan authorizations	(500,000,000)	(800,000,000)	(500,000,000)	.....	(500,000,000)	.....
Loan subsidies:						
Direct 3/	.....	(3,505,000)	.....	.....	.....	.....
Guaranteed 3/	4,750,000	(6,825,000)	6,437,000	.....	6,437,000	+1,687,000
Total, Loan subsidies	4,750,000	.....	6,437,000	.....	6,437,000	+1,687,000
Administrative expenses 3/	.....	(19,742,000)	14,868,000	.....	14,868,000	+14,868,000
Rural Development Loan Fund Program Account:						
(Loan authorization) 3/	(88,038,000)	(90,000,000)	(7,246,000)	(37,544,000)	(37,544,000)	(-50,494,000)
Loan subsidy 3/	46,000,000	(53,685,000)	4,322,000	22,395,000	22,395,000	-23,605,000
Administrative expenses 3/	1,476,000	(2,961,000)	.....	1,476,000	1,476,000	.....
Total, Rural Development Loan Fund	47,476,000	.....	4,322,000	23,871,000	23,871,000	-23,605,000
(Loan authorization)	(88,038,000)	(90,000,000)	(7,246,000)	(37,544,000)	(37,544,000)	(-50,494,000)
Rural Economic Development Loans Program Account:						
Direct loans (limitation on obligations)	(12,865,000)	(14,091,000)	(12,865,000)	(12,865,000)	(12,865,000)	.....
Direct subsidy	3,077,000	4,085,000	3,729,000	3,729,000	3,729,000	+652,000
Administrative expenses	.....	864,000	584,000	724,000	654,000	+654,000

FY 1996 AGRICULTURE APPROPRIATIONS BILL (H.R. 1976) — continued

	FY 1995 Enacted	FY 1996 Estimate	House	Senate	Conference	Conference compared with enacted
Alternative Agricultural Research and Commercialization Revolving Fund	5,000,000	8,000,000	5,000,000	10,000,000	6,500,000	+1,500,000
Loan authorization		(25,000,000)				
Loan subsidy		7,138,000				
Administrative expenses		500,000				
Rural business enterprise grants 3/	47,500,000	(48,000,000)	45,000,000		45,000,000	-2,500,000
Rural technology and cooperative development grants 3/	1,750,000	(3,800,000)	1,500,000	3,000,000	2,300,000	+550,000
Local technical assistance and planning grants 3/		(2,500,000)				
Rural business performance partnerships program		112,315,000				
RBCDS expenses:						
Salaries and expenses 3/	57,294,000	(9,589,000)	9,520,000	9,013,000	9,013,000	-48,281,000
Salaries and expenses, FmHA	37,811,000					-37,811,000
Rural business performance partnerships program		61,874,000				
(Transfer from RBILP)		(19,582,000)	(14,747,000)		(14,747,000)	(+14,747,000)
(Transfer from RDLFP)	(1,476,000)	(2,948,000)		(1,476,000)	(1,476,000)	
(Transfer from RETLP)		(864,000)	(584,000)	(724,000)	(654,000)	(+654,000)
Self-Help HLDF (by transfer)	(14,000)					(-14,000)
RBCDS (by transfer)		(32,119,000)				
Total, RBCDS expenses	(96,595,000)	(117,387,000)	(24,851,000)	(11,213,000)	(25,890,000)	(-70,705,000)
Total, Rural Business and Cooperative Development Service	204,658,000	194,776,000	90,960,000	50,337,000	112,372,000	-92,286,000
(By transfer)	(1,490,000)	(55,513,000)	(15,331,000)	(2,200,000)	(16,877,000)	(+15,387,000)
(Loan authorization)	(588,038,000)	(915,000,000)	(507,246,000)	(37,544,000)	(537,544,000)	(-50,494,000)
Rural Utilities Service:						
Loan authorizations:						
Water and waste disposal facility loans: Direct	(905,523,000)					(-905,523,000)
Loan subsidies:						
Water and sewer: Direct	126,502,000					-126,502,000
Rural Electrification and Telephone Loans Program Account:						
Loan authorizations:						
Direct loans:						
Electric 5%	(100,000,000)	(100,000,000)	(90,000,000)	(90,000,000)	(90,000,000)	(-10,000,000)
Telephone 5%	(54,534,000)	(75,000,000)	(70,000,000)	(70,000,000)	(70,000,000)	(+15,466,000)
Subtotal	(154,534,000)	(175,000,000)	(160,000,000)	(160,000,000)	(160,000,000)	(+5,466,000)
Treasury rate: Telephone	(297,000,000)	(300,000,000)	(300,000,000)	(300,000,000)	(300,000,000)	(+3,000,000)
Muni-rate: Electric	(575,250,000)	(575,250,000)	(500,000,000)	(550,000,000)	(525,000,000)	(-50,250,000)
FFB loans:						
Electric, regular	(300,000,000)	(400,000,000)	(300,000,000)	(300,000,000)	(300,000,000)	
Telephone	(120,000,000)	(120,000,000)	(120,000,000)	(120,000,000)	(120,000,000)	
Subtotal	(420,000,000)	(520,000,000)	(420,000,000)	(420,000,000)	(420,000,000)	
Total, Loan authorizations	(1,446,784,000)	(1,570,250,000)	(1,380,000,000)	(1,430,000,000)	(1,405,000,000)	(-41,784,000)
Loan subsidies:						
Direct loans:						
Electric 5%	9,703,000	23,520,000	21,168,000	21,168,000	21,168,000	+11,465,000
Telephone 5%	3,997,000	14,955,000	13,958,000	13,958,000	13,958,000	+9,961,000
Subtotal	13,700,000	38,475,000	35,126,000	35,126,000	35,126,000	+21,426,000
Treasury rate: Telephone	60,000	60,000	60,000	60,000	60,000	
Muni-rate, electric	46,020,000	62,300,000	54,150,000	59,565,000	56,858,000	+10,838,000
FFB loans: Electric, regular	450,000	3,360,000	2,520,000	2,520,000	2,520,000	+2,070,000
Negative subsidy		-1,715,000				
Total, Loan subsidies	60,230,000	102,480,000	91,856,000	97,271,000	94,564,000	+34,334,000
RETLP administrative expenses	29,982,000	34,385,000	29,982,000	32,183,000	29,982,000	
Total, Rural Electrification and Telephone Loans Program Account	90,212,000	136,865,000	121,838,000	129,454,000	124,546,000	+34,334,000
(Loan authorization)	(1,446,784,000)	(1,570,250,000)	(1,380,000,000)	(1,430,000,000)	(1,405,000,000)	(-41,784,000)
Rural Telecommunication Partnership Loan Program Account:						
Loan authorization		(15,000,000)				
Loan subsidy		594,000				
Administrative expenses		1,110,000				
Total		1,704,000				

FY 1996 AGRICULTURE APPROPRIATIONS BILL (H.R. 1976) — continued

	FY 1995 Enacted	FY 1996 Estimate	House	Senate	Conference	Conference compared with enacted
Rural Telephone Bank Program Account:						
Direct loans (limitation on obligations)	(175,000,000)		(175,000,000)	(175,000,000)	(175,000,000)	
Direct loan subsidy	770,000		770,000	5,023,000	5,023,000	+4,253,000
RTB salaries and expenses	8,794,000		3,541,000	6,167,000	3,541,000	-5,253,000
Distance Learning and Medical Link Grants	7,500,000	15,000,000	7,500,000	7,500,000	7,500,000	
Rural water and waste disposal grants	500,000,000					-500,000,000
Solid waste management grants	2,995,000					-2,995,000
Rural utilities performance partnerships program		785,183,000	435,000,000		487,868,000	+487,868,000
Solid waste management grants, rural water and waste disposal grants, and water and waste disposal facility loans (administrative expenses)			12,740,000		12,740,000	+12,740,000
RUS salaries and expenses		19,627,000	19,211,000	18,449,000	18,449,000	+18,449,000
Electric and telephone loans (by transfer)	(29,982,000)	(34,385,000)	(29,982,000)	(32,183,000)	(29,982,000)	
Rural telephone bank (by transfer)	(8,794,000)		(3,541,000)	(6,167,000)	(3,541,000)	(-5,253,000)
Water and waste disposal loans (by transfer)		(17,790,000)				
Rural Telecommunication Partnership Loan Program Account (by transfer)		(1,110,000)				
Agricultural Credit Insurance Fund Program Account (by transfer)		(318,000)	(318,000)	(318,000)	(318,000)	(+318,000)
Rural partnership (by transfer)			(12,623,000)		(12,623,000)	(+12,623,000)
Subtotal	(38,776,000)	(73,230,000)	(65,675,000)	(57,117,000)	(64,913,000)	(+26,137,000)
Total, Rural Utilities Service	736,773,000	958,379,000	600,600,000	166,593,000	659,667,000	-77,106,000
(By transfer)	(38,776,000)	(53,603,000)	(46,464,000)	(38,668,000)	(46,464,000)	(+7,688,000)
(Loan authorization)	(2,352,307,000)	(1,585,250,000)	(1,380,000,000)	(1,430,000,000)	(1,405,000,000)	(-947,307,000)
(Limitation on obligations)	(175,000,000)		(175,000,000)	(175,000,000)	(175,000,000)	
Total, title III, Rural Economic and Community Development Programs	2,318,619,000	2,721,974,000	1,993,376,000	2,208,580,000	2,107,906,000	-210,713,000
(By transfer)	(430,084,000)	(502,475,000)	(447,771,000)	(417,899,000)	(449,317,000)	(+19,233,000)
(Loan authorization)	(5,682,971,000)	(5,697,967,000)	(4,648,449,000)	(4,411,231,000)	(5,118,747,000)	(-564,224,000)
(Limitation on obligations)	(187,865,000)	(14,091,000)	(187,865,000)	(187,865,000)	(187,865,000)	
TITLE IV - DOMESTIC FOOD PROGRAMS						
Office of the Under Secretary for Food, Nutrition and Consumer Services	540,000	553,000	440,000	540,000	440,000	-100,000
Food and Consumer Service:						
Child nutrition programs	2,202,274,000	2,399,942,000	2,354,566,000	2,354,752,000	2,348,166,000	+145,892,000
Transfer from section 32	5,249,077,000	5,520,492,000	5,597,858,000	5,597,858,000	5,597,858,000	+348,781,000
Total, Child nutrition programs	7,451,351,000	7,920,434,000	7,952,424,000	7,952,610,000	7,946,024,000	+494,673,000
Special milk program	18,089,000					-18,089,000
Special supplemental nutrition program for women, infants, and children (WIC)	3,450,000,000	3,820,000,000	3,729,807,000	3,729,807,000	3,729,807,000	+279,807,000
(By transfer)			(4,000,000)	(4,000,000)	(4,000,000)	(+4,000,000)
Commodity supplemental food program	84,500,000	86,000,000		86,000,000		-84,500,000
Food stamp program:						
Expenses	25,187,710,000	26,119,887,000	25,954,828,000	25,954,828,000	25,954,828,000	+767,118,000
Reserve	2,500,000,000	2,500,000,000		1,000,000,000	500,000,000	-2,000,000,000
Nutrition assistance for Puerto Rico	1,130,528,000	1,143,000,000	1,143,000,000	1,143,000,000	1,143,000,000	+12,472,000
Cattle tick eradication	12,472,000					-12,472,000
Total, Food stamp program	28,830,710,000	29,762,887,000	27,097,828,000	28,097,828,000	27,597,828,000	-1,232,882,000
Food donations programs for selected groups:						
Needy family program	33,154,000	78,639,000	65,000,000	66,000,000	65,000,000	+31,846,000
Elderly feeding program	150,000,000	151,250,000	150,000,000	151,250,000	150,000,000	
Subtotal	183,154,000	229,889,000	215,000,000	217,250,000	215,000,000	+31,846,000
Soup kitchens	40,000,000	40,000,000		40,000,000		-40,000,000
Total, Food donations programs	223,154,000	269,889,000	215,000,000	257,250,000	215,000,000	-8,154,000
The emergency food assistance program	40,000,000	40,000,000		40,000,000		-40,000,000
Commodity purchases - TEFAP	25,000,000					-25,000,000
Commodity assistance program			168,000,000		166,000,000	+166,000,000
Total, The emergency food assistance program	65,000,000	40,000,000	168,000,000	40,000,000	166,000,000	+101,000,000
Nutrition Initiatives:						
Nutrition support		45,526,000				
Nutrition promotion		4,218,000				
Food program administration	106,465,000	141,360,000	108,323,000	107,215,000	107,769,000	+1,304,000
Total, Food and Consumer Service	40,229,269,000	42,090,314,000	39,271,382,000	40,270,710,000	39,762,428,000	-466,841,000
Total, title IV, Domestic Food Programs	40,229,809,000	42,090,867,000	39,271,822,000	40,271,250,000	39,762,868,000	-466,941,000

FY 1996 AGRICULTURE APPROPRIATIONS BILL (H.R. 1976) — continued

	FY 1995 Enacted	FY 1996 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE V - FOREIGN ASSISTANCE AND RELATED PROGRAMS						
Foreign Agricultural Service, direct appropriation	108,880,000	120,201,000	114,547,000	115,802,000	115,802,000	+6,922,000
(Transfer from Commodity Credit Corporation)	(4,914,000)	(5,176,000)	(5,176,000)	(5,176,000)	(5,176,000)	(+262,000)
(Transfer from export loans)	(2,792,000)	(3,137,000)	(2,792,000)	(2,792,000)	(2,792,000)	.....
(Transfer from P.L. 480)	(1,425,000)	(1,005,000)	(1,005,000)	(1,005,000)	(1,005,000)	(-420,000)
Total, Program level	(118,011,000)	(129,519,000)	(123,520,000)	(124,775,000)	(124,775,000)	(+6,764,000)
Scientific activities overseas (foreign currency program) (limitation on administrative expenses)	(1,062,000)	.....	.....	.....	.....	(-1,062,000)
Public Law 480 Program Account:						
Title I - Credit sales:						
Program level	(320,342,000)	(177,957,000)	(316,342,000)	(316,342,000)	(316,342,000)	(-4,000,000)
Direct loans	(291,342,000)	(161,540,000)	(291,342,000)	(291,342,000)	(291,342,000)	.....
Ocean freight differential	29,000,000	16,417,000	25,000,000	25,000,000	25,000,000	-4,000,000
Title II - Commodities for disposition abroad:						
Program level	(821,100,000)	(795,703,000)	(821,100,000)	(821,100,000)	(821,100,000)	.....
Appropriation	821,100,000	795,703,000	821,100,000	821,100,000	821,100,000	.....
Title III - Commodity grants:						
Program level	(117,442,000)	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	(-67,442,000)
Appropriation	117,442,000	50,000,000	50,000,000	50,000,000	50,000,000	-67,442,000
Loan subsidies	236,162,000	131,833,000	236,162,000	236,162,000	236,162,000	.....
Debt restructuring	.....	1,500,000	.....	.....	.....	.....
Salaries and expenses:						
General Sales Manager	1,425,000	1,005,000	1,005,000	1,005,000	1,005,000	-420,000
CFSA	1,036,000	745,000	745,000	745,000	745,000	-291,000
Subtotal	2,461,000	1,750,000	1,750,000	1,750,000	1,750,000	-711,000
Total, Public Law 480:						
Program level	(1,258,884,000)	(1,023,660,000)	(1,187,442,000)	(1,187,442,000)	(1,187,442,000)	(-71,442,000)
Appropriation	1,206,165,000	997,203,000	1,134,012,000	1,134,012,000	1,134,012,000	-72,153,000
CCC Export Loans Program Account:						
Loan guarantees:						
Short-term export credit	(5,000,000,000)	(5,200,000,000)	(5,200,000,000)	(5,200,000,000)	(5,200,000,000)	(+200,000,000)
Intermediate export credit	(500,000,000)	(500,000,000)	(500,000,000)	(500,000,000)	(500,000,000)	.....
Emerging democracies export credit	(200,000,000)	.....	.....	.....	.....	(-200,000,000)
Loan subsidy	394,393,000	374,347,000	374,347,000	374,347,000	374,347,000	-20,046,000
Salaries and expenses (Export Loans):						
General Sales Manager	2,792,000	3,137,000	2,792,000	2,792,000	2,792,000	.....
ASCS	589,000	608,000	589,000	589,000	589,000	.....
Total, CCC Export Loans Program Account	397,774,000	378,092,000	377,728,000	377,728,000	377,728,000	-20,046,000
Total, title V, Foreign assistance and related programs	1,712,819,000	1,495,496,000	1,626,287,000	1,627,542,000	1,627,542,000	-85,277,000
(By transfer)	(9,131,000)	(9,318,000)	(8,973,000)	(8,973,000)	(8,973,000)	(-158,000)
TITLE VI - RELATED AGENCIES AND FOOD AND DRUG ADMINISTRATION						
DEPARTMENT OF HEALTH AND HUMAN SERVICES						
Food and Drug Administration						
Salaries and expenses, direct appropriation	819,971,000	828,999,000	819,971,000	819,971,000	819,971,000	.....
Prescription drug user fee act	(79,423,000)	(84,723,000)	(84,723,000)	(84,723,000)	(84,723,000)	(+5,300,000)
Mammography clinics user fee	(6,500,000)	(13,000,000)	(13,000,000)	(13,000,000)	(13,000,000)	(+6,500,000)
New user fees	.....	(38,740,000)	.....	.....	.....	.....
Total, Program level	(905,894,000)	(965,462,000)	(917,694,000)	(917,694,000)	(917,694,000)	(+11,800,000)
Buildings and facilities	18,150,000	8,350,000	15,350,000	8,350,000	12,150,000	-6,000,000
Rental payments	46,294,000	46,294,000	46,294,000	46,294,000	46,294,000	.....
Total, Food and Drug Administration	884,415,000	883,643,000	881,615,000	874,615,000	878,415,000	-6,000,000
DEPARTMENT OF THE TREASURY						
Financial Management Service: Payments to the farm credit system financial assistance corporation	57,026,000	15,453,000	15,453,000	15,453,000	15,453,000	-41,573,000
INDEPENDENT AGENCIES						
Commodity Futures Trading Commission	49,144,000	59,711,000	49,144,000	54,058,000	53,601,000	+4,457,000
Farm Credit Administration (limitation on administrative expenses)	(40,420,000)	(39,900,000)	.....	.....	.....	(-40,420,000)
Total, title VI, Related Agencies and Food and Drug Administration	990,585,000	958,807,000	946,212,000	944,126,000	947,469,000	-43,116,000
(Limitation on administrative expenses)	(40,420,000)	(39,900,000)	.....	.....	.....	(-40,420,000)

FY 1996 AGRICULTURE APPROPRIATIONS BILL (H.R. 1976) — continued

	FY 1995 Enacted	FY 1996 Estimate	House	Senate	Conference	Conference compared with enacted
Grand total:						
New budget (obligational) authority	68,991,361,000	66,421,993,000	62,579,232,000	63,825,150,000	63,194,564,000	-5,796,797,000
(By transfer)	(641,067,000)	(727,309,000)	(670,524,000)	(646,369,000)	(672,070,000)	(+31,003,000)
(Loan authorization)	(14,567,726,000)	(14,601,834,000)	(13,356,699,000)	(13,293,677,000)	(13,979,497,000)	(-588,229,000)
(Limitation on administrative expenses)	(146,320,000)	(146,145,000)	(106,245,000)	(106,245,000)	(106,245,000)	(-40,075,000)
(Limitation on obligations)	(187,865,000)	(14,091,000)	(187,865,000)	(187,865,000)	(187,865,000)	.....
RECAPITULATION						
Title I - Agricultural programs	21,093,658,000	16,151,090,000	15,894,087,000	16,076,325,000	16,032,325,000	-5,061,333,000
Title II - Conservation programs	2,645,871,000	3,003,759,000	2,847,448,000	2,697,327,000	2,716,454,000	+70,583,000
Title III - Farmers Home and Rural development programs	2,318,619,000	2,721,974,000	1,993,376,000	2,208,580,000	2,107,906,000	-210,713,000
Title IV - Domestic food programs	40,229,809,000	42,090,867,000	39,271,822,000	40,271,250,000	39,762,868,000	-466,941,000
Title V - Foreign assistance and related programs	1,712,819,000	1,495,496,000	1,626,287,000	1,627,542,000	1,627,542,000	-85,277,000
Title VI - Related agencies and Food and Drug Administration	990,585,000	958,807,000	946,212,000	944,126,000	947,469,000	-43,116,000
Total, new budget (obligational) authority	68,991,361,000	66,421,993,000	62,579,232,000	63,825,150,000	63,194,564,000	-5,796,797,000

1/ Such sums as available from AQI user fee account for FY 1996.
2/ In addition to appropriation.
3/ On 5/2/95 the Administration amended its FY 1996 request (H.Doc. 104-63). This table reflects the program levels as submitted in the original budget.

Ms. KAPTUR. Mr. Speaker, I rise today to commend our chairman, the gentleman from New Mexico, and our ranking member, the gentleman from Illinois, for their outstanding leadership in shepherding this bill through conference. While I believe this bill provides adequate funding for agriculture programs and continues our support for American farmers which are the most productive in the world, I have serious concerns with two provisions in the conference report.

First, the conference agreement includes language allowing the Secretary of Agriculture to fund all costs for agricultural equine quarantine inspection services in connection with the 1996 summer games. Mr. Speaker, what we are talking about here is using American tax dollars to pay the fees foreign countries would owe a U.S. Government agency [USDA–APHIS] for inspecting horses competing in the equestrian events at the Olympic Games. Let me repeat, this conference report includes language which forgives the fees foreign countries are required to pay for quarantine costs of horses competing in the equestrian competition at the Olympics and then forces U.S. taxpayers to pay the bill. Supporters of this provision in the conference argued that this was a goodwill gesture which will only cost approximately $300,000; $300,000 here, $300,000 there and soon you are talking about real money which can reduce the deficit.

We all know that the days of struggling amateur athletes competing in the Olympic Games are long gone. Individuals often receive government support to compete or have the benefit of corporate sponsorship or endorsement contracts. Why should our taxpayers pay this bill? The Olympic organizers or the corporate sponsors who will make millions on this event should bear this cost.

In addition, I object to the inclusion of language in the conference agreement which prohibits the USDA from enforcing regulations it recently issued, that would have prohibited processors from labeling poultry products chilled to below 26 degrees as fresh. On August 25 USDA issued regulations to take effect 1 year from now which would overturn longstanding USDA policy which allowed chickens that had been chilled to as low as 1 degree Fahrenheit to be labeled as fresh when they are put on sale. Consumers have a right to know whether the chicken they buy is truthfully labeled as fresh and has never been frozen. Everyone agrees that its a bad idea to refreeze thawed chicken. Yet if the Senate language contained in the conference report prevails, consumers will not know if the chicken they are moving from the fridge to the freezer is being handled correctly.

Mr. Speaker, California passed a law which would have prohibited the sale of frozen chickens as fresh. This law was struck down in Federal court. USDA, after 15 months of study, issued rules which give consumers truth in labeling. Under the rule, only chicken 26 degrees and above is labeled as fresh; 0 to 26 degrees must be labeled as hard chilled or previously hard chilled; and chicken at 0 or below must be labeled as frozen or previously frozen. Industry has two concerns, a 2-degree temperature variance is needed in order to ship chickens in extreme climates and that consumers will not buy chickens labeled as hard chilled. I appreciate industry's concerns but common sense dictates that you do not scrap a rule arrived at after 15 months of review and scientific study. Playing politics with food safety is wrong.

Mr. CALVERT. Mr. Speaker, I rise in support of the fiscal year 1996 Agriculture appropriations bill, H.R. 1976. In particular, I would like to thank the conferees for providing an additional $500,000 to the Agriculture Research Service to begin research on a virus that threatens California's citrus industry—Citrus Tristeza Virus [CTV].

California's citrus industry is a $1.5 billion industry. CTV puts at risk the only remaining disease free budwood stock as well as our $485 million export market. The ARS' work on CTV in California will compliment ongoing private sector research in the State. Ultimately, I hope it will give our farmers the tools to eradicate this threat. I believe funding for this research is an investment in the long-term health of California's economy.

Mr. FAZIO of California. Mr. Speaker, I rise in support of the conference report for H.R. 1976, the Agriculture Appropriations bill for fiscal year 1996.

H.R. 1976 is not a perfect bill. Next year's bill continues an alarming trend in cutting important programs for agriculture research, animal and plant inspection, food safety and inspection, conservation programs, and rural housing and development.

Certainly some savings have accrued from the reorganization of the Department of Agriculture and closing of numerous field offices nationwide.

But we must guard against debilitating cuts that prevent these agencies from fulfilling their important missions.

Cuts to research, cuts to inspection, cuts to food safety, cuts to conservation programs—we are shortsighted in cutting back on these investments in this, the most productive sector of our economy.

But, despite my reservations about these cuts, we must judge the conference product against the House version of this bill, and we must judge it against what is possible this year and in this political climate—and based on these comparisons, the conference report is an improved product.

The conference report improves upon the House funding level for research and extension. It improves upon the House funding level for food safety and inspection. It improves upon the House funding level for rural housing and economic development.

I have particular praise for three items of importance to California agriculture and to my district.

First, funds have been included for buildings and facilities construction within the Cooperative State Research Service, including funds for an important integrated pest management research facility at the University of California at Davis and at Riverside.

Although some Members disagree with funding for these facilities, and the House bill contained no funds for this construction program, the conference agreement is the right decision.

It makes sure that our important agriculture research institutions who have worked in good faith over the years are not left high and dry. But it also directs the institutions to provide a specific and verifiable cost-share, and it tells them this is not an unlimited source of funds—it brings fair closure to this account over the next 2 years.

Second, the conferees fought successfully and in defense of the House position for the Market Promotion Program.

There is probably no more important tool for export promotion than MPP.

Agriculture exports, projected to exceed $50 billion this year—up from $43.5 billion for fiscal year 1994—are vital to the United States.

Agriculture exports strengthen farm income.

Agriculture exports provide jobs for nearly a million Americans.

Agriculture exports generate nearly $100 billion in related economic activity.

Agriculture exports produce a positive trade balance of nearly $20 billion.

If U.S. agriculture is to remain competitive under GATT, we must have policies and programs that remain competitive with those of our competitors abroad.

GATT did not eliminate export subsidies, it only reduced them.

The European Union spent, over the last 5 years, an average of $10.6 billion in annual export subsidies—the United States spent less than $2 billion.

The EU spends more on wine exports—$89 million—than the United States currently spends for all commodities under the market promotion program.

MPP is critical to U.S. agriculture's ability to develop, maintain and expand export markets in the new post-GATT environment, and MPP is a proven success.

In California, MPP has been tremendously successful in helping promote exports of California citrus, raisins, walnuts, almonds, peaches, and other specialty crops.

We have to remember that an increase in agriculture exports means jobs: a 10-percent increase in agricultural exports creates over 13,000 new jobs in agriculture and related industries like manufacturing, processing, marketing, and distribution.

For every $1 we invest in MPP, we reap a $16 return in additional agriculture exports. In short, the Market Promotion Program is a program that performs for American taxpayers.

The conferees have wisely held on to this important program in the face of ill-informed and shortsighted action by the Senate.

Third, the conference committee has continued to provide important funding for special research grants in the Cooperative State Research Service while continuing a significant commitment to competitive grants.

The committee, sometimes in the face of significant opposition, has always believed there is a place for both competitive grants and special grants.

Special grants ensure that particular attention is paid to regional needs, temporary needs, and agricultural research where a special project is required. The grants are fully cost-shared and generally leverage efforts that are already underway in many of our land-grant universities and other research institutions. The research projects are of limited duration.

The conference committee has decided correctly to fund special research grants. The

Russian wheat aphid and the viticulture consortium are not burning issues for most Americans. But in California, these represent important research efforts for agricultural commodities that are making significant contributions to our economy.

I know the other special grants enumerated by the conference report are of equal value to other States and regions in addressing special problems, and I commend the conference committee for their support of these initiatives.

In summary, this is not a perfect bill, but the conference report is a fair balancing of the many needs and many issues within the committee's jurisdiction. I commend Chairman JOE SKEEN and ranking Member DICK DURBIN for their efforts in support of American agriculture during the conference committee deliberations, and I urge my colleagues to support the conference report.

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

The SPEAKER pro tempore (Mr. LATOURETTE). Without objection, the previous question is ordered.

There was no objection.

MOTION TO RECOMMIT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. OBEY. Mr. Speaker, at this point I certainly am.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. OBEY moves to recommit the conference report on the bill, H.R. 1976 to the committee of conference with instructions to the managers on the part of the House to disagree to the Senate amendment numbered 150.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

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

Mr. OBEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 158, nays 264, not voting 10, as follows:

[Roll No. 707]

YEAS—158

Abercrombie
Ackerman
Andrews
Baker (CA)
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bilbray
Bonior
Borski
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TN)
Bryant (TX)
Calvert
Cardin
Clay
Clayton
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Cox
Coyne
Cunningham
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Foley
Frank (MA)
Frost
Furse
Gallegly
Gejdenson
Gephardt
Gibbons
Gilman
Green
Gutierrez
Harman
Hastings (FL)
Herger
Hinchey
Horn
Hunter
Jackson-Lee
Jacobs
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (CA)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney
Markey
Martinez
Mascara
Matsui
McDermott
McHale
McKeon
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mink
Moorhead
Moran
Nadler
Neal
Oberstar
Obey
Olver
Orton
Packard
Pallone
Pastor
Payne (NJ)
Pelosi
Pombo
Poshard
Radanovich
Rangel
Reed
Richardson
Rivers
Roberts
Rohrabacher
Roukema
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sawyer
Schiff
Schroeder
Schumer
Seastrand
Serrano
Skaggs
Slaughter
Stark
Stokes
Studds
Thomas
Torres
Torricelli
Towns
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Weldon (FL)
Williams
Woolsey
Wyden
Yates
Zimmer

NAYS—264

Allard
Archer
Armey
Bachus
Baesler
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Boucher
Brewster
Browder
Brownback
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Clyburn
Coble
Coburn
Collins (GA)
Combest
Cooley
Cramer
Crane
Crapo
Cremeans
Cubin
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Hostettler
Houghton
Hoyer
Hutchinson
Hyde
Inglis
Istook
Jefferson
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
Longley
Lucas
Manton
Manzullo
Martini
McCarthy
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKinney
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Mollohan
Montgomery
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Oxley
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pomeroy
Porter
Portman
Pryce
Quillen
Quinn
Rahall
Ramstad
Regula
Riggs
Roemer
Rogers
Ros-Lehtinen
Rose
Roth
Salmon
Sanford
Saxton
Scarborough
Schaefer
Scott
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Traficant
Upton
Velazquez
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Wynn
Young (AK)
Zeliff

NOT VOTING—10

Baldacci
Dornan
Fields (LA)
Kennelly
Moakley
Owens
Tejeda
Tucker
Volkmer
Young (FL)

□ 1206

Mrs. JOHNSON of Connecticut, Ms. DANNER, Mr. HILLIARD, Mrs. CHENOWETH, and Messrs. EVERETT, LEWIS of Georgia, and RAHALL changed their vote from "yea" to "nay."

Mr. CONYERS, Mr. PACKARD, Mrs. SEASTRAND, Mr. COX of California, Ms. EDDIE BERNICE JOHNSON of Texas, and Messrs. HORN, CUNNINGHAM, MORAN, and LEWIS of California changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 15, 1995

Mr. WILLIAMS. Mr. Speaker, on rollcall vote No. 707, recorded on October 12, 1995, I mistakenly recorded my vote as yes—it was my intention to vote no on this particular measure. Although I recognize this statement does not change my vote I would like the record to reflect my intention.

The SPEAKER pro tempore (Mr. LATOURETTE). The question is on the conference report.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 288, nays 132, not voting 12, as follows:

[Roll No. 708]

YEAS—288

Abercrombie
Ackerman
Andrews
Armey
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Bentsen
Bereuter
Bevill
Bilirakis
Bishop
Bliley
Boehlert
Boehner
Bonilla
Bonior
Bono
Boucher
Brewster
Browder
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chambliss
Chapman
Christensen
Chrysler
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Combest
Cooley
Costello
Cox
Cramer
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dooley
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehrlich
Emerson
English
Evans
Ewing
Farr
Fawell
Fazio
Fields (TX)
Filner
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodling
Gordon
Graham
Green
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefner
Heineman
Herger
Hilleary
Hobson
Hoke
Holden
Horn
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kelly
Kennedy (RI)
Kildee
Kim
King
Kingston
Klink
Knollenberg
Kolbe
LaFalce
LaHood
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lowey
Lucas
Luther
Manton
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McKeon
McKinney
McNulty
Meek
Metcalf
Minge
Mink
Molinari
Mollohan
Montgomery
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Reed
Regula
Richardson
Riggs
Rivers
Roemer
Rogers
Ros-Lehtinen
Rose
Sabo
Sawyer
Saxton
Schiff
Scott
Seastrand
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (NJ)
Smith (TX)
Solomon
Spence
Spratt
Stenholm
Stockman
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (NC)
Thomas
Thompson
Thornberry
Thornton
Thurman
Torres
Traficant
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Wynn
Young (AK)

NAYS—132

Allard
Archer
Bachus
Barrett (WI)
Bass
Becerra
Beilenson
Berman
Bilbray
Blute
Borski
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Burton
Buyer
Chabot
Chenoweth
Clay
Collins (IL)
Collins (MI)
Conyers
Coyne
Crane
Crapo
Dellums
Dixon
Doggett
Doolittle
Ehlers
Engel
Ensign
Eshoo
Everett
Fattah
Flake
Foglietta
Frank (MA)
Franks (NJ)
Gibbons
Goodlatte
Goss
Greenwood
Gunderson
Hancock
Harman
Hefley
Hilliard
Hinchey
Hoekstra
Hostettler
Johnston
Kaptur
Kasich
Kennedy (MA)
Kleczka
Klug
Lantos
Largent
Lewis (GA)
Lewis (KY)
Lofgren
Maloney
Manzullo
Markey
Martinez
McDermott
McIntosh
Meehan
Menendez
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Moorhead
Moran
Nadler
Neal
Oberstar
Obey
Olver
Payne (NJ)
Petri
Pombo
Ramstad
Rangel
Roberts
Rohrabacher
Roth
Roukema
Roybal-Allard
Royce
Rush
Salmon
Sanders
Sanford
Scarborough
Schaefer
Schroeder
Schumer
Sensenbrenner
Serrano
Shadegg
Shaw
Skaggs
Slaughter
Smith (MI)
Smith (WA)
Souder
Stark
Stearns
Stokes
Studds
Stump
Taylor (MS)
Tiahrt
Torkildsen
Torricelli
Towns
Upton
Velazquez
Vento
Waters
Waxman
Williams
Woolsey
Wyden
Yates
Zeliff
Zimmer

NOT VOTING—12

Baldacci
Condit
Dornan
Fields (LA)
Jacobs
Kennelly
Moakley
Owens
Tejeda
Tucker
Volkmer
Young (FL)

□ 1224

The Clerk announced the following pair:

On this vote:

Mr. Baldacci for, with Mr. Dornan against.

Ms. ESHOO changed her vote from "yea" to "nay."

Mr. WATTS of Oklahoma changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR MARKING THE CELEBRATION OF THE FOUNDING OF THE CITY OF JERUSALEM

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that the Committee on House Oversight be discharged from further consideration of the Senate Concurrent Resolution (S. Con. Res. 29) providing for marking the celebration of Jerusalem on the occasion of its 3,000th anniversary, and ask for its consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

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

Mr. GEJDENSON. Mr. Speaker, reserving the right to object, and I will not object, I will yield to the gentleman from California [Mr. THOMAS] for a statement, and then I have a few comments.

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

Mr. Speaker, the Speaker of the House and the leadership join me in urging all Members to support what is an occasion that I think will allow us to focus on our humanness in a way that we are rarely able to do it.

In the resolution talking about the celebration of Jerusalem in the Rotunda of its 3,000th anniversary, it says: "Whereas Jerusalem, the City of Peace, has held a unique place and exerted a unique influence on the moral development of Western Civilization;" I think Jerusalem plays an even more significant role than that, if that is possible.

I think it is because Jerusalem is one of the places in the world that is truly a crossroads for a majority of people in the world, because when we look at the development and history of religions, those things that have occurred in and around the city of Jerusalem have not only sent fundamental, positive repercussions East and West, but they have somehow been tied to defining developmental periods throughout the history of the world.

Although we have not yet located the center of the universe, I think in terms of man's experience on this planet, the city of Jerusalem, along with very few other places in this world, Jerusalem deserves being placed in that category. I think it is entirely appropriate that the Rotunda of the United States Capitol be used as the place for the recognition of the 3,000 years of inhabitance of the city of Jerusalem.

Mr. GEJDENSON. Reclaiming my time, Mr. Speaker, I join the gentleman in support of the resolution saying this is a year that it is particularly appropriate to be having this celebration. We could not have chosen the 3,000th year, obviously, but as we look at the peace process moving forward, something that I think many of us thought would not happen in our lifetime, this City of Peace may indeed soon be an example for dialogue for the entire globe.

All of us who have worked so hard on issues of peace in the Middle East, while we understand there are tremendous challenges ahead, this is a very exciting time, with hopefully the beginnings of a real peace for that region of the world, something that will not only hopefully bring benefit to the people there, but people around the globe, and open up the holy places to the multiple of religions that see Jerusalem as their center, to give pilgrims from all religions a greater opportunity to visit

the holy sites and to spend time in the Middle East.

For those of us who have been to Jerusalem, it is truly a special city. I am privileged to be here with the gentleman from California, urging support of this resolution.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 29

Whereas the Senate wishes to make the 3,000th anniversary of King David's establishment of Jerusalem as the capital of Israel;

Whereas Jerusalem, the City of David, has been the focal point of Jewish life;

Whereas Jerusalem, the City of Peace, has held a unique place and exerted a unique influence on the moral development of Western Civilization; and

Whereas no other city on Earth is today the capital of the same country, inhabited by the same people, speaking the same language, and worshipping the same God as it was 3,000 years ago: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Architect is directed to make the necessary arrangements for a date in October to be mutually agreed upon by the Speaker of the House of Representatives and the Majority Leader of the Senate, after consultation with the Minority Leaders of the two houses, for the use of the Rotunda for a celebration of the founding of the city of Jerusalem.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on Senate Concurrent Resolution 29, the concurrent resolution just concurred in.

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

There was no objection.

COMMUNICATION FROM THE HONORABLE MARTIN FROST, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable MARTIN FROST, Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 10, 1995.

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

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L of the Rules of the House that my office has been served with a subpoena issued by the District Court of Tarrant County, Texas.

After consultation with the General Counsel, I have determined that compliance with the subpoena is not inconsistent with the privileges and precedents of the House.

Sincerely,

MARTIN FROST,
Member of Congress.

OMNIBUS CIVILIAN SCIENCE AUTHORIZATION ACT OF 1995

The SPEAKER pro tempore. Pursuant to House Resolution 234 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2405.

□ 1230

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. 2405) to authorize appropriations for fiscal years 1996 and 1997 for civilian science activities of the Federal Government, and for other purposes, with Mr. KINGSTON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When in the Committee of the Whole House on Wednesday, October 11, 1995, title IV was open for amendment at any point.

Are there any amendments to title IV?

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER.

Page 109, line 10, strike "$8,757,000" and insert in lieu thereof "$86,757,000".

Page 116, lines 19 and 20, strike "Committee on Science" and insert in lieu thereof "Committee on Science and the Committee on Resources".

Page 119, lines 9 through 23, strike paragraphs (1) and (2) and insert in lieu thereof the following:

(1) SERVICE CONTRACTS.—Notwithstanding any other provision of law and subject to the availability of appropriations, the Secretary shall enter into contracts, including multiyear contracts, subject to paragraph (3), for the use of vessels to conduct oceanographic research and fisheries research, monitoring, enforcement, and management, and to acquire other data necessary to carry out the missions of the National Oceanic and Atmospheric Administration. The Secretary shall enter into these contracts unless—

(A) the cost of the contract is more than the cost (including the cost of vessel operation, maintenance, and all personnel) to the National Oceanic and Atmospheric Administration of obtaining those services on vessels of the National Oceanic and Atmospheric Administration;

(B) the contract is for more than 7 years; or

(C) the data is acquired through a vessel agreement pursuant to paragraph (4).

(2) VESSELS.—The Secretary may not enter into any contract for the construction, lease-purchase, upgrade, or service life extension of any vessel.

(3) MULTIYEAR CONTRACTS.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), and notwithstanding section 1341 of title 31, United States Code, and section 11 of title 41, United States Code, the Secretary may acquire data under multiyear contracts.

(B) REQUIRED FINDINGS.—The Secretary may not enter into a contract pursuant to this paragraph unless the Secretary finds with respect to that contract that there is a reasonable expectation that throughout the contemplated contract period the Secretary will request from Congress funding for the contract at the level required to avoid contract termination.

(C) REQUIRED PROVISIONS.—The Secretary may not enter into a contract pursuant to this paragraph unless the contract includes—

(i) a provision under which the obligation of the United States to make payments under the contract for any fiscal year is subject to the availability of appropriations provided in advance for those payments;

(ii) a provision that specifies the term of effectiveness of the contract; and

(iii) appropriate provisions under which, in case of any termination of the contract before the end of the term specified pursuant to clause (ii), the United States shall only be liable for the lesser of—

(I) an amount specified in the contract for such a termination; or

(II) amounts that were appropriated before the date of the termination for the performance of the contract or for procurement of the type of acquisition covered by the contract and are unobligated on the date of the termination.

(4) VESSEL AGREEMENTS.—The Secretary shall use excess capacity of University National Oceanographic Laboratory System vessels where appropriate and may enter into memoranda of agreement with the operators of these vessels to carry out this requirement.

Page 119, line 24, strike "(3)" and insert in lieu thereof "(5)".

Page 120, lines 3 and 4, strike ", including activities described in paragraphs (1) and (2),".

Page 121, line 3, insert "(as of September 30, 1996)" after "Observation Buoys".

Page 121, lines 6 through 8, strike paragraph (7).

Page 121, lines 9, 11, 12, 13, and 15, redesignate paragraphs (8), (9), (10), (11), and (12) as paragraphs (7), (8), (9), (10), and (11), respectively.

Page 121, lines 16 through 18, strike paragraphs (13) and (14).

Page 121, lines 19, 20, 22, and 24, and page 122, line 1, redesignate paragraphs (15), (16), (17), (18), and (19) as paragraphs (12), (13), (14), (15), and (16), respectively.

Page 123, line 19, through page 124, line 6, amend section 443 to read as follows:

SEC. 443. TERMINATION OF THE CORPS OF COMMISSIONED OFFICERS.

(a) NUMBER OF OFFICERS.—Notwithstanding section 8 of the Act of June 3, 1948 (33 U.S.C. 853g), the total number of commissioned officers on the active list of the National Oceanic and Atmospheric Administration shall not exceed 358 for fiscal year 1996. No commissioned officers are authorized for any fiscal year after fiscal year 1996.

(b) SEVERANCE PAY.—Commissioned officers may be separated from the active list of the National Oceanic and Atmospheric Administration. In lieu of separation pay, officers so separated shall be eligible only for severance pay in accordance with the terms and conditions of section 5595 of title 5, United States Code, and only to the extent provided in advance in appropriations Acts.

(c) TRANSFER.—(1) Subject to the approval of the Secretary of Defense and under terms

and conditions specified by the Secretary, commissioned officers subject to subsection (a) may transfer to the armed services under section 716 of title 10, United States Code.

(2) Subject to the approval of the Secretary of Transportation and under terms and conditions specified by the Secretary, commissioned officers subject to subsection (a) may transfer to the United States Coast Guard under section 716 of title 10, United States Code.

(3) Subject to the approval of the Administrator of the National Oceanic and Atmospheric Administration and under terms and conditions specified by that Administrator, commissioned officers subject to subsection (a) may be employed by the National Oceanic and Atmospheric Administration as members of the civil service.

(d) REPEALS.—(1) The following provisions of law are repealed:

(A) The Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853a–853o, 853p–853u).

(B) The Act of February 16, 1929 (Chapter 221, section 5; 45 Stat. 1187; 33 U.S.C. 852a).

(C) The Act of January 19, 1942 (Chapter 6; 56 Stat. 6).

(D) Section 9 of Public Law 87–649 (76 Stat. 495).

(E) The Act of May 22, 1917 (Chapter 20, section 16; 40 Stat. 87; 33 U.S.C. 854 et seq.).

(F) The Act of December 3, 1942 (Chapter 670; 56 Stat. 1038.

(G) Sections 1 through 5 of Public Law 91–621 (84 Stat. 1863; 33 U.S.C. 857–1 et seq.).

(H) The Act of August 10, 1956 (Chapter 1041, section 3; 70A Stat. 619; 33 U.S.C. 857a).

(I) The Act of May 18, 1920 (Chapter 190, section 11; 41 Stat. 603; 33 U.S.C. 864).

(J) The Act of July 22, 1947 (Chapter 286; 61 Stat. 400; 33 U.S.C. 873, 874).

(K) The Act of August 3, 1956 (Chapter 932; 70 Stat. 988; 33 U.S.C. 875, 876).

(L) All other Acts inconsistent with this subsection.

Following the repeal of provisions under this paragraph, all retirement benefits for the NOAA Corps which are in existence on September 30, 1996, shall continue to apply to eligible NOAA Corps officers and retirees.

(2) The effective date of the repeals under paragraph (1) shall be October 1, 1996.

(e) ABOLITION.—The Office of the National Oceanic and Atmospheric Administration Corps of Operations and the Commissioned Personnel Center are abolished effective September 30, 1996.

Page 4, amend the item in the table of contents relating to section 443 to read as follows:

Sec. 443. Termination of the corps of commissioned officers.

Page 126, line 14, through page 127, line 9, strike section 453.

Page 127, line 10, and page 128, lines 1 and 11, redesignate sections 454, 455, and 456 as sections 453, 454, and 455, respectively.

Page 129, after line 9, insert the following new sections:

SEC. 456. CONVEYANCE OF NATIONAL MARINE FISHERIES SERVICE LABORATORY AT GLOUCESTER, MASSACHUSETTS.

(a) CONVEYANCE REQUIRED.—

(1) IN GENERAL.—The Secretary shall convey to the Commonwealth of Massachusetts all right, title, and interest of the United States in and to the property comprising the National Marine Fisheries Service laboratory located on Emerson Avenue in Gloucester, Massachusetts.

(2) TERMS.—A conveyance of property under paragraph (1) shall be made—

(A) without payment of consideration; and

(B) subject to the terms and conditions specified under subsections (b) and (c).

(b) CONDITIONS FOR TRANSFER.—

(1) IN GENERAL.—As a condition of any conveyance of property under this section, the Commonwealth of Massachusetts shall assume full responsibility for maintenance of the property for as long as the Commonwealth retains the right and title to that property.

(2) CONTINUED USE OF PROPERTY BY NMFS.—The Secretary may enter into a memorandum of understanding with the Commonwealth of Massachusetts under which the National Marine Fisheries Service is authorized to occupy existing laboratory space on the property conveyed under this section, if—

(A) the term of the memorandum of understanding is for a period of not longer than 5 years beginning on the date of enactment of this Act; and

(B) the square footage of the space to be occupied by the National Marine Fisheries Service does not conflict with the needs of, and is agreeable to, the Commonwealth of Massachusetts.

(c) REVERSIONARY INTEREST.—All right, title, and interest in and to all property conveyed under this section shall revert to the United States on the date on which the Commonwealth of Massachusetts uses any of the property for any purpose other than the Commonwealth of Massachusetts Division of Marine Fisheries resource management program.

SEC. 457. CLEANUP OF NOAA FACILITIES.

(a) IN GENERAL.—The Secretary shall clean up landfills, wastes, dumps, debris, storage tanks, property, hazardous or unsafe conditions, and contaminants (including, without limitation, petroleum products and their derivatives), on lands which the National Oceanic and Atmospheric Administration and its predecessor agencies abandoned, quitclaimed, or otherwise transferred, or is obligated to transfer, to local entities or landowners on the Pribilof Islands, Alaska, pursuant to the Fur Seal Act of 1966 (16 U.S.C. 1161 et seq.).

(b) SPECIFIC REQUIREMENTS.—To carry out subsection (a), the Secretary shall—

(1) by December 31, 1995, execute agreements with the State of Alaska, affected local entities and landowners, and in the case of new landfills, the Indian Health Service;

(2) manage the cleanup required in subsection (a) with the minimum possible Federal overhead, delay, and duplication of State and local planning and design work;

(3) receive approval of the State of Alaska for the cleanup plans prepared as a result of the agreements described in subsection (b)(1) where said cleanup is required by State law;

(4) receive approval of affected local entities and landowners before conducting cleanup work on their property, if such approval is not obtained by agreement in accordance with paragraph (5);

(5) to the maximum extent possible, and notwithstanding any other law, carry out duties under this Act and under other Federal laws on the Pribilof Islands through contracts, grants, or cooperative agreements, including agreements on a reimbursable basis, with the local entities and landowners and with residents of the Pribilof Islands; and

(6) not require financial contributions by or from local entities or landowners.

(c) CONTENTS OF AGREEMENTS.—The agreements described in subsection (b)(1) shall—

(1) require the Secretary to clean up all sites referred to in subsection (a), as soon as possible;

(2) specify the Secretary's responsibility to—

(A) contribute to the planning and construction of new or redeveloped landfills;

(B) provide technical and financial assistance and training to the local entities and landowners and residents of the Pribilof Islands; and

(C) to the greatest extent possible, secure their participation in carrying out this section.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "cleanup" means, without limitation, planning and execution of remediation actions for lands described in subsection (a) and redevelopment of landfills to meet regulatory requirements; and

(2) the term "local entities and landowners" means those local political subdivisions and entities that have received or are eligible to receive lands under the Fur Seal Act of 1966 (16 U.S.C. 1161 et seq.).

Page 4, strike the items in the table of contents relating to sections 453 through 456 and insert in lieu thereof the following:

Sec. 453. Eligibility for awards.
Sec. 454. Prohibition of lobbying activities.
Sec. 455. Report on laboratories.
Sec. 456. Conveyance of National Marine Fisheries Service laboratory at Gloucester, Massachusetts.
Sec. 457. Cleanup of NOAA facilities.

Mr. WALKER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALKER. Mr. Chairman, I offer this amendment on behalf of the managers of the bill at the request of the Committee on Resources to make the following changes in the bill.

What it does is it modifies the NOAA fleet modernization termination language to allow NOAA to use their existing vessels if the Secretary of Commerce determines that using the existing vessels is the most cost-effective option. The language precludes NOAA from engaging in significant repairs to extend the life or upgrade the existing vessels.

It modifies the NOAA Corps elimination language to more closely parallel the Committee on Resources's language. The amendment will terminate the uniformed NOAA Corps at the end of the fiscal year 1996 while also providing corps members with the ability to transfer to the Coast Guard or to the Department of Defense or to NOAA as civilian employees if these agencies determine that their services are required.

I will give an example of that. I think all of us recognize that one of the things that we want to do is keep the hurricane planes flying and this will allow NOAA to transfer the pilots of those airplanes to the agency itself to fly those planes in the future.

It makes some modifications to the termination list. Specifically, the bill will now be silent on the following issues: The National Coastal Research

and Development Institute, the Southeast United States Caribbean Fisheries Oceanographic Coordinated Investigations Program, the Sea Grant Oyster Disease Account, and the termination of the Chesapeake Bay buoys, which will be delayed until September 30, 1996.

The amendment also adds language to transfer a fisheries lab from the National Marine Fisheries Service to the State of Massachusetts. This language is identical to the language reported by the Committee on Resources.

The amendment also adds language to strengthen the cleanup requirements for the Pribilof Islands in Alaska. Once again, this language is taken from the resources bill.

The amendment also makes a technical correction to fix a number of numerical errors in the bill, and strikes language that has been identified by the Congressional Budget Office as resulting in direct spending.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title IV?

AMENDMENT OFFERED BY MR. FARR

Mr. FARR. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FARR: At the appropriate place in Title IV insert the following:

SEC. . OCEAN APPLICATIONS BRANCH.

(a) ESTABLISHMENT.—The Secretary of Commerce shall establish and maintain within the Administration a program to be known as the Ocean Applications Branch (in this section referred to as the "Branch").

(b) PURPOSE.—The purpose of the Branch shall be to make oceanographic and other information developed by the Department of Defense Fleet Numerical Meteorology and Oceanography Center available for private, educational, and government use pursuant to agreement between the Secretary of Defense and the Secretary of Commerce. It shall be the goal of the Secretary of Commerce to support the activities of the Ocean Applications Branch through user fees.

(c) LIMITATION ON CLOSURE.—The Secretary of Commerce shall not terminate operation of the Branch, before the Branch fully funds its operations through private sources, including user fees, or fiscal year 1996, whichever comes first.

Mr. FARR (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. FARR. Mr. Chairman, I have an amendment here that was adopted unanimously in the Committee on Resources and I ask that it be inserted into this bill.

Mr. Chairman, the amendment essentially requires NOAA to keep open the Ocean Applications Branch, which is a small office that is moving toward privatization to fully develop its own privatized funding. The Navy's Fleet Numerical Meteorological and Oceanographic Center in Monterey is the leading global marine forecasting center and provides all the military's ocean forecasting data.

The center provides real time oceanographic data from a variety of satellite and terrestrial observation posts. This information is used to generate up-to-the-minute marine analysis and weather forecasting for over 1,000 private and public center users, and I ask that this amendment be adopted.

Mr. Chairman, I think there is no controversy on it. It has been unanimously agreed to in the policy committee.

Mr. ROHRABACHER. Mr. Chairman, will the gentleman yield?

Mr. FARR. I yield to the gentleman from California.

Mr. ROHRABACHER. Mr. Chairman, I would ask the gentleman, is there any authorization that deals with this amendment?

Mr. FARR. Mr. Chairman, I would reply to the gentleman from California, no, as the amendment deleted the authorization. It is in the appropriations bill. It is under the ocean analysis. It does not increase that.

Mr. ROHRABACHER. Mr. Chairman, if the gentleman will yield further, is there a 1-year exemption on closure in this amendment?

Mr. FARR. Yes, there is. The bill is only good for a year, and so as the last sentence in the amendment states, it says that the Department of Commerce shall not terminate it for the fiscal year 1996 or whenever the user fees become successful, whichever comes first.

Mr. ROHRABACHER. Mr. Chairman, we are willing to accept this amendment.

Mr. FARR. Mr. Chairman, I thank the gentleman for accepting the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. FARR].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title IV?

AMENDMENT OFFERED BY MR. SAXTON

Mr. SAXTON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SAXTON: Page 114, line 19, strike "(a) MARINE PREDICTION RESEARCH.—".

Page 115, strike lines 1 through 17.

Page 122, strike lines 10 through 21 (and redesignate the subsequent subsection accordingly).

Mr. SAXTON. Mr. Chairman, I understand that the gentleman from Pennsylvania [Mr. WALKER], chairman of the committee, has agreed to accept this amendment. It merely adds the Committee on Resources, which shares jurisdiction over the National Oceanic and Atmospheric Administration to the distribution list of a report on NOAA Program terminations authorized by H.R. 2405. On this list there are several programs with resources jurisdictions.

Mr. BROWN of California. Mr. Chairman, I move to strike the last word. The gentleman from New Jersey made the, what I considered unfortunate juxtaposition of the term noncontroversial with the fact that the chairman of the Committee on Science agreed with it. Does that mean that he thinks that whatever the chairman agrees to is noncontroversial?

Mr. SAXTON. Mr. Chairman, if the gentleman will yield, I apologize for that unfortunate use of the word uncontroversial. I certainly did not mean to represent the position of the minority in this matter.

Mr. BROWN of California. I appreciate that consideration. As far as I know, it is noncontroversial.

Mr. ROHRABACHER. Mr. Chairman, I move to strike the requisite number of words. This amendment is acceptable.

Mr. LONGLEY. Mr. Chairman, I rise in strong support of the Saxton amendment to H.R. 2405. I am a member of the Resources Committee, which is the principal authorizing committee for sea grant, as well as a cosponsor of H.R. 1175, the authorizing legislation for this valuable program.

The National Sea Grant College Program is a network of over 300 colleges, universities, secondary and elementary schools, and research institutions throughout the country focused on the wise use of marine resources. Sea grant has proven to be a highly effective Federal-State partnership that responds to local as well as national needs.

Sea grant is the ocean-based corollary to the Land Grant College Program. Sea grant uses high quality, competitive, merit-reviewed science to address critical marine resources issues, and disseminates the results of that work through its education and marine advisory services.

More than half the funding for sea grant comes from non-Federal sources—every dollar we invest in sea grant is matched by its participants. Sea grant is often the seed money for State, local, and private funds to come together to help our Nation utilize more fully its vast publicly owned marine resources.

For example, in my home State of Maine, sea grant technology, products and data have helped create jobs. In particular, as a result of Maine sea grant research on lobster reproduction and growth, the following companies were established:

Dodge Cove Marine Farms, Inc., Newcastle, ME; Great Eastern Mussel Farms, Inc., Tenants Harbor, ME; Island Maid, Beals Island, ME; Lobster Products, Hancock, ME; Maine Lobster Technology, Lamoine, ME; Mook Sea Farms, Damariscotta, ME; Northeast Labs, Winslow, ME.

In short, Mr. Chairman, sea grant deserves our support. The Resources Committee has reported out a comprehensive, responsible sea grant reauthorization measure which has the support of the 30 sea grant colleges and the Sea Grant Association. Certainly, sea grant deserves more than 29 lines in a 152-page bill. Support the Saxton amendment and pave the way for H.R. 1175 to come to the floor.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. SAXTON].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SAXTON

Mr. SAXTON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SAXTON: On page 122, line 5, strike "Science" and insert instead "Resources and the Committee on Science".

Mr. SAXTON. Mr. Chairman, I understand that Chairman WALKER has also agreed to this amendment. Like the first amendment, this amendment adds the Committee on Resources to the distribution list for a report, this time on NOAA laboratories. NOAA's labs are used for the support of its resource management activities, including fisheries research, and the Committee on Resources would benefit very much from this information.

Mr. ROHRABACHER. Mr. Chairman, the majority side accepts this amendment.

Mr. BROWN of California. Mr. Chairman, I move to strike the last word. Our side has reviewed the amendment and finds no problems with it and are glad to accept it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. SAXTON].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SAXTON

Mr. SAXTON. Mr. Chairman, I offer one additional amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SAXTON: On page 128, line 16, strike "Science" and insert instead "Resources and the Committee on Science".

Mr. SAXTON. Mr. Chairman, earlier this year Chairman DON YOUNG of the Committee on Resources introduced legislation to reauthorize the sea-grant program. The Committee on Resources is the primary committee of jurisdiction for the program and has reported the bill to the House. The Committee on Science received a secondary referral on the bill and has also reported the measure. The Committee on Resources agreed in good faith to let the bill we are now considering come to the floor before having worked out a compromise with the Committee on Science on the NOAA provisions over which we share jurisdiction. Unfortunately, the Committee on Science has refused to negotiate on sea grant.

Mr. Chairman, as I said, unfortunately the Committee on Science has not negotiated on sea grant. This bill includes the Committee on Science's version of sea grant, not the version reported by the committee with primary jurisdiction. Therefore, I am offering an amendment to strike the sea-grant provisions from the bill. This will allow H.R. 1175, the bill Chairman YOUNG introduced earlier this year, which has been acted on by both committees of jurisdiction and is now in a position to come to the floor.

The national sea-grant college program is a network of over 300 colleges, universities, secondary, and elementary schools and research institutions throughout the country focused on the wise use of marine resources. For nearly 30 years, the sea-grant program has played an essential role in helping our Nation to utilize more fully its vast publicly owned marine coastal and Great Lakes resources which are vital to the lives of Americans living in the rapidly growing population areas along the coastal areas.

This bill is modeled after the land-grant college concept. Sea grant uses high-quality, competitive merit-reviewed science to address critical marine resources issues and dismantles the results of that work through its education and advisory service activities. Federal funding for sea grant is highly leveraged. Nearly half of the total program cost is derived from non-Federal sources.

H.R. 2405 guts sea grant. H.R. 1175, the bill reported by the Natural Resources Committee, which has primary jurisdiction over sea grant, does not gut the program. Quite to the contrary, it improves it. H.R. 1175 makes significant improvements in sea grant by streamlining the proposal review process, reducing administrative costs, capping the total program costs below services level, and clarifying Federal and university roles in the program. H.R. 1175 is also consistent with the House-passed Commerce appropriations bill which we might add makes appropriations consistent with our bill, H.R. 1175 should be the bill that the House considers. If Members believe, as I do, that the long-term viability of our Nation's marine resources should be maintained for future generations, then I urge they will vote for this amendment.

PERFECTING AMENDMENT OFFERED BY MR. WELDON OF PENNSYLVANIA

Mr. WELDON of Pennsylvania. Mr. Chairman, I offer a perfecting amendment.

The Clerk read as follows:

Perfecting amendment offered by Mr. WELDON of Pennsylvania: Page 115, line 7, strike "$34,500,000" and insert in lieu thereof "$51,000,000".

Page 115, line 12, strike "$1,500,000" and insert in lieu thereof "$2,000,000".

□ 1245

Mr. WELDON of Pennsylvania. Mr. Chairman, the amendment I offer today is in support of the sea-grant program. As the former ranking member of the Oceanography Subcommittee and the Committee on Merchant Marine and Fisheries, and now a member of the Committee on Science, I support the program in its entirety.

I am here today to offer an amendment which I understand Chairman WALKER has agreed to accept, which would in fact raise the authorization level up to the amount that is being offered by my friend the gentleman from New Jersey [Mr. SAXTON]. This removes the dispute in terms of the dollar amount, and also I think takes away what is I think the most egregious item in the Saxton amendment, which is the deauthorization of the whole program.

If the Saxton amendment were to pass today as a part of our science bill, in effect the entire authorization for sea grant would be removed. They are telling us that it would be restored at some future time. That may or may not happen.

What I am proposing is to raise the authorization level up to the exact same amount that my friend from New Jersey is offering today, because I support the program. The chairman has agreed to accept that funding level and to continue the program, and even to work with the Members and the committee individuals who have other changes they would like to make and perhaps would like to see come on a future authorization, which I am prepared to also support as the author of this amendment.

The key thing I am concerned about, Mr. Chairman, and all of our colleagues should be concerned about here today is if the Saxton amendment passes today, the entire program is deauthorized. It is removed from the bill and there is in fact no sea-grant program in the science legislation. That I think would be a mistake.

We have the commitment from Chairman WALKER to work with us. We have the commitment from me, as the author of this perfecting amendment, to work with the members of the Committee on Resources on other concerns in two areas that they feel are important.

I am committing to work with them publicly and to help them bring an authorization bill to the floor to deal with those other concerns. I would hope that our colleagues on the other side would support this effort, because it also allows us in this bill, where we consider the issue in the Committee on Science, to allow this program to be kept intact and increase the dollar amount.

I would have offered this amendment to increase the dollar amount in committee, but the chairman wanted to keep the dollar amount in line with the budgetary number that was given to him, and therefore I did not offer that amendment. I am offering it today, and the chairman has graciously agreed to work with us.

I think for the benefit of this program we ought to put aside the petty politics of the staff members who cannot agree on a common solution, and Members ought to come together and realize that those Members who support the program have a chance to keep the program intact, raise the dollar amount up and to work with the Committee on Resources on the concerns they have raised relative to two other specific parts of the program that they feel are not included in this bill. I would hope our colleagues would support it.

Mr. SAXTON. Mr. Chairman, will the gentleman yield?

Mr. WELDON of Pennsylvania. I yield to the gentleman from New Jersey.

Mr. SAXTON. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, first let me express my appreciation for the movement that the gentleman has shown relative to the level of funding. I do appreciate that. However, I must also say that it is somewhat disingenuous to characterize this amendment as a deauthorizing amendment.

The gentleman knows full well that this program ran out of its authorization time at the beginning of this year and, just like the Endangered Species Act and many other laws which are currently ongoing without an authorization bill, this one is as well. So I think it is a mischaracterization of this process to say that this amendment deauthorizes the act.

What we are trying to do is to put in place a policy statement, through the process that we have been engaged in on a bipartisan basis together, to bring an appropriate bill to the floor. So, once again, I appreciate what the gentleman has done but I strongly disagree with his position.

Mr. WELDON of Pennsylvania. Reclaiming my time, I appreciate the gentleman's comments, but the facts are that when we take the sea-grant program out of this bill, there is no authorization in the science bill for the national sea-grant program. What I am attempting to do is to raise the dollar amount, as well as to work with the Committee on Resources to address those other concerns that they have.

Let me say, Mr. Chairman, and I think we ought to ask for the ruling on this, my understanding is that the Parliamentarian has ruled that this program has exact joint oversight by both committees, both the Committee on Science and the Committee on Resources. What it appears to me is that perhaps staff, not Members but staff is really behind this effort to exert who has the control over it.

That is the worst part of what we are talking about here, because in the end we all agree the sea-grant program is a good program. It deserves to be funded. The chairman of the Committee on Science is accepting the funding level. The chairman of the Committee on Resources has agreed to work with us on the changes that the gentleman from New Jersey [Mr. SAXTON] wants to make. I have agreed to support them and to work with them.

So there really is no issue unless we allow the staff to dominate this debate and have their petty feuding over which staff is going to control the final product to come before this body. I ask my colleagues to support the perfecting amendment.

PARLIAMENTARY INQUIRY

Mr. PALLONE. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. PALLONE. My understanding was that the gentleman from New Jersey [Mr. SAXTON] made a motion to strike and now the gentleman from Pennsylvania's motion relates to the funding level. Is that in order?

The CHAIRMAN. There are two amendments pending. One is a perfecting amendment offered to the bill by the gentleman from Pennsylvania [Mr. WELDON], and then the gentleman from New Jersey [Mr. SAXTON] has an amendment to strike. The Weldon amendment will be voted on first.

Mr. PALLONE. If the Weldon amendment passes, if I could inquire, then is the Saxton amendment still in order?

The CHAIRMAN. The committee would still vote on the Saxton amendment because it would strike that amended language as well as other language of the bill.

Mr. PALLONE. Mr. Chairman, I move to strike the last word to speak on the Saxton amendment.

Mr. Chairman, again I have no problem with raising the funding level, I certainly would support that, but my concern is that this not impact the motion to strike offered by the gentleman from New Jersey [Mr. SAXTON], because I think that that is certainly equally if not more important in the context of the underlying bill. My concern is that the underlying bill not only provides less funding, which now presumably would be corrected with the Weldon amendment, but also has some significant changes in the authorization of what the Sea Grant program would be all about.

I much prefer the Committee on Resources version, which is why I support the Saxton amendment, because the Committee on Resources version essentially is well thought out and continues much of the outreach in education that currently exists in the Sea Grant program. In other words, Sea Grant is not just research. Sea Grant is not just grants that are given to academia or to institutions in order to do research. It is very much an outreach program that provides education and takes that research and translates it into the field.

Let me just give an example. I myself am a former Sea Grant specialist. I worked as part of what we called the Sea Grant Advisory Service. The Sea Grant Advisory Service exists in most if not all the coastal States, and basically what they do is, they go out into the community and they help marine owners and they help fishermen and they help coastal users with various problems that they have on a daily basis.

Sea Grant also is involved in actual educational functions. Some of the people actually teach in the universities. There is a lot of public outreach, which is the reason the Sea Grant has received so much public support. It is a very unique program because the public supports it, because they see the direct results of the research and what is done in the universities transferred into the field.

The problem with the Committee on Science version of this bill is it essentially eliminates marine advisory services, it essentially eliminates the Sea Grant Fellows Program, it eliminates a lot of the education and outreach programs that are an integral part of Sea Grant. For that reason, I support very much the Saxton amendment because the Committee on Resources continues these outreach and educational activities. I have no problem with increasing the funding, but that does not take away in any way from what the Saxton amendment would accomplish.

Mr. ROHRABACHER. Mr. Chairman, will the gentleman yield?

Mr. PALLONE. I yield to the gentleman from California.

Mr. ROHRABACHER. Mr. Chairman, I would ask the gentleman, are the educational aspects that he was just mentioning not peripheral to the central point of Sea Grant? Are we really not supposed to be talking about research and development?

Mr. PALLONE. Reclaiming my time, Mr. Chairman, absolutely not. Let me give an example, if I could.

When I worked at Rutgers University as a Sea Grant extension specialist, many of the people that were there actually had 3 functions. One was what we called research, one was teaching, and one was outreach. I was totally outreach. I used to just go out in the field with the marine owners, the fishermen, whatever, and work with them.

But basically what would happen, there would be people at Rutgers doing research, often that had direct applicability to what was going on in the field. For example, research would be done on how to improve, for example, certain types of fish species or prevent

pollution, and then we as extension specialists would go out and apply that research actually with the fishermen. Of course there was also the teaching element, those who would teach at the university.

The unique relationship between those 3 things, extension, research, and academia, was very important. I think if we eliminate the extension, which is one of the things that is in this bill essentially, we are going to really eliminate a lot of the public support as well as why Sea Grant makes sense.

Mr. ROHRABACHER. So the gentleman believes at this time when we are trying to find things in the budget and set our priorities, that helping these fishermen that he is talking about is really an important enough use of the taxpayer's money that we should cut other programs to support this?

Mr. PALLONE. It is not just fishermen Mr. Chairman. It was anyone basically who are coastal users, people who lived at the shore, people involved in commercial cargo activities. I really do not think we should eliminate one aspect of it but perhaps by try to see how money can be used, reduced perhaps but used for all 3 functions rather than eliminate one aspect.

Mr. ROHRABACHER. If the gentleman would yield further, it just seems to me that what he is describing is a program that is very nice. We tried to save the really solid research end of this Sea Grant Program. We tried to trim from it those things that were not essential. From what the gentleman has described today, and I know the people listening have to make their own determination, those are really nonessential items for the Federal Government to be involved in.

Mr. PALLONE. Mr. Chairman, I would disagree with the gentleman completely. I think maybe that is one difference between the Committee on Resources and the Committee on Science. They put the emphasis on the research and the academia. We on the other hand are looking at the practical application of those skills in the field. I would argue just the opposite that those are just as important if not more.

Mr. WALKER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we have been attempting to work out the situation here with regard to the bill. Obviously there are some differences in the scope of the program between what the Committee on Science action was and what the Committee on Resources action was. I think we are agreed that we need to have a way of deliberating both areas.

I happen to agree with the approach that the gentleman from Pennsylvania [Mr. WELDON] has taken in raising the money up to the appropriation level at this point. That probably is the right course to take at the present time. However, the Committee on Resources feels as though it has some areas that they would like to address, and so what we have agreed to here is to take, as I understand it, the Weldon amendment to the Saxton amendment, pass that as a substitute, and that would raise the money in the bill. Then at a later date the Committee on Resources will bring their own bill affecting this program to the floor that would deal with further authorizations, and it is my understanding, if the gentleman from New Jersey can speak for the chairman of the committee, that we would have an exchange of letters asserting that by us allowing you to bring your bill to the floor independent of a referral to us, that that would not in any way jeopardize any kind of co-equal jurisdiction we have over the program; is that correct?

Mr. SAXTON. If the gentleman will yield, that is essentially correct. I think it is important that we make this move today. I once again appreciate the fact that you are willing to meet us at the appropriate target with regard to funding. I would just point out that during the debate under an open rule as I understand it when H.R. 1175 comes to the floor, that will give us the opportunity to debate the issues that the gentleman from New Jersey [Mr. PALLONE] just spoke about and that are also of concern to me, namely, the Sea Grant Fellows Program, the Marine Advisory Service Program, as well as provisions that are in H.R. 1175 that relate recommendations made by the National Academy of Sciences which help to streamline the program. There may be some other issues involved under that open rule as well.

With that having been said, we agree to accept the Weldon amendment today.

□ 1300

Mr. WALKER. Reclaiming my time, obviously the Committee on Resources at that time can bring anything they want to the floor for further authorization of the Sea Grant Program. What this action would do today is assure the program is authorized at the level of funding that the Weldon amendment anticipates and then we would move toward further potential authorization at a later date.

Mr. SAXTON. That is correct.

Mr. WALKER. As I say, it is my understanding then we would have an exchange of letters to this effect.

Mr. SAXTON. If the gentleman will yield, it is implicit in this the chairman of the Committee on Science, the gentleman from Pennsylvania, will support our effort to bring H.R. 1175 to the floor.

Mr. WALKER. What the gentleman has agreed to is not to hinder your efforts in any way to bring the bill to the floor. The gentleman may have some questions about the provisions of your bill.

Mr. SAXTON. That is OK.

Mr. WALKER. I am certainly not going to hinder you bringing your bill to the floor.

Mr. SAXTON. Just so we have your assurance that you will support our effort to get the bill to the floor.

Mr. WALKER. Sure. That is what we have agreed to.

Mr. BROWN of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it has been my intention to support the gentleman from New Jersey [Mr. SAXTON] with regard to this matter and for reasons which I will elaborate on.

Actually, I think all of the people who have spoken here have agreed that the Sea Grant Program is a valuable program and one that should be continued. Unfortunately, the authorization for that program expired at the end of fiscal year 1995, and we are now seeking to reinstitute the reauthorization and determine the level of authorized funding.

Again, we all agree that the two committees, Science and Resources, have joint jurisdiction over this program, and in the past we have worked closely in order to resolve any differences that might have occurred as a result of differing attitudes toward the program.

There are some rather sensitive issues involved here which I hesitate to bring up again, but as I indicated at the beginning of the debate on this bill, it does not really matter too much what we do on this bill, since it is not going anywhere. But it does offer an opportunity for some discussion of policy issues which I think are important.

Policy issue No. 1 illustrated here is that two committees now both headed by distinguished Republican Members of this body have some serious differences with regard to what constitutes real research and what constitutes an appropriate role for the Federal Government.

The Committee on Science, under the leadership of the distinguished gentleman from Pennsylvania, takes a dim view of programs which are not real research, not basic research, but which are applied research or technology development.

The Committee on Resources seems to be oriented more toward support for programs which do apply research to the needs of the people of this country, and in this case, the maritime industry, and is quite willing to support these appropriately selected applied research and technology development programs which have obvious economic payoffs to the people of this country.

The distinguished gentleman from California [Mr. ROHRABACHER], has already indicated that he feels that this is not an appropriate role for the Federal Government, and he very eloquently defends that position.

Mr. Chairman, I am happy to yield to the gentleman from California to defend it some more, if he wishes.

Mr. ROHRABACHER. Mr. Chairman, I think, at a time when we are having to make major budget cuts in so many programs, that we do have to make choices and that when we make choices in a situation just like today, and I think this does demonstrate a difference in philosophy, not in morality, not in values, but a difference in philosophy as to what Government should do, but when the Government is involved in helping fishermen or helping people who do coastal work, coastal shipping, or live near the coast, that perhaps other programs are more important than those programs, and perhaps when people are making money in the fishing industry or in the shipping industry, they could pay for those type of activities, especially at a time when our budget is too tight.

Mr. BROWN of California. We do not have a basic disagreement there. I would personally like to see the private beneficiaries of Government research or development pay for as much of it as possible, and if we can just work out a common scheme for doing that, you and I can support that.

The gentleman and I do not want to be overly critical, but he also seems to imply, and this is another one of those delicate issues, that anytime we do not support the language and the numbers in this authorization bill, that we are not really interested in balancing the budget. Now, the gentleman knows that it does not make much difference what we think on this side, but he is raising an argument which the Republican chairmen of the Committee on Appropriations are going to find disturbing because they have already raised the numbers above what is in this bill as any members of the Committee on Appropriations will tell you, and that is all that the amendment offered by the gentleman from New Jersey really seeks to do, is to raise those numbers up, plus eliminating some language that would put restrictions on what could be done under the Sea Grant Program.

Mr. ROHRABACHER. If the gentleman will yield further, some of us on this side of the aisle are even more committed budget cutters than others on this side of the aisle.

Mr. BROWN of California. I understand that. I understand that, and in fact I am trying to accentuate that difference so that since you know it, what I am trying to do, you should seek to resolve that before it becomes something that I will raise on the floor and try and confound you with.

But the real point is, and I have said this over and over again, we are not, in the authorizing committee, bound by the budget resolution. It does not matter what we put in there. I can be 50 percent above what is in the budget resolution, because it is only binding on the Committee on Appropriations, and these numbers are the way the authorizers indicate priorities. We are not spending money. We are indicating priorities.

The interesting think here is you have not been consistent on your side with regard to your approval of raising our numbers in this bill up to the appropriators' level. In this case, the chairman has agreed to do it, and in another case the chairman agreed to do it. There have been four cases.

The CHAIRMAN. The time of the gentleman from California [Mr. BROWN] has expired.

(By unanimous consent, Mr. BROWN of California was allowed to proceed for 2 additional minutes.)

Mr. BROWN of California. Mr. Chairman, in order to entertain this vast audience I have here, in two out of the four cases in which we had amendments to raise the numbers up to the Committee on Appropriations level already approved in both the House and Senate, on your side you agreed to go along with two, on the other two you said, "No, that is a budget buster. It shows we do not care about balancing the budget." I resent those arguments, very frankly. You know they are not true, and I know they are not true. Let us use a little common sense and work out an agreement that represents the best thinking of both sides and see if we cannot get behind it and support it and avoid these fictitious arguments about who is the biggest budget cutter both on your side within your party and between the two of us.

Mr. CALLAHAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I feel like I am in the middle of a jurisdictional dispute, which I am. We are not talking about whether or not the programs are good programs or bad programs. We are talking about a concept of whether or not we ought to bust the budget with this miniscule amount of money that is doing a great deal of good for a great many people in this great country.

Yes, we can talk about budget busters. Yes, we can talk about conservatism. But we have a program that is working, a government program that combines the resources and the capabilities and the talents of the State of Alabama, for example. Under our Sea Grant Program, the universities, the private industry and the Government are working together to make this a better world, to help prcvide for the future feeding of people in this country and other countries, and to eliminate diseases such as salmonella that are taking place in some seafood problems throughout the world now.

So while we are caught in this jurisdictional problem of who is going to get credit or who is going to have control, let us not lose sight of the fact that we are talking about a very vital program to the people of this country which costs a very small amount of money, and I think at this point we have reached the stage, if I am not mistaken, I say to the gentleman from New Jersey [Mr. SAXTON], I came to speak in favor of your amendment that now the gentleman from Pennsylvania [Mr. WELDON] is introducing a substitute or an amendment to your amendment saying that they are going to fully fund under his authorization bill, and yet fully support you when you come to the floor for the reauthorization level.

I think it is imperative that we do support the Committee on Resources on the full authorization level because we are talking about a 4-year program instead of a 1-year program. So at this point I suppose we are at the stage where we are all going to support you, I say to the gentleman from Pennsylvania [Mr. WELDON], and applaud your efforts to bring the funding levels back up and then get behind the gentleman from New Jersey [Mr. SAXTON] and the Committee on Resources to ensure that this vital program continues.

Mr. WELDON of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. CALLAHAN. I yield to the gentleman from Pennsylvania.

Mr. WELDON of Pennsylvania. Mr. Chairman, that is exactly the point here, and I would just want to add again that the Committee on the Budget, in their deliberations, zeroed out the Sea Grant Program, and those of us on the Committee on Science who went to the gentleman from Pennsylvania [Mr. WALKER] worked with him to raise up an authorization level to put funding back in. It was not what we wanted. It was around $34 million, but it was, in fact, increased funding.

What we have now done is we have increased it to a much higher level, which is a level that the Committee on Resources had in their mark, and I think, as I have said publicly, I am very happy and pleased to work with the gentleman from New Jersey [Mr. SAXTON] and to support the other priorities and concerns he has. So we move ahead, get the program, keep it intact and work with the natural resources bill to support that when it comes to the floor as well.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. CALLAHAN. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Chairman, the gentleman, in his eloquent remarks, presented almost precisely the position that I am taking here, but I think you recognize that we do have a collision basically within your own party as to what the appropriate role of the Federal Government is in supporting the kind of research that is involved in the Sea Grant Program, and that needs to be resolved. I thought it had been resolved under the Reagan and Bush administrations, but now

that understanding is no longer holding. We are told that that is not respectable research to cooperate with industry and users and trying to develop programs that benefit the American people, that that should be done by the private sector and that there should be no Federal Government involvement in it.

We need to come to closure on that point. What is the role of the Federal Government? I am not trying to dictate it. But I do not like to be going through these specious arguments all the time because of a difference which does not get fully explicated as to what the appropriate role of the Federal Government is and has been and should be in the future, and I am hoping that the gentleman, with keen insight and common sense, like yourself, will help us to resolve that problem in a constructive way, and I will go along with the gentleman's position.

If the gentleman from Pennsylvania [Mr. WELDON] has worked out something with the gentleman from Pennsylvania [Mr. WALKER], I am not going to object to that as long as it does not obscure the larger debate which is taking place here, which is my purpose in taking up the time.

Mr. CALLAHAN. Reclaiming my time, I will say, that as a member of the Committee on Appropriations, I recognize sometimes the amount of control that the Committee on the Budget would like to impose upon the Committee on Appropriations.

Mr. BROWN of California. If the gentleman will yield on that point very briefly, the gentleman stated the Committee on the Budget had eliminated the Sea Grant Program. What the gentleman means is that in the report of the Committee on the Budget, there was language which assured that the program would be discontinued. The report language is guidance, no more, and the first budget resolution is not binding until it is confirmed by the reconciliation bill in the final action, and the appropriators know that. There has always been tension between appropriators and members of the Committee on the Budget.

The CHAIRMAN. The time of the gentleman from Alabama [Mr. CALLAHAN] has expired.

(At the request of Mr. BROWN of California and by unanimous consent, Mr. CALLAHAN was allowed to proceed for 5 additional minutes.)

Mr. BROWN of California. If the gentleman will yield further, I am enjoying this discourse so much. This is a point that all new Members need to understand particularly, this tension between the Committee on the Budget and the appropriators, to say nothing of the authorizers, is a constant factor here, and the tension over who has the predominant role will always continue in a Congress made up of prima donnas like we have. So to state that the first budget resolution abolished the Sea Grant Program is a slight exaggeration. The final action will depend on what your committee does in terms of funding the program and ultimately what the House as a whole does in terms of confirming the authorization for the program.

Mr. CALLAHAN. Reclaiming my time, as you know, we did not have this particular problem when it was all under the jurisdiction of the Committee on Merchant Marine, which, as we all know, has been abolished, and now you have two sort of separate jurisdictions. But the good theme of what I am hearing here today is that we have almost unanimous agreement that we want to continue to Sea Grant Program. We want to continue it with adequate funding level, without busting the budget, as some might say, because we recognize how valuable these types of programs are and what a contribution they make, what a contribution they make to the betterment of life here in this country.

Mr. MANTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in strong support of the Saxton amendment and the National Sea Grant College Program. For well over 25 years, the Sea Grant Program has worked toward making the United States the world leader in marine research and the sustainable development of marine resources. The cuts proposed by H.R. 2405 would be devastating and make it nearly impossible for this program to continue providing its valuable services.

Despite being a relatively small program, Sea Grant provides significant benefits to the Nation by providing a high return on federal investment through its promotion of economic growth, helping to create private sector jobs, and by educating a skilled work force able to compete in the international workplace.

Mr. Chairman, as a member from the great State of New York, the only State in the country bordering both the ocean and the Great Lakes, I have had the opportunity to see this program focus on protecting and enhancing our environment for ourselves and for future generations. Sea Grant is virtually the only source of funding devoted to marine policy studies and it is making major contributions to the advancement of fisheries management, pollution remediation, seafood safety and marine engineering.

I currently have the privilege of employing a Dean John A. Knauss Sea Grant fellow, Cinnamon Rogers. Her background in marine and coastal policy has been an invaluable asset over the past year.

Mr. Chairman, the United States has the largest jurisdiction over ocean resources in the world. The Sea Grant Program is essential to ensure that these resources are managed responsibly and effectively and to solve national marine resource problems without the need for costly regulation or intrusive government involvement. The cuts proposed by H.R. 2405 would dramatically affect our Nation's ability to maintain the economy of coastal regions, address long-term national needs, ensure survival of threatened habitat and species, and train future marine resource scientists and managers.

I urge my colleagues to support the National Sea Grant College Program by voting in favor of the Saxton amendment.

□ 1315

The CHAIRMAN. The question is on the perfecting amendment offered by the gentleman from Pennsylvania [Mr. WELDON].

The perfecting amendment was agreed to.

PARLIAMENTARY INQUIRY

Mr. SAXTON. Mr. Chairman, I would like to get a clarification in the from of a parliamentary inquiry here.

My understanding of the situation before the last vote that was just taken was that I had an amendment pending to which the gentleman from Pennsylvania [Mr. WELDON] had an amendment.

The CHAIRMAN. The amendment offered by the gentleman from Pennsylvania [Mr. WELDON] was a perfecting amendment, and it was to the bill, and it would take precedence of an amendment that strikes language from the bill. So the Weldon amendment gets voted on first.

Mr. SAXTON. That is correct, inasmuch as his amendment was an amendment to my amendment.

The CHAIRMAN. His amendment was a perfecting amendment to the language in the bill.

Mr. SAXTON. All right.

So, Mr. Chairman, what I need to do at this point is to ask unanimous consent to withdraw my original amendment; is that correct?

The CHAIRMAN. The gentleman is correct.

Mr. SAXTON. Mr. Chairman, I ask unanimous consent to withdraw my original amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIRMAN. the amendment offered by the gentleman from New Jersey [Mr. SAXTON] is withdrawn.

Mr. YOUNG of Florida. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to thank, first of all, the gentleman from Alabama [Mr. CRAMER] for allowing me to do this ahead of his amendment, and I rise for the purpose of entering into a colloquy with the gentleman from Pennsylvania [Mr. WALKER], and I would

like to ask him about the NOAA aircraft, the 14 aircraft that NOAA flies as weather surveillance and hurricane surveillance, and I would ask the gentleman if these aircraft have been eliminated by H.R. 2405.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, the answer to the gentleman's question is "no."

Mr. YOUNG of Florida. And, if the gentleman would answer, would these aircraft continue to be based where they are presently?

Mr. WALKER. The bill does not alter the bases of specific aircraft.

Mr. YOUNG of Florida. Mr. WALKER, H.R. 2405 terminates the NOAA Corps. Does the termination of the corps prevent NOAA from conducting important hurricane surveillance activities?

Mr. WALKER. I say to the gentleman the answer to his question is "no," it is not the intention of the committee to terminate important hurricane surveillance activities. The committee simply does not believe it requires uniformed NOAA Corps members to fly these planes.

Mr. YOUNG of Florida. One further question, if the gentleman would.

The manager's amendment, which was adopted, includes language which allows members of the NOAA Corps to transfer to the Department of Defense, the Coast Guard or NOAA Civil Service if they are needed. Is this accurate?

Mr. WALKER. That is correct.

Mr. YOUNG of Florida. Mr. Chairman, I thank the gentleman very much, and I thank the members of the committee for their concern about this.

AMENDMENT OFFERED BY MR. CRAMER

Mr. CRAMER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. CRAMER: Page 108, line 9, through page 109, line 4, amend subsection (g) to read as follows:

(g) WEATHER SERVICE MODERNIZATION.—Title VII of the National Oceanic and Atmospheric Administration Authorization Act of 1992 is amended—

(1) in section 706—

(A) by amending subsection (b)(6) to read as follows:

"(6) any recommendations of the Committee submitted under section 707(c) that evaluate the certification.";

(B) by striking "60-day" in subsection (c)(2) and inserting in lieu thereof "30-day";

(C) by amending subsection (d) to read as follows:

"(d) FINAL DECISION.—If the Secretary decides to close, consolidate, automate, or relocate any such field office, the Secretary shall publish the certification in the Federal Register and submit the certification to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives."; and

(D) by amending subsection (f) to read as follows:

"(f) TRANSITION PROGRAM.—The Secretary shall maintain for a period of at least two years after the closure of any weather office a program to—

"(1) provide timely information regarding the activities of the National Weather Service which may affect service to the community, including modernization and restructuring; and

"(2) work with area weather service users, including persons associated with general aviation, civil defense, emergency preparedness, and the news media, with respect to the provision of timely weather warnings and forecasts."; and

"(2) by amending section 707(c) to read as follows:

"(c) DUTIES.—The Committee may review any certification under section 706 for which the Secretary has provided a notice of intent to certify in the plan, including any certification for which there is a significant potential for degradation of service within the affected area. Upon the request of the Committee, the Secretary shall make available to the Committee the supporting documents developed by the Secretary in connection with the certification. The Committee shall evaluate any certification reviewed on the basis of the modernization criteria and with respect to the requirement that there be no degradation of service, and advise the Secretary accordingly.".

Mr. CRAMER. Mr. Chairman, I hope the Members, both present in the Chamber and listening in their offices, will pay close attention to my amendment today because it is indeed a public-safety amendment.

The Weather Service Modernization Act, which was passed in 1992, established procedures for the modernization of the National Weather Service. A critical part of that law was the requirement that no weather office can be closed or automated without a certification that the closure would not result in degradation of service to the affected area.

Now pursuant to that modernization act an implementation plan was passed by the Weather Service that would propose to close many Weather Service offices around this country including my Weather Service office there in north Alabama which also serves southeastern Tennessee as well. There are 300 existing Weather Service offices right now, and, according to the implementation plan, those numbers would be reduced to 118.

Now, under current law, Mr. Chairman, the certification requires a review of local weather characteristics, comparison of weather services within the affected area and, importantly, a review of the weather radar coverage. The process requires a publication in the Federal Register and a period of public comment before a closure takes place. I think the public participation in this process is critical.

Now the bill before the Chamber here today eliminates any certification requirement before the Weather Service can close an office, and let me repeat that. This bill eliminates any certification requirement before the Weather Service can close an office. That means that a bureaucrat can determine by the stroke of a pen which of those Weather Service offices will be closed and when those Weather Service offices will be closed, and this is unacceptable.

Mr. Chairman, that is why I say this is indeed a very critical public-safety argument here in my amendment today. Requiring a certification that there is no degradation of services is a matter of public trust. No Weather Service office should be closed without the guarantee that an area shall receive at least the same kind of Weather Service protection that it has received in the past. There must be some kind of accountability to the process of closing those offices, and a certification requirement provides an accountability.

So what do we do because none of us want a government bureaucrat exercising that kind of authority? We have got to meet some middle ground here, and I think that is what my amendment in fact does. My amendment does not preserve the existing certification process. It is a compromise amendment.

What we are doing with the amendment is currently there is a requirement that each closing certification be published in the Federal Register for 60 days. We reduce that requirement to 30 days. Currently there is a requirement that the modernization transition committee be consulted twice during the certification process. My amendment reduces that to one consultation. And in the third place, Mr. Chairman, currently there is a requirement that the Weather Service maintain a liaison officer in every closed office for 2 years. This is wasteful and not necessary. We eliminate that requirement by this amendment and simply require that the Weather Service maintain a program for 2 years, a program for 2 years that will provide timely information to Weather Service users in the community that is losing the Weather Service office.

Now this amendment, by reaching that kind of compromise, will save $15 million over 5 years and will eliminate redundancies that are currently in the law, but at the same time we will maintain the essential requirement that there be a certification of no degradation of service when a weather office will be closed.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. CRAMER. I yield to the gentleman from Indiana.

Mr. ROEMER. Mr. Chairman, I would just like to commend the gentleman from Alabama [Mr. CRAMER] and his aide, I think who will be leaving his office shortly, Mr. John Hay, for their excellent work on this amendment.

Mr. Chairman, we have the most unpredictable weather in the world in the

United States. We appropriate money every year for disasters whether they be hurricanes, tornadoes, severe weather. Certainly for us to have in this bill a guarantee for public safety and public input to certify that a closure of an office warning people about severe weather conditions should not take place unless there is this needed public safety. In this bill we are spending several hundred million dollars on shuttle safety, and we should. We should protect our astronauts when they take off in that shuttle. Certainly we should have a certification process that allows all our citizens in this country the input as to how to make sure that they are adequately warned if they have a severe lake effect coming off Lake Michigan in my district in the State of Indiana that sweeps across the entire northern part of the State.

Mr. Chairman, I think the gentleman's bill does that.

The CHAIRMAN. The time of the gentleman from Alabama [Mr. CRAMER] has expired.

(By unanimous consent, Mr. CRAMER was allowed to proceed for 2 additional minutes.)

Mr. CRAMER. Again I think with this compromise process, as the gentleman and I know brutally well in our separate areas, we have raised concerns within the committee about the modernization process and the fact that we are likely left in gap areas that many studies have determined, and recently we have engaged in jumping through every hoop, crossing every "t" we can cross, in order to fairly preserve this modernization plan to make sure the citizens of our areas are in fact protected. I think this is an additional guarantee that those of us that are concerned about this modernization process are given some protection that before they can close our offices in my case, move the office 100 miles south of my area, and recently my Weather Service office went out because it was struck by lightning, and we were served from this 100-mile-away Weather Service office, and the coverage was disastrous. We were given 2 and 3 minutes notice of tornadoes.

So, Mr. Chairman, I think the gentleman and I have worked very hard, and I congratulate him, as well, for bringing this issue to the floor.

Mr. ROEMER. Mr. Chairman, I thank the gentleman from Alabama [Mr. CRAMER] and say this amendment is doing a real service not just to the people in Indiana and Alabama, but all over the country, insuring that they get adequate warning, insuring that there is public input, and that this streamlines the bureaucratic process and actually saves some money to the taxpayer in the long run as well.

Mr. ROHRABACHER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, in our bill we have eliminated the union-written certification requirements that have stymied efforts to consolidate Weather Service offices from 215 to 118. The Cramer amendment, while not going back to the old certification requirements, offers a new and streamlined version, yes, but a version that will still result in the maintaining of unnecessary Weather Service offices and maintaining a process that is unnecessary. What we are talking about is jeopardizing a $35 million savings over 5 years. The NOAA IG supports our position, and that maintaining the system, even if it is streamlined, is unnecessarily costly, and we are trying to come about and trying to solve a problem.

Mr. Chairman, for years we have had a number of Weather Service offices that were just not necessary. There is legitimate concern which we will hear from several Members in a moment. I am sure that their areas may in some ways be affected detrimentally.

□ 1330

Let me say for the record that we have noted their concerns, and that there will be a hearing next week on this issue to ensure that each and every one of the people who Members will hear in one moment, supporting the Cramer amendment, that their concerns are dealt with, and that their concerns and their problems that might erupt from the situation, that it is corrected.

There is no reason why we should pass a Cramer amendment in order to solve the problems we are going to hear about in the next couple of minutes. What we need instead is to have an honest approach to the issue, so that we can, if anybody is left out, if there are some gaps in the plan, that they be taken care of, rather than set in law a streamlined process, yes, from what the old process is, but a process that will still result in offices that are unnecessary being left open, and add to the cost of closing offices that are unnecessary, as the NOAA IG has already stipulated.

This amendment was brought up and defeated in committee, and let me again state, the problems that are emerging, in that some areas are not being covered adequately, which we are going to hear in a moment, are being taken care of. There is no reason for us to pass the Cramer amendment. In fact, passing the Cramer amendment will be counterproductive and will cost the taxpayers unnecessary money, because the problems that will arise can be handled in a different way. We are already on the road to handling these problems.

Mr. CRAMER. Mr. Chairman, will the gentleman yield?

Mr. ROHRABACHER. I yield to the gentleman from Alabama.

Mr. CRAMER. Mr. Chairman, I want to take this time and thank the chairman of the committee, and of the Subcommittee on Space and Aeronautics of the Committee on Science, both now and in years past. They have in fact bent over backwards to make sure those of us who were extremely nervous about this modernization plan were given opportunities to question, poke holes, because what we said then and what I say now is, "Do not use our citizens as guinea pigs. Do not, just for the sake of balancing the budget," and this is a small amount of money, I might add, "do not risk out citizens' lives." I have had people sitting in church who were blown away by tornadoes, and I cannot stand here and let the gentleman say this is simply a budget issue.

I wish we had had the hearings the gentleman is talking about before we brought this bill to the floor today. I am glad we are having the hearings next week, but I must again say this is a public safety issue and not a budget issue.

Mr. ROHRABACHER. Reclaiming my time, Mr. Chairman, we did schedule these hearings long before we knew when this bill would be coming to the floor, and as the chairman of the subcommittee, and with the full support of the chairman of the full committee, we are moving forward methodically to make sure that there are no gaps in our reform measures.

The gentleman's proposal, the gentleman's amendment, does indeed come at the problem from a certain way. I am just saying that it is counterproductive and may in the end cost the taxpayers money, where we can solve the problem by looking at it independently and not setting down guidelines that, in the end, will cost the taxpayers money.

I recognize the gentleman's point. He is very concerned about his constituents. Everyone who is going to be speaking here on this issue is concerned about the lives of their constituents and the lives of other citizens of the United States. I just think we can handle it in a better way, and modernization does put—even as we have said, the Doppler radar is going into effect. We have a whole new radar system that we have approved and authorized the money for, so we are very concerned about safety, enough to spend money on this new radar system.

Mr. BROWN of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am in support of the amendment offered by the distinguished gentleman from Alabama [Mr. CRAMER], but again, I want to try and provide a little additional background here.

First, of all, Mr. Chairman, the Committee on Science has not been divided on the issue of modernizing the Weather Service. We have felt that we could provide improved service and less expensive service through updating the equipment to the best in modern radars

and so forth, and we have sought to do that.

In any period in which we have a major technological transformation, there are people who are going to be upset, some for causes which are fantasy; that is, they just distrust new technology, maybe; and others for a legitimate reason, that the technology may not work as advertised, it may not be effective, and it may degrade, as has been pointed out here, the level of service for certain particular areas.

However, the general principle is we should move ahead with modernization, we should do it reasonably well, but we should recognize the special problems of the transition. I want to say just a word about that. We wrestled for months and years over how to alleviate this concern for a degradation of service. The provisions that were finally adopted represented, again, a consensus as to how we could protect the interests of the public that was concerned, while we proceeded to go ahead as expeditiously as possible with upgrading the system.

Some of the fears for degradation of service were real, some were imaginary. There were some even here in the Congress who felt that maybe a Republican President would have shut down a weather station in a Democratic district just to maybe get even with somebody. Now that we have a Democratic President, there are Republicans who probably feel that they might be discriminated against by a Democratic President.

We feel that these are more in the realm of fantasy than fact, but the concern about a degradation of service is real. The elimination of the opportunity for public hearings would be a tragedy to due process in this country. We believe that it is important that we move ahead expeditiously; that we, however, allow for a transition period, that we allow for a process of public hearing and review whenever there is a change that is proposed, and that we take into consideration all the factors that would be involved.

It is for this reason, Mr. Chairman, the long history behind this process, which is being improved by the amendment suggested here, as a matter of fact, and saves money, this warrants the adoption of this amendment in the public interest, as well as in helping us to meet the goal of improved efficiency and less cost.

Mr. WAMP. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Alabama [Mr. CRAMER], as I supported that amendment at the level of the Committee on Science, recognizing that for the folks back home, the Democrats and Republicans are working together on this issue. I commend the Chairman of the subcommittee, the chairman of the full committee, and those on the other side, because we have worked together for a number of years on this issue.

When it comes to health and safety, we are working together to make sure that politics does not enter into this. I do not believe for a second that it has or is entering into this. However, with the potentiality of degradation in some areas of the Weather Service as we transition into a brand new national NEXRAD system, which is coming online, it is important that we do not have soft spots. Let me give a recent example.

In southeast Tennessee, which I represent, which has been identified as one of five vulnerable areas in the country by the National Research Council's findings, which they are now reporting on to the Department of Commerce, we are awaiting, I think, Department of Commerce clarification to make sure that these five areas are potentially degrading areas, so we can actually accommodate through some construction these areas to improve these areas.

As Hurricane Opal last week worked its way up through the Gulf of Mexico right through, I suppose, the district of the gentleman from Alabama [Mr. CRAMER] and my district, we have had our people who have relied on our local Weather Service office for years calling Morristown, TN, some 114 miles to the northeast. Storms do not come from the northeast to the southeast in the southeastern part of the United States, they come from the south. We have to have that service and those reportings coming from a closer area.

The gentleman from Alabama [Mr. CRAMER] very responsibly offered legislation at the committee level to accommodate these soft spots. I commend him for that. The transition, our local Weather Service Office is closing. The calls came from our local media representatives to the Morristown office. We did not have the responsiveness that we have had in recent years as this hurricane came through town. These are critical health and safety concerns that must continue to be addressed.

I commend the gentleman from California [Mr. ROHRABACHER] for the hearings, but again I do think this is a responsible approach. It does not matter where it comes from in this body, from that back corner or this back corner; when it is a responsible approach, we need to all embrace and recognize it. I urge all of our colleagues on both sides of the aisle to support the amendment offered by the gentleman from Alabama [Mr. CRAMER].

□ 1345

This team worked, saved lives and mitigated millions of dollars in property damage. Furthermore, it enabled Federal officials to control releases from the Central Valley Project dams, thereby avoiding further destruction downstream significantly. During this emergency, the radar in Sacramento which provides primary coverage to the region north of Redding failed to adequately detect precipitation in the mountains where the flooding originated. Had it not been for the heroic efforts of experienced Weather Service personnel in Redding, the devastation would have increased dramatically.

Mr. Chairman, despite the firefighting lessons we learned last spring, the Weather Service is still determined to eliminate the requirement that the service certify that the closures would not degrade services to the region, which could literally place the safety of thousands of people in jeopardy.

Mr. Chairman, this would have ramifications that move far beyond even flood management. It would also severely impact the Weather Service provided to forest fire dispatchers from the Forest Service, BLM and California Department of Forestry, who are housed in the same facility as the Weather Service and who have relied on the forecasting for meteorologists and technicians in the Redding office for over 30 years. Furthermore, it would jeopardize the safety of travelers along the vulnerable Interstate 5 corridor who rely on the accurate storm and snow reports for safe passage between Oregon and California.

Mr. Chairman, the situation in southern California is not unique. There are communities all over the country which are in jeopardy of losing adequate weather service under the present modernization plan. We must reinstate a mechanism to check a potentially dangerous bureaucratic fiat.

Mr. Chairman, this amendment provides that mechanism. I urge my colleagues to vote "yes" on the Cramer amendment.

Mr. DEUTSCH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is an issue where I think we really get to the heart of Government. We can talk as much as we want about reducing the size of government; government, over the last several years, getting involved in issues that it should not be involved in. The Government's branch and its breadth has taken too much of the private sector in this country.

However, this is an issue that if there is anything that the Federal Government should be doing, is it should be providing a quality weather service for the hundreds of millions of people that live in this country. Every one of our districts are affected by quality weather service.

The standard that presently exists is that through change of service, there has to be a finding that there is no degrading of service to the region. The language in the bill would take that out. It is real simple. What it would allow is that an area of the country,

any area of the country, could have a degradation of service.

Let us think about what that means on the practical level, what it means around the country. Let us also talk about Florida, first and then my district, second.

Within the last several weeks, as unfortunately happens, and statistically it is going to continue to happen, we had a devastating, deadly hurricane that came on to the shores of Florida. This particular one landed in the north Florida region, the panhandle of the State. Florida is a large State. That is a less populated area than most of the State of Florida. Several million people evacuated their homes knowing up-to-the-minute reports of the change in that particular storm, again, although it happened the same day as the O.J. verdict, all of us knowing that, it changed very quickly. It changed to a category three storm very quickly. Without really cutting-edge ability, we would have seen probably thousands of lives lost. The Weather Service did its job in that instance.

My district goes from Palm Beach County in Florida to Key West. The Florida Keys is a chain of islands 110 miles long. When you are sitting in Key West, which is a city of 40,000 people where there happens to be a Weather Service station, which provides into the Caribbean weather analysis in terms of potential hurricanes and potential storms that on a day-to-day basis are incredibly valuable to commerce in the keys in terms of fishermen. But really, the ultimate time comes in terms of a hurricane situation.

In the Florida Keys in terms of transmission issues, in terms of being able to acquire information, the Weather Service is actually going through the debate, or going through the analysis right now in terms of trying to close the station in Key West. It is in a very rigorous analysis that they are being forced to go through now, that there will not be a degradation of service, and there is a great deal of debate about that.

Mr. Chairman, as a person who represents those people, 40,000 people in Key West and the 80,000 people who live in the Florida Keys, and the 2.5 million people that live in south Florida, that if something is going to happen to that particular station, that it become an automated station, at least that at a very objective, critical, analytical level, that that station will be evaluated. To say well, we just do not have enough money to do that analysis, we just do not have enough money, that we have to close that station, is beyond me. I mean just absolutely beyond me, that as a society, as a government, as a country, we would be saying that.

Mr. Chairman, we are talking about the most basic, literally the most basic governmental function. I ask my colleagues who are opposed to this amendment to speak up and say, government should not be involved in the Weather Service. Maybe what we ought to do is privatize the Weather Service. You know, have a 900 number that will privatize the Weather Service and maybe the private industry will get into this and they will be out there predicting hurricanes. If you think that there might be a hurricane, you will dial the 900 number or something and get a weather report from this new agency.

I urge my colleagues, because this is critical, not just for Florida, but to every person that lives in this country, to adopt the Cramer amendment.

Mr. TAYLOR of North Carolina. Mr. Chairman, I rise to strike the requisite number of words.

Mr. Chairman, I rise to support the gentleman's amendment. I heard the gentleman from California [Mr. HERGER] a moment ago, and everybody ought to listen to the folks that are speaking on this. Now, the gentleman is a good friend. He has tied his bark on a tree. I am no big spender. We are here supporting the gentleman's amendment, so this is clearly not a situation where we are talking about saving a lot of money. We are talking about public safety, we are talking about the need to pay attention to what the gentleman is saying. He is saying, keep the language, as has been repeated, calling for certification, but before any closure of any station we will determine whether or not there is a degradation of service.

I serve the western part of North Carolina. A few days ago I was catching a plane, sitting on the runway, and we could not go out because of fog. Probably 200 yards down the road it was clear, but we had to sit on the runway because it was too foggy for us to take off. We sat a considerable period of time. I doubt if a station of some distance would have picked that up.

I also know that many times we have squalls, small storms, things that occur in the mountains that the two stations that are going to be handling our area may or may not pick up. Now, I am perfectly willing to see the station close. I am perfectly willing to see the new stations take place. But I am not willing to see that happen until we have certified, until we have determined, whether or not the public safety is being met.

Now, if you believe that the Federal bureaucracy is 100-percent perfect and you are willing to bet your lives and the friends and family on the fact of that perfection, then you do not need to pay any attention to this argument. If you believe as I do, though, and the people of western North Carolina, first of all, the Federal Government will mess up a 1-car funeral in most cases, and there was a recent ABC report just a few days ago that showed that millions of dollars of new technology that was being put into airports was failing a substantial portion of the time, then you will see that the gentleman's amendment is necessary until we see whether or not that new technology works, and whether or not we need to change it before we close the existing service.

Mr. Chairman, that is why I support the gentleman's amendment, and I urge my colleagues to do likewise.

Mr. MCHALE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I join with my colleagues who have previously taken the microphone, Republicans and Democrats alike, liberals, conservatives, and moderates in support of the Cramer amendment to H.R. 2405. Regrettably, the bill in its current form is nothing less than a breach of faith.

The bill before us today repeals sections 706 and 707 of the Weather Service Modernization Act (Public Law 102-567). These sections, and in particular subsection (b) of section 706 requires, pursuant to the implementation of the Weather Service modernization plan "The Secretary (of Commerce) shall not close, consolidate, automate, or relocate any field office unless the Secretary has certified that such action will not result in any degradation of service." For the past 3 years, our constituents have been repeatedly assured that a local weather station would not be closed under any plan to modernize weather service operations, unless there were a certification, as required by law, that the closing of that station would not result in a degradation of service.

Mr. Chairman, we made a promise, and the issue before this House with regard to the Cramer amendment is whether or not we will keep that promise. I have said to my constituents, other Members of this body have said to theirs, we will not close your local weather station unless we can assure you, after careful review, that there will not be a degradation in service and, consequently, no increased threat to public health and safety.

The bill before us today deletes this promise, this requirement of certification of nondegradation prior to the closure of any National Weather Service office. During the Energy and Environment Subcommittee markup of the National Oceanic and Atmospheric Administration Authorization Act of 1995, I offered an amendment to restore the current law language regarding certification, keeping the promise that we have been repeating to our constituents. I now support the Cramer amendment which preserves the core promise made to our constituents and provides a sensible streamlining of certification requirements above and beyond the merit of the legislation itself, beyond the certification contained in the Cramer amendment.

The issue here is one of good faith. Can our constituents trust our promises once they are made? We have here a series of promulgations going back over 3 years based on statutory law that no station will be closed without a thorough review and a certification from the Secretary. The issue here is not about weather; the issue here is about integrity and whether we of this body will keep the promises we have made in prior law.

Mr. Chairman, I urge an affirmative vote for the Cramer amendment.

Mr. POMEROY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we are in a period of reevaluating that which the Federal Government ought to do and that which it no longer should do. I do not think at a time when weekly we see reports of damage or even loss of life due to severe weather, the American people believe the United States ought to get out of the business of helping Americans understand what is coming at them in light of dangerous or threatening weather.

We are in a period of moving toward greater cost efficiency in weather forecasting. As various communities leave their old systems and move to new systems, they are entitled to the assurance that the quality of weather forecasting in their area will not be jeopardized, will not be diminished, and that is what the certification is all about.

Let me give you a for instance, because I represent an area that has this problem before it right today: Williston, ND. Williston, ND, is scheduled to have its forecasting station come out. Five employees and one meteorologist will be moved.

□ 1400

When this is accomplished, it will be the largest nonobstructed geographic area without radar coverage in the country, and in Williston, ND, let me tell you we have very, very severe weather conditions to deal with.

We have been told that an automatic surface observing system is going to take care of our needs. We have been told that a system with radar 120 miles away in Glasgow, MT, and 130 miles away in Minot, ND, are going to cover the needs for the people living in the Williston area. We have been given this assurance notwithstanding the fact that 95 percent of all tornadoes, perhaps the very most dangerous life threatening circumstance we have to face, will be grossly underdetected by a radar system 130 miles away.

A consulting radar meteorologist for Williston has found that radars over 100 miles away would be grossly inadequate for detection of winter snowstorms, tornado vortex signatures, microbursts, and gust fronts, all of which we have and all of which threaten life.

Good, reliable weather forecasting is critical to everyone. When you live in a rural area that has the types of weather swings and the severity of weather conditions that we experience in North Dakota, it can literally be a matter of life and death. Do you come in from the farm to the city? Do the school buses run? We need reliable weather systems.

If you are going to take from areas like Williston their weather forecasting station, then, by golly, you better be prepared to certify that we are not going to have a degradation of service. That is why I rise in strong support of the amendment before us and urge its adoption.

Mr. WALKER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I suppose it does little good in the emotion of all of this to actually talk about what the experts have to say in these matters, but I am going to try anyhow because I am reminded a little bit of testimony we had today before the committee in which it was being talked about in educational context.

The witness described a situation where back in the 19th century someone by accident designed a jet engine and realized that this jet engine could propel things at a very high speed. But the problem was that they mounted it on a stage coach, and because they had mounted it on a stage coach, it just destroyed the stage coach because they put it on outmoded technology, and so on.

This debate reminds me of that. Here we are, we are in the process of devising and putting in place a modern weather service, a modern radar system that allows us to get good coverage across the country. In fact, it is working. We have had about 100 of these NEXRAD radars that have been installed. They have been commissioned and are operating successfully.

What we have got is a series of people that have come to the floor and basically talked about the weather service that they now have. They say that the weather service they now have is not giving them the kind of forecasts they need and we have lives in danger. That is right. That is the reason we are trying to upgrade the weather service. We are trying to do a job of upgrading it and making safety better.

But what does this amendment do? This amendment gets in the way of having that done. How does it do it? Well, the Department of Commerce, the inspector general says, and I am just quoting from his letter, one of the experts who has actually examined this thing in detail, he says, "We believe that the legislative requirement for certification imposes burdensome and costly restraints on the National Weather Service's ability to modernize and restructure its field offices."

In other words, what is happening here is, what we are about to pass if we pass this amendment will be a process that will undermine our ability to get the new radars that have some opportunity to do something about the degraded weather service that all these folks are talking about.

He goes on and he says further in his letter, "The legislative requirement for certification is an unnecessary and outmoded concept."

This is the stage coach, folks. We have got the jet engine and so on, we are trying to put it in place, in place in a jet airplane so it can actually be used, and what we are doing here is going with an outmoded concept.

I know what the gentlemen coming here are concerned about, and legitimately so. The National Research Council had a recent report in which they talked about the NEXRAD coverage, and we have had a number of people come here and talk about the fact that they were in one of those locations that has a potential for degradation of service under that particular study.

Well, the fact is that the report also provided a process for dealing with those locations. But what we are doing here is, we are trying to figure out a way to deal with what were essentially five locations across the country and keep in place hundreds of unnecessary weather offices.

Let me quote again from the inspector general. He says, "Therefore, any legislative proposal that seeks only to streamline but not to eliminate certification will maintain a process that is both unnecessary and costly."

This is my concern about the amendment. I agree with everybody here who wants to protect their citizens and so on. I certainly want to protect the people in Lancaster and Chester counties from having weather-related problems, but we want to make certain we have good forecasts. Every Member here wants to do that. That is what we are here to do. But the bottom line is, what you are doing is you are putting in place a very costly system that will maintain all of the old structures and prevent us from doing the new structures that actually work in a time-sensitive way.

I guess maybe the old order is something that everybody just kind of clings to because it is what they know. But in all honesty, if we are really going to discuss the health and safety of our American citizens, we ought not do things that undermine the ability to provide those safe modern systems.

The problem with this amendment is it takes an outmoded approach. It goes to a certification approach that the inspector general says is exactly the wrong thing to do. It preserves weather station offices whether or not they contribute anything. The fact is we are

going to preserve a lot of outmoded offices that are not in areas that are degraded and we are going to preserve them for months, maybe years, under the certification process. That makes no sense really.

Mr. CRAMER. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Alabama.

Mr. CRAMER. I thank the gentleman for yielding.

Mr. Chairman, I will try to be quick here because I know we are on limited time and the Members are probably weary of this, but I think it is unfair of the chairman to remind the Members that all we are about through this amendment is keeping offices open unnecessarily. In my area, I can accept that I may have to lose my weather service office, but do not let a bureaucrat by the stroke of a pen determine that my office is closed and that the services that I normally would get from that office would now be given to me from 100 miles south of there. I do not think it is fair to argue that that is what this amendment is all about.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

(By unanimous consent, Mr. WALKER was allowed to proceed for 2 additional minutes.)

Mr. WALKER. Mr. Chairman, I would say to the gentleman I think what I did was argue what the inspector general argued. The inspector general of the Department of Commerce has made the arguments that I made here, and I quoted extensively from his letter. He is the one who is saying that the process the gentleman is proposing is an unnecessary, costly and outmoded process.

Mr. CRAMER. If the gentleman would yield further, I am opposed to his opinion about this. I do not think he has been out there in the field in our districts experiencing the kind of weather impact that we have there and the dependence on those weather service offices, that we have a right to have a process created before they are closed.

Mr. WALKER. I think he has done an extensive study. The point he would make is where there are situations of potential degrading of service, we are going to step in and try to do something about that. In fact, I just talked to the head of NOAA here a few minutes ago, at the end of this month there is to be a meeting where they are going to examine all of the next generation NEXRAD's that they want to put in place, additional NEXRAD's to cover possible degraded areas. So the weather service is entirely sensitive to this but if we pass this amendment, what we are going to do is we are going to prevent a lot of those from getting on line because we are going to be spending the money keeping offices in place that are not now capable of providing the most modern services.

I would tell the gentleman I think the safety argument is against doing that. Why in the world would we get in the way of doing the thing that is going to give us better weather information? That is what we are about to do. We are trying to preserve bureaucracy at the expense of getting better information.

Mr. ROHRABACHER. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from California.

Mr. ROHRABACHER. Is it your position that the Cramer amendment, the end result in all of it would not be more safety but instead would be a waste of the taxpayers' dollars? I believe that is where we are coming from. Because we have already, as the chairman of the subcommittee and chairman of the committee, guaranteed and given our word that we would work and have reached out to work with those people who say they are affected in a detrimental way. But there seems to be a breakdown in communication here.

A moment ago I asked my colleague from North Dakota to yield and what I wanted to ask him was he was saying that the weather stations are going to be this far away and the radar is going to be that far away. I wanted to ask him whether or not he had any technical experts that had told him whether or not that was inadequate.

The fact is today technology permits us to do things in a cost-effective way that used to cost the Government a lot more money, you had to have a lot more stations out there, a lot more people on payroll but now technologically we are capable of doing these things.

Mr. WALKER. I want to thank the gentleman, because the Federal Government is still buying vacuum tubes for the FAA and they are calling this the way in which we maintain safety in the FAA. They are still using technology that relies upon vacuum tubes.

Most young people in school today have never seen a vacuum tube because they understand that the way you do things efficiently is with computer chips. There are 3.3 million vacuum tubes on that computer chip.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has again expired.

(By unanimous consent, Mr. WALKER was allowed to proceed for 2 additional minutes.)

Mr. WALKER. Mr. Chairman, the fact is that if we go to upgraded systems, we actually get better systems. I do not think there is anybody that doubts that maybe using this chip is a better way to provide safety in an air traffic control system than using a bunch of these vacuum tubes. But the Government has not gotten around to it. The same thing is happening in the weather service. Because of all the certification requirements, and let us face it, the certification requirement that was put in the 1992 law was designed specifically to make it as difficult as possible to close old weather service offices. As a matter of fact, it was done at the behest of the union that wanted to make certain that they preserved as many jobs as possible by keeping these offices from closing down.

We would be in a process of preserving here today this outmoded concept and doing so I think in a way that degrades our ability to bring on new technology and therefore undermines our ability to provide safe weather forecasting for the American people. I just do not think it makes any sense to do it.

Mr. SOUDER. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Indiana.

Mr. SOUDER. One of the questions, and I agree basically with the new technology. A number of us have problems which you have acknowledged. For example, in Fort Wayne, we have Indianapolis which is more than 100 miles, which is where one of the questions comes on the new radar, from the Indianapolis station, half my district is coming down from Michigan at more than 100 miles. Just to the east in another Member from Ohio's district in a rural area, they are coming up from Cincinnati more than 100 miles and another is coming down. Our EMS services are concerned about having to coordinate four different regions and we have not had a good answer to that. Our weather station is about to close. At the very least, these stations while we know that they are working on trying to upgrade the systems as you are talking about, we will not have protection in this period of coordination of the EMS services.

We have a question in part of Indiana, whether or not Indianapolis, there is a blockage, whether the radar can even pick up some of the tornadoes and severe storms that are coming across. While it is not perfect in the existing system, it is better than being unprotected while NOAA is working through this process. Many of us if we could be assured that we were not going to have a degradation of services in this process would understand your points very much.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama [Mr. CRAMER].

The amendment was agreed to.

The CHAIRMAN. Are there other amendments to title IV?

AMENDMENT NO. 28 OFFERED BY MR. THORNBERRY

Mr. THORNBERRY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 28 offered by Mr. THORNBERRY: Page 109, after line 4, insert the following new subsection:

(h) NEXRAD OPERATIONAL AVAILABILITY AND RELIABILITY.—(1) The Secretary of Defense, in conjunction with the administrator of the National Oceanic and Atmospheric Administration, shall take immediate steps to ensure the NEXRAD's operated by the Department of Defense that provide primary detection coverage over a portion of their range function as fully committed, reliable elements of the national weather radar network, operating with the same standards, quality, and availability as the National Weather Service-operated NEXRAD's.

(2) NEXRAD's operated by the Department of Defense that provide primary detection coverage over a portion of their range are to be considered as integral parts of the National Weather Radar Network.

Mr. THORNBERRY. Mr. Chairman, following on the last discussion, my amendment attempts to deal with some of the specific problems that have been incurred around the country because of holes that have developed in the National Weather Service radars. I think everyone agrees that modernization is very important. We need to have our people protected by the best technology possible. But what has happened is that some of the radars that are protecting people are managed by the Department of Defense rather than the National Weather Service, and those Department of Defense radars do not necessarily have to meet the same standards that the National Weather Service radars have to meet. As a result of that, sometimes the Department of Defense radars are not doing the job.

As so many of my colleagues who spoke on the previous amendment, we have an example in my district that shows just how serious this question is. On May 27, 1995, a tornado touched down in my district in Vernon, TX, and there was absolutely no warning because there was no radar operating at that time.

□ 1415

As a matter of fact, the backup radar was not operating at that time. All the radars that were covering that area were not operating. Ten minutes after the tornado passed through, as a result of eyewitness accounts, then there was a warning that was issued. Luckily that storm did not cause serious injuries, although it did cause some property damage. But the point is that some of these DOD radars are not operating the way they should.

I want to take a second to thank the chairman of the full committee in particular because he has gone out of his way to work with us in resolving these particular problems, but what we have found in my district is that sometimes the communications line taking the radar signal to the National Weather Service office goes down, sometimes lightning knocks the power out of the radar, and then it takes as much as an hour to get the radar back on line. Several of the previous speakers have mentioned GAO reports and the National Research Council reports which talked about these particular problems with the 15 DOD radars.

The National Research Council recommended that immediate steps be taken to ensure that the 15 NEXRAD's under the control of the Department of Defense function as fully committed elements of the national weather radar network operating with the same standards, same quality and same availability as the National Weather Service NEXRAD's.

Mr. Chairman, that is exactly what my amendment does. It simply says the DOD radars that are an essential part of the system, that are the only thing some people have to rely on, must meet the same standards as the National Weather Service radars. We should not have some people disadvantaged in this new system of new technology because they happen to be covered by a DOD radar rather than a National Weather Service radar. This seems to be the least we can do to take the additional steps, not just require the Secretary to sign a piece of paper that says people will be protected, but make the changes in the field that will make sure people are protected.

I hope my colleagues will support the amendment.

Mr. ROHRABACHER. Mr. Chairman, I move to strike the last word.

We will accept this amendment. It prods the DOD to increase the quality of its portion of the weather modernization system, and we would like to commend my colleague, the gentleman from Texas [Mr. THORNBERRY], for his diligence and hard work on this issue.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. THORNBERRY].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title IV?

AMENDMENT OFFERED BY MS. LOFGREN

Ms. LOFGREN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Ms. LOFGREN:

On page 110, after line 5 insert the following new subsection:

"(d) Nothing in this Act shall preclude or inhibit the National Oceanic and Atmospheric Administration from carrying out studies of long term climate and global change."

Ms. LOFGREN. Mr. Chairman, I rise to offer an important amendment to H.R. 2405 to clarify the confusion that exists over NOAA's role in carrying out climate and global change research.

The bill intended to provide $86.7 million for NOAA's overall Climate and Atmospheric Research Program, a reduction of over 27 percent from fiscal year 95 spending levels and 46 percent from the request. This cut is far beyond what other programs in this bill have absorbed.

Within this authorization, the bill does two things that must be regarded as profoundly narrow minded and deserve our special attention. First, the bill singles out climate change for a reduction of $37 million, over a 40 percent cut. Second, in the committee's report language, there is a directive that eliminates the very idea of studying long-term climate change. The intent of the bill, the report states is that climate and global change * * * has been rolled into the interannual and seasonal climate change research line to ensure research is relevant to near-term events. That is, NOAA is no longer permitted to study long-term climate change. It is only authorized to have a program that studies season-to-season changes.

What can be more short sighted than to first cut a program in half, then to dictate the scientific direction of the research such that it is prohibited from finding answers the Republican leadership may not want to know.

We have seen time and again in this Congress the face of extremism. If we define "ignorance" as "the act of ignoring" we can honestly say we have a conspiracy of ignorance in this Congress. Every agency which has been charged by Congress to study and assess the potential for long term climate change has been savaged in this budget cycle. And in the case of NOAA, there has been this additional insult of micromanagement.

I know that most of my colleagues on both sides of the aisle must know that problems do not simply go away if they are not studied. Global warming may or may not occur in the future—there is a legitimate margin of scientific uncertainty that must be narrowed through serious research.

Recently, it was reported that the United Nations-sponsored intergovernmental panel on climate change has reached the conclusion that the weight of evidence now supports the finding that greenhouse warming is occurring. We are told that the subtle changes in the global heat balance will result in a greater incidence of severe weather such as hurricanes, tornadoes and severe winter storms. Certainly this past year should give many pause to wonder.

I do not think it is necessary for my colleagues to decide today whether they accept or do not accept the findings of the IPCC on global warming. What is necessary is that we continue to ask the right questions and make sure we know the answers in plenty of time to take action.

The Reinsurance Association of America has estimated that natural disasters from climate related events

have recently risen to losses of $1 billion a week in the United States alone. They have taken a strong position in support of the Federal Climate Change Research Program for a very simple reason—continued research is a wise insurance policy.

More than a third of the GDP in the United States is directly linked to climate conditions in areas such as farming and forestry management, transportation, and public utilities, and real estate. If for no other reason than to provide for our future economic security, it is incumbent on this Congress to continue this vital research.

The amendment I am offering today does not deal with funding levels, although I feel this bill is woefully inadequate. Over the long term, I am hopeful that the appropriations conferees will see the value of this research even in a fiscally restrained environment.

My amendment would reestablish NOAA's mission to carry out long-term climate studies. It would recognize that a balanced research program must include both short-term studies of climate phenomena such as El Nino and long-term phenomena such as global warming. All of these studies, of course, are interrelated and contribute to our overall understanding of our planet. My amendment would remove the irrational directive in the committee's report that seeks to hinder this research by only allowing NOAA to solve half the problem.

Mr. ROHRABACHER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this amendment is vaguely worded. It is a vaguely worded statement as to not inhibit NOAA from doing climate change research, and this issue was taken up in committee, and our bill received overwhelming bipartisan support.

But let me, just for the record, state that we have not eliminated climate research but instead what we have done in our bill, which it seems, although it is rather vague in the amendment, it seems to be her purpose to change this focus. We have focused the research of NOAA on more important functions, more important phenomena, for example, El Nino, which is vital to the safety and to the prosperity of people on the west coast and actually farmers throughout the United States. We have not in any way, for example, eliminated long-term climate research and, in fact, the bill authorizes long-term climate research at $26 million.

However, in terms of what we believe that NOAA should focus on, if I can read from the report, the committee believes that this restructuring will ensure that climate and global change research will be focused on improving our understanding of near- and mid-term climatic events, and that is really what the crux of this issue is about, whether or not we should be looking and spending our limited resources at phenomena like El Nino that affect the lives of our people, or whether or not we will succumb to what I have called or at least what I believe to be, politically inspired, politically inspired scientific exploration.

I believe that global warming, which is basically what we are talking about hare, was generously funded by the administration over the last few years, and this basically is as a result of political rather than scientific pressures. We plan, by the way, to have hearings into the global warming issue, in which we will have scientists on both sides of the issue to discuss openly and try to have an honest dialog about the issue of global warming.

Unfortunately, when we had our last hearing on the ozone problem, and, by the way, I think it was a good, a very substantial hearing, we had fine representatives on both sides, we were attacked by Vice President GORE and the administration because we had both sides of the argument at our hearing. Well, for far too long what we have gotten is basically PC scientists who basically want to steamroller us on issues like ozone and like global warming, but the fact is that we believe that these issues should be looked at in toto, and we have, as I said, $26 million authorized for long-term climate research. But we basically have combined it with interannual and seasonal climate change studies, which makes sense.

Instead of having basically huge chunks of our budget dedicated to this trendy global warming issue, instead we are going to take a balanced approach, spend $26 million and put it in relationship with other long-term global climate change issues.

So I think that first of all this amendment is vaguely worded. We should not inhibit NOAA from involving itself in this type of research. The fact is that we have tried to focus NOAA on things that are meaningful and things that will affect the lives and property and safety of our citizens and the economy of our farm population, especially on the west coast. So I would strongly oppose the Lofgren amendment.

Ms. LOFGREN. Mr. Chairman, will the gentleman yield?

Mr. ROHRABACHER. I yield to the gentlewoman from California.

Ms. LOFGREN. I would note on page 94 of the committee report, next to the global category, there is a zero. We have zeroed the account out for global research. I am not suggesting that we add additional funding.

Mr. ROHRABACHER. Reclaiming my time, that is because that money was folded into the interannual and seasonal climate change study.

Ms. LOFGREN. That is my point.

Mr. ROHRABACHER. So we have $26 million in there, and that is in the appropriations bill.

Ms. LOFGREN. The point I am about to make, sir, on the preceding pages in the committee report, we say we are limiting study to near and mid-term climatic events. What I am suggesting is it would be inappropriate for us as Members of Congress, not scientists, to impose our judgment on the scientists in that nature.

Mr. ROHRABACHER. Reclaiming my time, we did not limit it. We focused it, and there is a difference between focusing and limiting. So if you say none of the money in here shall be spent for this, that is something else. But by focusing the efforts away from what I consider to be trendy science and a lot of other people believe the global issue is nothing more than trendy science, trendy liberal science, we have permitted people to look into this area, but tried to focus it on the areas that we considered to be responsible and practical and have some effect on our citizens.

Mr. BROWN of California. Mr. Chairman, I move to strike the requisite number of words.

I rise in support of the Lofgren amendment. I would like to ask the distinguished gentleman from California if he sees anything in this bill that would inhibit NOAA from carrying out long-term studies of climate and global change.

Mr. ROHRABACHER. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from California.

Mr. ROHRABACHER. Nothing in the bill prohibits NOAA from doing this. It just expresses that we would like it to focus on certain other areas.

Mr. BROWN of California. Nothing in there prohibits it? Why does the gentleman object to an amendment that says nothing in this act shall prohibit it?

Mr. ROHRABACHER. Basically, then, we believe that this amendment is vague and is nonproductive and could cause some confusion, which it already has on this floor.

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Mr. BROWN of California. Mr. Chairman, I would argue that the gentleman's own report language is equally vague, and, in fact, it is kind of schizophrenic as a matter of fact, because while he gives on occasion lip-service to the importance of long-term research, he eliminates that category, merging it with short-term research, and makes it very clear in the language that the global change research will be focused on improving our understanding of near and midterm climatic events.

Now, I do not think the gentleman really wants to eliminate the long-term.

Mr. ROHRABACHER. Mr. Chairman, if the gentleman will yield further, this is because we believe that this is where the best use of the money would be, but we do not limit it and restrict it from being used elsewhere.

Mr. BROWN of California. Mr. Chairman, reclaiming my time, that is the point I am making. The gentleman's fuzzy language really does not limit long-term research, but he objects to saying it in the language of the bill. The reasons for that are quite simple. The gentleman has already revealed his feelings, which he has expressed many times, that this long-term global warming stuff is what he calls——

Mr. ROHRABACHER. Liberal clap trap is the expression the gentleman is looking for.

Mr. BROWN of California. Liberal clap trap is one of the things he said. Politically inspired scientific exploration is another. Trendy global warming. I mean, the gentleman makes no secret of the way he feels about this. As I say, I think the gentleman becomes a little schizophrenic here, because he makes no secret of his view that this is not real science or basic research, which the gentleman is thoroughly committed to, is he not?

Mr. ROHRABACHER. Mr. Chairman, if the gentleman will yield further, the gentleman is correct. If I could answer the gentleman's question, there are some times in legislation, as the gentleman is aware, that things are not totally defined because we, during the hearing process, expect to receive a better understanding of an issue.

We have scheduled hearings on the issue of global warming. I expect that perhaps next year we might have a more definitive position. But at this point it has been more beneficial to have a little more open-minded approach than to state it that my beliefs happen to be the law of the land.

Mr. BROWN of California. Mr. Chairman, reclaiming my time, I admire the gentleman's open-minded approach to this issue. His language, of course, indicates how open minded he is on this issue.

There is another little thing I would like to have the gentleman remain open minded on. The gentleman in his discussion of the importance of mid and short-term research is enunciating a policy that this kind of research is very good, because it contributes immediate value. Now, this is how we define applied research. This is how we define cooperative research, with users and industry. This is short-term applied research that helps the economy of this country.

Now, that is blasphemy from the leadership of your committee. This is not something that we want to support. It is the long-term basic research that is real research and that we ought to be devoting our energy and resources to. The gentleman has completely turned that on its head. Does that strike the gentleman as being somewhat incongruous?

Mr. ROHRABACHER. Mr. Chairman, if the gentleman will yield further, this type of research has broad based benefit, rather than benefit that is aimed at one particular interest group. Usually the main thing we have complained about on this side of the aisle, I can just speak for myself, is that quite often when the government is spending money, that it ends up spending money in an area of research that benefits a specific special interest group, and, quite often, who could afford to spend that money on their own. In this case, this type of research has a broad base of benefit.

Mr. BROWN of California. Mr. Chairman, I have here a letter from the Reinsurance Association of America representing all the insurance companies of this great country in which they strongly urge that we continue to support this kind of long-term global warming research. Now, is it the gentleman's view that the combined insurance companies of this great country cannot afford a little money? Are they not a special interest that is benefiting from this sort of thing?

Mr. ROHRABACHER. Mr. Chairman, if the gentleman will continue to yield. I would say that if the gentleman is asking my opinion, it would be that yes, that is a special interest group, and it is benefiting from and believes it might be benefiting from global warming research.

Mr. BROWN of California. They need to know that, because it influences their estimates of losses that they will have and so forth.

The CHAIRMAN. The time of the gentleman from California [Mr. BROWN] has expired.

(By unanimous consent, Mr. BROWN of California was allowed to proceed for 2 additional minutes.)

Mr. BROWN of California. Mr. Chairman, perhaps we can elicit some further wisdom from the chairman of the subcommittee or the full committee. The point I am trying to make here in supporting this is very simple: The chairman has already indicated that he does not intend to preclude long-term research. He does not like it, and he said so vigorously, but he is not trying to preclude it. But he objects to an amendment that says he is not trying to preclude it. I consider that to be somewhat inconsistent.

The gentleman prefers instead to support the view which previously he never supported, that short-term research is real research, because it creates value, which is applicable to a large constituency, and we should be doing that.

The gentleman has not argued that way before. As I indicated very early in this debate, I enjoy pointing these little things out, and I will continue to needle the gentleman about them. I know the gentleman understands that I do it in good spirit.

Mr. ROHRABACHER. I appreciate the role the former chairman is playing.

Mr. WALKER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we all appreciate the gentleman from California's needling on all of this and so on. At times I do not think he exactly understands the point, but maybe he chooses not to. The fact is that there is nothing inconsistent at all about what we are doing here. What we have said is when you are doing this kind of research, NOAA, you ought to do it with regard to your mission.

I do not know at any time that we have not supported mission-oriented research. It is one of the things that we have said should be done. In fact, we are going to get an argument here in a little while on EPA that suggests that EPA ought to be out doing things for OSHA, and doing all kinds of things all over the Government and so on. We said no, they ought to stick to their mission. We said NOAA ought to stick to its mission.

All the report language said is when you are prioritizing the use of this funding, maybe you ought to do things that really relate to the mission you are doing. That tends to be more near and midterm than long term. We do not preclude the long term. The gentlewoman is exactly correct in suggesting that the language would be fine if it said shall preclude NOAA, but the gentlewoman in her amendment puts a fascinating word in it. She says preclude or inhibit.

Now, we went to look up the word "inhibit." The word "inhibit" is a great little word, speaking of needling. It says inhibit is "consciously or unconsciously suppressing or restraining."

Now, can somebody tell me where in this act we have some unconscious action that is suppressing or restraining?

Ms. LOFGREN. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentlewoman from California.

Ms. LOFGREN. Mr. Chairman, I would suggest, based on the chairman of the subcommittee's earlier comments, that since there is no intention on the part of himself or apparently the committee to preclude or inhibit long-term research, based on the gentleman's comment, that the language on the bottom of page 32 and top of page 33 of the committee report that seems to indicate otherwise would have an inhibiting effect upon the agency, since apparently it is not what the gentleman intended.

Mr. WALKER. Mr. Chairman, reclaiming my time, there is no inhibiting factor on this. What in the world, where in the act is this? The gentlewoman keeps quoting from the report. The report is advisory. Reports are always advisory. Where in the act?

The gentlewoman refers to the act. She says, "Nothing in the act shall preclude or inhibit." She does not talk

about the report. She talks about the act. Where in the act is there something that consciously or unconsciously suppresses or restrains? Can the gentlewoman cite me one line in the act?

Ms. LOFGREN. Mr. Chairman, if the gentleman will yield further, the fact we have zeroed out this account, and, I would add, going back to the gentleman's earlier statement on mission-oriented science, I am also interested in whose mission it would be to pursue global warming research, since we have eliminated this active thing in EPA and NOAA and the Department of Energy.

Mr. WALKER. Mr. Chairman, reclaiming my time, the gentlewoman totally misrepresents the situation. NSF is still capable of doing global change. A lot of the university money coming into my area is independent researchers doing work there. The Department of Energy still has the capability of doing that and still does it. EPA will still have the capability of doing this kind of research. NASA has done considerable amounts of work. Most information quoted on global change has come from NASA.

We are not taking away any of that money. In fact, in the bill, if we refer to the act, in the act there is an account for long-term climate and air quality research that is at $26 million. Big money. In fact, in this whole area we only spent $9 million in NOAA in 1989. Now we spend $96.5 million, something like that. We have had over a 1,000-percent increase in about 6 years from this account.

What we said was maybe a 1,000-percent increase in the account is a little more than we can take, if we are going to balance the budget, and maybe what we ought to do is trim it down some. And the way to trim it down is not to take the money away from the researchers, but take the money away from the bureaucrats. So we consolidated some programs to take the money away from some of the bureaucracy, and we consolidated the programs, and we gave it $26 million in just long term.

Now, how is that inhibiting? The gentlewoman seems to be suggesting to me that that is inhibiting. Where is that inhibiting?

Ms. LOFGREN. Mr. Chairman, if the gentleman will yield further, it seems to me there is too much protestation for a group that says they are not opposed to long-term global research. I am not suggesting in my amendment the expenditure of a single penny more than is included in this bill. What I am suggesting, and what I am suggesting here, is that we not make the scientific judgment.

Mr. WALKER. Mr. Chairman, reclaiming my time, nobody is suggesting that the gentlewoman is suggesting more money. Nobody said that. What we suggested was that her amendment has some very confusing wording in it. The word "inhibit," the gentlewoman still has not told me yet where in the bill there is anything that suggests that NOAA is being inhibited. Can the gentlewoman cite me a line, a page anywhere in the bill? Because the gentlewoman says, "Nothing in this act shall inhibit." Where? Where in the act? Why is this amendment necessary? What in the world do we have? We can take the word "preclude," because we do not think there is anything in there. But the word "inhibit," it is just a superflouous, almost ridiculous word. Why in the world is that in there? Is that to tie the hands of NOAA?

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

(By unanimous consent, Mr. WALKER was allowed to proceed for 1 additional minute.)

Mr. WALKER. Mr. Chairman, again I ask, is there anyplace the gentlewoman can cite me in the act where any language in the act inhibits this kind of research?

MODIFICATION TO AMENDMENT OFFERED BY MS. LOFGREN

Ms. LOFGREN. Mr. Chairman, I ask unanimous consent to remove the words "or inhibit" from the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The text of the amendment, as modified, is as follows:

Amendment, as modified, offered by Ms. LOFGREN: On page 110, after line 5 insert the following new sub-section:

"(d) Nothing in this Act shall preclude the National Oceanic and Atmospheric Administration from carrying out studies of long term climate and global change."

Mr. WALKER. Mr. Chairman, we accept the amendment.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentlewoman from California [Ms. LOFGREN].

The amendment, as modified, was agreed to.

The CHAIRMAN. Are there further amendments to title IV?

AMENDMENT OFFERED BY MR. GEKAS

Mr. GEKAS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GEKAS: Page 109, after line 4, insert the following new subsection:

(h) REPORT.—Section 704 of the Weather Service Modernization Act (15 U.S.C. 313 note) is amended by adding at the end the following new subsection:

"(c) REPORT.—The Secretary shall contract with the National Research Council for a review of the NEXRAD Network radar coverage pattern as indicated in the 1996 National Implementation Plan of the National Weather Service for a determination of areas of inadequate radar coverage. In conducting such a review, the National Research Council shall prepare and submit to the Secretary, no later than 6 months after the date of the enactment of this Act, a report which assesses the feasibility of existing and future Federal Aviation Administration Terminal Doppler Weather Radars to provide reliable weather radar data, in a cost-efficient manner, to nearby weather forecast offices.

The Secretary shall report to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, not later than 60 days after receiving the report under this subsection, on recommendations to implement the findings in such report.

Mr. GEKAS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GEKAS. Mr. Chairman, I promise not to inhibit this process any longer than is necessary. This is a very modest amendment that would cause the National Research Council, if the amendment should be passed, to look into the feasibility of using FAA existing implementation of radar for the purposes of filling in the gaps that NEXRAD may have and which has been documented across the country to exist in the various sections of our Nation.

What this would do is simply allow the Research Council to see, without having to spend anymore money for new technology or new implementation, the technology that is now part of NEXRAD for these gaps, but rather to see whether or not existing outposts of FAA can be shifted, can do double duty, for the purpose of filling the gaps that now exist because of the NEXRAD overshoot that exist in many areas.

I have talked this over with the chairman, my colleague, the gentleman from Pennsylvania [Mr. WALKER], and, under threat of personal punishment, he has agreed that the majority will accept the amendment. I hope that the minority feels the same.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Chairman, the minority has been following a pretty reasonable rule in this connection, and we will do so again. But I would like to make this point, because I am eager to use every opportunity to make points that I think will expose the majority.

Mr. GEKAS. Mr. Chairman, we will not inhibit the gentleman.

Mr. BROWN of California. We have had a couple of issues for our committee, the committee of the gentleman from Pennsylvania [Mr. WALKER], in which we have sought National Research Council advice. One of these involves the importance of aeronautical engineering research, and another had

to do with the validity of the earth observing system which is part of the global warming program on which we are spending quite a bit of money. In both cases the chairman of the committee did not like the results and went ahead and disregarded them. in fact, Mr. Chairman, whenever he does something like this, he has some derogatory things to say about these egg-headed scientists pretending to be able to advise us on important policy decisions.

Now with the understanding that the gentleman from Pennsylvania [Mr. WALKER] would accept the NRC report when it is obtained, I will be glad to support the gentleman's amendment.

Mr. GEKAS. Mr. Chairman, I will force the gentleman to accept it.

Mr. BROWN of California. Will the gentleman force him to do that?

Mr. GEKAS. I will do my best.

Mr. BROWN of California. Then, Mr. Chairman, the gentleman has met all my requirements, and I support the amendment.

Mr. ROHRABACHER. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from California.

Mr. ROHRABACHER. Speaking for the majority, Mr. Chairman, the gentleman's amendment is accepted.

Mr. GEKAS. Mr. Chairman, I thank the gentleman from California.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. GEKAS].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title IV?

The Clerk will designate title V.

The text of title V is as follows:

TITLE V—ENVIRONMENTAL PROTECTION AGENCY

SEC. 501. SHORT TITLE.

This title may be cited as the "Environmental Research, Development, and Demonstration Authorization Act of 1995".

SEC. 502. DEFINITIONS.

For the purposes of this title, the term—

(1) "Administrator" means the Administrator of the Environmental Protection Agency;

(2) "Agency" means the Environmental Protection Agency; and

(3) "Assistant Administrator" means the Assistant Administrator for Research and Development of the Agency.

SEC. 503. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Administrator $490,000,000 for fiscal year 1996 for the Office of Research and Development for environmental research, development, and demonstration activities, including program management and support, in the areas specified in subsection (b), of which—

(1) $321,694,800 shall be for Research and Development; and

(2) $109,263,400 shall be for Program and Research Operations.

(b) SPECIFIC PROGRAMS AND ACTIVITIES.—Of the amount authorized in subsection (a), there are authorized to be appropriated the following:

(1) For air related research, $93,915,200, of which—

(A) $67,111,400 shall be for Research and Development; and

(B) $26,803,800 shall be for Program and Research Operations.

(2) For global change research, $2,385,700, of which—

(A) $2,125,400 shall be for Research and Development; and

(B) $260,300 shall be for Program and Research Operations.

(3) For water quality related research, $21,243,100, of which—

(A) $9,453,100 shall be for Research and Development; and

(B) $11,790,000 shall be for Program and Research Operations.

(4) For drinking water related research, $20,652,400, of which—

(A) $10,376,500 shall be for Research and Development; and

(B) $10,275,900 shall be for Program and Research Operations.

(5) For toxic chemical related research, $11,053,900, of which—

(A) $5,028,600 shall be for Research and Development; and

(B) $6,025,300 shall be for Program and Research Operations.

(6) For lab and field expenses, $73,031,600, all of which shall be for Research and Development.

(7) For headquarters expenses of the Office of Research and Development, $9,254,800, all of which shall be for Research and Development.

(8) For multimedia related research expenses, $158,656,800, of which—

(A) $122,142,900 shall be for Research and Development;

(B) $31,513,900 shall be for Program and Research Operations; and

(C) $5,000,000 shall be for graduate student fellowships.

(9) For program management expenses, $6,399,300, all of which shall be for Program and Research Operations.

(10) For pesticide related research, $13,345,200, of which—

(A) $7,192,800 shall be for Research and Development; and

(B) $6,152,400 shall be for Program and Research Operations.

(11) For oil pollution related research, $2,076,900.

(12) For research related to leaking underground storage tanks, $769,400.

(13) For research related to cleanup of contaminated sites, $56,195,500.

(14) For research related to hazardous waste, $21,020,200, of which—

(A) $10,977,700 shall be for Research and Development; and

(B) $10,042,500 shall be for Program and Research Operations.

(c) LIMITATIONS.—No funds are authorized to be appropriated by this title for—

(A) the Environmental Technology Initiative;

(B) the Climate Change Action Plan; or

(C) indoor air pollution research.

(2) No sums are authorized to be appropriated for any fiscal year after fiscal year 1996 for the activities for which sums are authorized by this title unless such sums are specifically authorized to be appropriated by Act of Congress with respect to such fiscal year.

(3) Notwithstanding any other provision of law, no sums are authorized to be appropriated for fiscal year 1996 for the activities for which sums are authorized by this title unlead such sums are specifically authorized to be appropriated by this title.

SEC. 504. SCIENTIFIC RESEARCH REVIEW.

(a) IN GENERAL.—The Administrator shall assign to the Assistant Administrator the duties of—

(1) developing a strategic plan for scientific and technical research activities throughout the Agency;

(2) integrating that strategic plan into ongoing Agency planning activities; and

(3) reviewing all Agency research to ensure the research—

(A) is of high quality; and

(B) does not duplicate any other research being conducted by the Agency.

(b) REPORT.—The Assistant Administrator shall transmit annually to the Administrator and to the Committee on Science of the House of Representatives and the Committee on Environment and Public Works of the Senate a report detailing—

(1) all Agency research the Assistant Administrator finds is not of sufficiently high quality; and

(2) all Agency research the Assistant Administrator finds duplicates other Agency research.

SEC. 505. PROHIBITION OF LOBBYING ACTIVITIES.

None of the funds authorized by this title shall be available for any activity whose purpose is to influence legislation pending before the Congress, except that this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to Members of Congress on the request of any Member or to Congress, through the proper channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business.

SEC. 506. ELIGIBILITY FOR AWARDS.

(a) IN GENERAL.—The Administrator shall exclude from consideration for awards of financial assistance made by the Office of Research and Development after fiscal year 1995 any person who received funds, other than those described in subsection (b), appropriated for a fiscal year after fiscal year 1995, from any Federal funding source for a project that was not subjected to a competitive, merit-based award process. Any exclusion from consideration pursuant to this section shall be effective for a period of 5 years after the person receives such Federal funds.

(b) EXCEPTION.—Subsection (a) shall not apply to awards to persons who are members of a class specified by law for which assistance is awarded to members of the class according to a formula provided by law.

SEC. 507. GRADUATE STUDENT FELLOWSHIPS.

In carrying out the graduate student fellowship program for which funds are authorized to be appropriated by this title, the Administrator shall ensure that any fellowship award to a student selected after the date of the enactment of this Act is used only to support research that would further missions of the Office of Research and Development in fields in which there exists or is projected to exist a shortage in the number of scientists.

The CHAIRMAN. Are there any amendments to title V?

AMENDMENT OFFERED BY MS. LOFGREN

Ms. LOFGREN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Ms. LOFGREN: On page 133, line 6, "(B) the Climate Change Action Plan;" and renumber accordingly.

Ms. LOFGREN. Mr. Chairman, I offer this amendment to H.R. 2405 to enable EPA to continue to do research in assessment on climate change.

Mr. Chairman, section 503(c) of the bill prohibits EPA from doing research in certain areas that do not match the vision of science in this country held by some. The change in the climate change research areas specifically outlines the work on the climate change action plan. In the broad area of global change research the bill reduces the funding level form $22.5 million to $2.4 million, a 90-percent reduction. The bill directs EPA to terminate its Global Change Research Program on the grounds that it is duplicative in research in other agencies. The only problem with the logic is global change in virtually every other agency is similarly terminated or drastically reduced.

Mr. Chairman, we have seen the intensity of the view of some that environmental research is not what our country needs, but I believe that, and I think many others on the other side of the aisle do too, that we are well advised to know certain things. One of the things we need to know about is whether our climate is changing.

We recently, as I mentioned in our previous amendment, noted that the Nobel Prize committee has recognized that the ability and actually the threat of human activity can indeed have an impact on the globe and on, potentially, climate. This is something that we need to research further so we can go well-armed for the future.

Mr. Chairman, my amendment addresses the provision of the bill which is very dangerous because it ignores a large body of scientific evidence and critical scientific research by simply shutting down this program.

The section 503 tells EPA that they can no longer spend money on an action plan that they have already developed. It says, "Take your report back, get rid of it, pretend it never existed," but that is not a message that we should give to scientists.

The EPA, as well as other agencies such as the Forest Service and DOE, was asked by President Bush to coordinate a strategy for responding to commitments made at the Rio convention several years ago. The whole idea was to make sure that the administration had a coordinated research and policy framework so that there would be no duplication of efforts or ambiguities regarding agency responsibility. There is now a plan which is continuing to be developed. The impact of the prohibition in the bill is to eradicate the plan. The EPA could not even mail the report out, much less continue the policy development process.

Mr. Chairman, my amendment would reinstate the climate action plan as a legitimate planning document and template for the policy actions over the next several years as the research on global changes matures. It is clear that some things can be done easily and cheaply. Others will be enormously expensive and difficult. It makes economic sense to know which is which, how long we can wait before taking any action, and indeed whether action needs to be taken at all.

Mr. Chairman, the committee's prohibition on the climate action plan is not sensible in a very literal sense. It also reveals a deeper problem that I hope we can come to grips with which is direction of scientific research on the basis of our own druthers, on what we hope is true.

The environmental problems that we face may be real. I hope they are not, but they will not go away simply by killing funding or refusing to mail out a report.

Now, hearkening back to our earlier discussion in the last amendment, I was heartened that members of the committee on both sides of the aisle do not intend to preclude long-term global research. The amendment before us would not authorize any additional funds. It would simply, as in the prior discussion, eliminate the prohibition on research in this important activity, and I would urge that we, in a show of bipartisan embrace of our future and planted in the climate, accept this amendment.

Mr. ROHRABACHER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, here we go again. These amendments would restore global warming programs to the Environmental Protection Agency.

Let me just state right off the bat that it is my belief and the belief of the majority that this has nothing to do with the basic mission of the EPA. I mean does really having the EPA studying what will happen to fish after 100 years of global warming, does that really go to the heart of what we want the EPA to do? Is this part of its mission?

The answer is no, it is not. The EPA badly needs to prioritize its funds and to get sound science to determine regulatory process.

Mr. Chairman, the fact is that, if we put the EPA and keep the EPA involved in global warming research, what we have done has a budgetary impact on each and every other area in which the EPA is involved, some of the other things which are part of the core mission of the EPA. Keep the EPA involved in global warming research, and that means the other functions will have less money to spend, and although there is not a specific amount mentioned in the amendment, frankly it has a major impact on the funding of the various parts of EPA.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. ROHRABACHER. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Let us be clear about what the gentlewoman's amendment would be.

EPA does not regulate CO_2 emissions. They do regulate ozone. What we are doing is saying that they ought not be doing work in CO_2 emissions that they do not regulate because that is not the office, but we specifically allow them to do the ozone research and do the stratospheric kind of evaluations.

So what the gentlewoman's amendment would do would be to give them the opportunity at least to divert funding away from that which they do not or do regulate toward things which they do not regulate which undermines the specific mission of the Office of Research and Development, and so we think that we are permitting them to do one of these things that has been regarded as a global warming issue, but to do it in the area where they have the regulation power, to do it related to what they are supposed to be doing over the long term, in stratospheric ozone, and for the life of me I cannot understand why, when we are spending $1.8 billion on global warming across the whole Government, why we feel we have to have everybody doing the same thing over and over.

Mr. Chairman, it seems to me that targeting it toward that where the agency has expertise and regulatory power is exactly the right direction to go. That is what our bill does.

Mr. ROHRABACHER. In fact, Mr. Chairman, these programs that are spread throughout the Federal Government's budget on global warming are a product of basically the Vice President of the United States' zeal for this particular issue. Many of us believe that that zeal is what we would call environmental fanaticism.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. ROHRABACHER. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Was it not the Vice President the other day who criticized our committee for having held a hearing where we actually allowed scientists with a diverse point of view to come in and testify? I mean, in other words, he is so committed, he is so ideologically driven on this, that he does not want any witnesses appearing on Capitol Hill that do not share his point of view and, in fact, criticized the gentleman's subcommittee for actually allowing scientists to come in and testify who did not share his point of view.

Is that not correct?

Mr. ROHRABACHER. That is correct.

Mr. WALKER. It was astounding.

Mr. ROHRABACHER. In fact we will be holding hearings on global warming, and these hearings, I can assure all of my colleagues, will be very balanced, which again will probably raise the fur on the back of the Vice President's neck because we are permitting experts

in the area of global warming who disagree with his position to actually testify and have a juxtaposed position with those scientists who agree with the Vice President's position in global warming.

Mr. Chairman, we need to make sure that we handle our appropriations and authorizations with an eye toward focusing the effort in those areas where they can be most effective. Global warming should not be handled in EPA. We have in the last debate suggested that we both agree that long-term climate research is something that should be done in NOAA. In EPA it is out of place, and the gentlewoman's amendment would take funding away from all the other areas of EPA in order to fund something that it should not be doing.

Ms. LOFGREN. Mr. Chairman, will the gentleman yield?

Mr. ROHRABACHER. I yield to the gentlewoman from California.

The CHAIRMAN. The time of the gentleman from California [Mr. ROHRABACHER] has expired.

(By unanimous consent, Mr. ROHRABACHER was allowed to proceed for 2 additional minutes.)

Ms. LOFGREN. The Interagency Task Force on Global Change in EPA was created in 1989 by then President George Bush, as my colleagues are aware, not by Vice President GORE. I did not vote for President Bush, but he was my President, too, and I am glad he started this endeavor. The fruit of his efforts has now been completed. We have a plan that unless this amendment is passed cannot even be distributed. Talk about taking money and flushing it completely away. I think that is foolhardy indeed.

Second, we have talked a lot in this committee and in this Congress about using sound science, about cost-benefit analysis, and part of what we need to do is to have judgments that can be made based on sound science. We have talked about ozone. How do we know the benefit of regulation of ozone if we do not know at least in part the impact on our climate? That may be part of our sound science.

□ 1500

Mr. ROHRABACHER. Reclaiming my time, Mr. Chairman, global warming and ozone are two different issues. For the record, there is nothing in the language of our bill or our authorization that suggests that any work that has already been done by EPA should not be circulated or not be made available to anyone who would like to request it, or who they would like to send it to.

What we are trying to do instead is in the future we would like EPA to focus on those many environmental issues that are significant and that they hold the responsibility for, rather than having this just another one of the many global warming projects within the Federal budget.

Mr. Chairman, I respectfully disagree with my colleague's amendment.

Mr. OLVER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this debate is sometimes a little bit like Alice in Wonderland. It is quite a moving target one has to deal with along the way.

Mr. Chairman, I was in support of the amendment that has been offered by the gentlewoman from California [Ms. LOFGREN] an amendment that strikes language that precludes EPA from spending money on climate change research and action. I would just, at the beginning, say that it seems to me, Mr. Chairman, that this amendment attempts to least to correct the wrongheadedness of the authorization bill that is the underlying legislation here.

The chairman of the subcommittee claims to be a strong fan of risk assessment, and I notice here in this document which is put out by the Environmental Protection Agency, the Science Advisory Board, dated September 1990, a document specifically related to reducing risk and setting priorities and strategies for environmental protection, 1990 being before the time under the previous administration, that on page 13 under the relatively high-risk environmental problems, specifically the EPA and the Science Advisory Board speak of global climate change as one of the high-risk areas of environmental problems that we really need science done on.

It seems to me that at least the Science Advisory Board for EPA has been quite clear on what are the high risks that we ought to be dealing with. I guess I would add that it seems to me that not all scientific issues are clarified by congressional hearings. In fact, I think that quite recently, and I think the one which has already been alluded to and which the Vice President has some unkind words about, I think that one probably mostly further muddied the water and further obfuscated the circumstances.

The chairman of the full committee and the chairman of the subcommittee surely know that the Nobel Prize in chemistry was just given out in the last couple of days to three researchers doing work in ozone, the ozone later.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. OLVER. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Chairman, is it possible that this liberal claptrap that he is complaining about is the creation of the Bush Science Advisory Committee?

Mr. OLVER. It would seem that that might be the case.

Mr. BROWN of California. They agree with that. Good.

Mr. OLVER. It is possible. They agree. In any case, I wonder, it seems to me that this global climate change is very close to the mission of the EPA, to the core mission, which is what the Science Advisory Board of the EPA the previous administration determined. I do not think we should be removing EPA's capacity to work on one of the very functions that it was created to do.

We certainly would not ask the FDA to stop researching whether drugs are safe. We certainly would not ask the Department of Agriculture, the USDA, to stop making sure that the food we eat is safe, although actually, I suppose I maybe should not be asking those questions, since it seems that all too many of the people here are quite willing to do exactly those things.

However, I would ask that this Congress recognize the need for research into our global environment. Particularly during this record-breaking hurricane season, it would be particularly ironic if the Congress were to turn its back on the research necessary to understand climate change.

Mr. Chairman, we have been hearing for some time about the need for good cost-benefit analysis. The problem seems to be the question of analysis. We have to have good data in order to do any kind of analysis at all. Whether Members disagree or agree with the concept of global warming, we ought to be willing to gather the data that are necessary, so we can debate this with an educated viewpoint.

Mr. ROHRABACHER. Mr. Chairman, will the gentleman yield?

Mr. OLVER. I yield to the gentleman from California.

Mr. ROHRABACHER. Mr. Chairman, I would ask the gentleman, are there any, of the 12 agencies that are now involved with global climate change, would he eliminate any of them from that job? Is there any one that the gentleman would agree should refocus their efforts, and perhaps maybe only 11 agencies or 10 agencies should be involved? What agencies would the gentleman agree should not be involved in this?

Mr. OLVER. Mr. Chairman, I am not privy to the list of the 12 agencies, nor do I know exactly what the missions are of each of them. All we have been talking here about is NOAA, and it is clearly a core function of NOAA, by its very name, it is a core function of NOAA, and in terms of environmental protection and risk analysis to environmental risks, then it seems to me it is pretty clearly a core function of EPA. It is not wrong to have some different agencies working on an issue where the core functions do not completely overlap. I am not going to try to defend each of the other 10. I do not know what the other 10 are. These, it seems to me, are core functions for EPA, by its very name, and to NOAA, by its very name.

Mr. ROHRABACHER. I would be very happy to provide the gentleman a list

of the 12 agencies in which global warming is a concern.

Mr. OLVER. I would be happy to study the list and give an answer as to whether one or more or several as to which the issue of global warming is not a core function, but these two agencies we have been talking about today, it is a core function.

Mr. TIAHRT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as I understand this amendment, what we are doing is elimination of or striking the clause where EPA is going to continue or start into global climate change research. It is my understanding of the EPA charter or the scope of their job, that it is to study the environment for regulatory purposes. My concern here is that we already have 12 agencies that are undergoing global warming research to the tune of about $1.8 billion, if my information is correct. I think we probably have a shotgun approach to this already.

Some of these agencies probably, along with EPA, should not be in the business of studying this climate change, doing this research. The Department of Defense may have some arguments for it because of the nature of the business of defending the people of America. The Department of Commerce, I think, is an area where we probably should be redirecting some of this effort, and the Department of the Interior also. Certainly, there are other agencies like NASA and the National Science Foundation that have a direct tie into what we are doing in this research.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. TIAHRT. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, the gentleman is making an excellent point. I think maybe because it has been indicated that somehow this is the only money being spent in global change research, that not to allow this spending to be done would in fact decimate the global change research program, that we ought to talk a little bit about it.

The Department of Agriculture spends over $60 million a year on global change. The Department of Commerce spends over $135 million a year on global change. The Department of Defense spends $6.5 million on global change. The Department of Energy spends over $120 million on global change. The Department of Health and Human Services spends over $25 million on global change. The Department of the Interior spends over $30 million on global change. The Department of Transportation spends a little less than $1 million on global change. The Environmental Protection Agency spends a little over $25 million on global change. The National Aeronautics and Space Administration spends $1.25 billion on global change. The National Science Foundation spends $170 million on global change. The Smithsonian Institute spends $2.8 million on global change, and the Tennessee Valley Authority spends $1.2 million on global change.

We have a lot of agencies spending a lot of money on global change. To suggest that somehow this amendment is going to do something about the global warming change program becomes somewhat ridiculous.

Mr. TIAHRT. Reclaiming my time, Mr. Chairman, I think the gentleman made a very good point. When we are trying to find a solution to a problem, often we want to have a few diversified groups looking into the problem to see exactly how we can come up with a solution. Perhaps we could get some fresh thoughts and fresh minds looking at new ideas, maybe new concepts.

However, to spread it over 12 agencies to the tune of $1.8 billion, I think we already have that much diversity. I think it probably exceeds common sense in the realm of applying one more agency, the EPA. I think it is probably time to draw back some of the reins on studying climate change, that research, let it concentrate on areas that have a very keen interest and, I might add, a charter for such research, like NASA, perhaps even the Department of Energy, would be better suited that EPA, the Department of Defense.

I think what this amendment does is it just goes beyond the commonsense thought process here, because we already have plenty of agencies looking into climate change, global climate change. I think putting it back in EPA will serve no purpose for the taxpayers.

Ms. LOFGREN. Mr. Chairman, will the gentleman yield?

Mr. TIAHRT. I yield to the gentlewoman from California.

Ms. LOFGREN. I would like to make a couple of comments, Mr. Chairman. I think this is sounding a little like a partisan issue, and I honestly think it should not be. We have all, on both sides of the aisle, discussed our commitment to basic research because that is important to understanding our world, and it is important to the economic vitality of our country. Basic research is mission-driven in a whole variety of agencies throughout the country, because there is value in the diversity of different approaches in basic research. We come up with different answers. That is why we do not have a science czar that directs all scientific inquiry.

I think this is somewhat similar to that. I would just add this. All of us will be grievously distressed and our citizens will be distressed if we fail to take action in an appropriate manner and our country pays a terrible economic price. We are now on the Rs for hurricanes, the first time I think that has ever happened on names.

I am not a scientist. I notice that the Nobel Committee thinks something is going on with climate change. I think it is up to us to put aside our partisanship and to let scientists move forward into a legitimate inquiry in this.

Mr. TIAHRT. I think the gentlewoman made a good point about diversification, but I think 12 agencies and $1.8 billion is excessive.

Mr. WAXMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. WAXMAN. Mr. Chairman, the issue of global warming is a matter of great concern. I have an editorial from the Washington Post. They said that "There are great uncertainties in how much the temperature will rise and how great any damage will be, but the case for being concerned about global warming is getting stronger. That makes it especially distressing that committees in the House and Senate are slashing funds for programs aimed at protecting the global environment."

That is what is happening in this legislation, we are cutting funds to deal with the problem of the global environment. In a few minutes we are going to have a discussion about the provision of the bill that strikes funds dealing with indoor air pollution. It is almost as if this Congress were anti-science. We act like we belong to the Flat Earth Society. Time after time we are ignoring sound science, we are ignoring sound concerns to our environment, so our response is to cut back funding in understanding the threat and how to deal with it.

Let me put this in perspective. I do think this Congress is more and more anti-science. It is very distressing. An example: this House passed a Clean Water Act, and despite the National Academy of Science's, our Nation's most prestigious scientific organization, recommendations on what would be a sound scientific definition of a wetland, the House of Representatives threw it all out and decided to adopt a scientifically indefensible definition of wetlands that wipes out most of our Nation's wetlands. That is not a decision made on good science.

Another example, ozone depletion. Yesterday Dr. Sherwood Rowland and two other scientists were given a Nobel Prize for their discovery that manmade chemicals are destroying the ozone layer. Their science has been endorsed by virtually every reputable scientific organization in the world. These are Nobel Prize winners. What happens with the House Committee on Science? They do not accept this science. Instead, the committee has been holding hearings that feature eccentric witnesses who argue that there is no ozone hole.

Today we are talking about taking another sad step into the realm of anti-

science. We are debating a bill that would defund important, basic scientific research into these key environmental problems. The global warming plan at the Environmental Protection Agency was the result of the work of EPA administrator William Reilly, who was appointed by President Bush. This is not a partisan issue. This should not be a partisan issue.

When we get to indoor air pollution, it is amazing to think that we are not going to be doing the work on indoor air pollution when the EPA, when they were told to come up with some priorities of the threats to human health, put indoor air pollution right at the top.

I think we have to step back and put this all in perspective. Because some industry groups do not like the idea that maybe they are going to face regulation because some scientists have a difference of opinion, that should not mean that we will ignore scientific opinion and not conduct further research to try to implement action plans that can, in a very prudent way, protect us from the results of global warming, should the threat be as severe as we are being led to believe.

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I have a couple of articles that I am going to put into the RECORD. One is an article from the New York Times, September 18, headlined, "Scientists Say Earth's Warming Could Set Off Wide Disruptions." The first paragraph reads, "The earth has entered a period of climactic change that is likely to cause," likely to cause, "widespread economic, social and environmental dislocation over the next century if emissions of heat-trapping gases are not reduced, according to experts advising the world's Governments." We are hearing from most of the scientists about this issue.

Another article which I will insert into the RECORD, September 10. "Experts Confirm Human Role In Global Warming." The article goes on to talk about, "In an important shift of scientific judgment, experts advising the world's governments on climate change are saying for the first time that human activity is a likely cause of the warming of the global atmosphere."

Mr. Chairman, if that is the case, how do you take the Environmental Protection Agency out of this issue? How do you stop their action plan in its tracks from reducing some of these manmade chemicals that are causing this problem?

This is an example of this problem which has led to this amendment. To keep the funds in place, not to cut back, is it seems to me a very short-sighted move, and I believe one that ignores the overwhelming scientific opinions and denigrates it. We do not have certainty, but we ought not to denigrate the mounting evidence and wait to the point where we have a problem that cannot be fixed.

Mr. ROHRABACHER. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from California.

Mr. ROHRABACHER. Mr. Chairman, I have two questions for the gentleman from California [Mr. WAXMAN]. From what the gentleman has said, especially about the hearing on the ozone, is it the position of the gentleman that we should not have had a renowned scientist on the other side of the issue?

Mr. WAXMAN. Mr. Chairman, reclaiming my time, absolutely not.

The CHAIRMAN. The time of the gentleman from California [Mr. WAXMAN] has expired.

(By unanimous consent, Mr. WAXMAN was allowed to proceed for 1 additional minute.)

Mr. WAXMAN. Mr. Chairman, I would say to the gentleman, of course not. Scientists are reflecting different opinions. We ought to hear from them, but we ought not to make a decision to vote one way or the other based on which scientist you like and ignore what is turning out to be an overwhelming accumulation of evidence.

Mr. ROHRABACHER. Mr. Chairman, if the gentleman will continue to yield, my colleague does know that the majority of scientists of the day thought the Earth was flat and thought that the Sun went around the Earth, and at times, the scientist order of the day was wrong.

Mr. WAXMAN. Mr. Chairman, reclaiming my time, sometimes the politicians under those circumstances decided to punish the scientists who were coming in with some scientific opinions that they did not like. I do not want us to do the same thing today that the Neanderthals of years past have done. I think we ought to have a free and open inquiry of science. We ought not to prejudge it and defund it because we do not like what they are doing.

Mr. ROHRABACHER. Mr. Chairman, if the gentleman will yield further, just so my colleague will know, one of those scientists that was present to present another view on the ozone situation, contrary to what the current common knowledge is, had been threatened and had been told that she would not receive any more grants if she came to testify. I think the evidence is showing that people who are suppressing information are those who believe ozone is going to destroy us.

Mr. WAXMAN. Mr. Chairman, I include for the RECORD the two articles referred to earlier.

[From the New York Times, September 18, 1995]

GLOBAL WARMING HEATS UP

The evidence mounted last week that manmade gases are causing deterioration of the earth's atmosphere. First came news that a United Nations scientific panel believes it has found, for the first time, evidence that human activities are indeed causing a much-debated warming of the globe. The report, though preliminary, appeared to strengthen the case that governments throughout the world may need to take stronger action to head off potential damage.

Then came an announcement from the World Meterological Organization that a worrisome hole in the earth's protective ozone shield appears to be getting even larger over Antarctica. Such enlargement had been expected because it will take a while for corrective actions already taken by many governments to exert their effect. But the report underscored that the battle to save the ozone layer is not yet safely won.

The U.N.'s global warming report, described by William K. Stevens in the Sept. 10 Times, indicates that man-made global warming is a real phenomenon. It can not be dismissed as unproved "liberal claptrap," as Representative Dana Rohrabacher, Republican of California, who heads a House environmental subcommittee, has derisively suggested.

For years now scientists have been arguing over whether the emission of "greenhouse gases," such as carbon dioxide generated by the burning of fossil fuels, has contributed to a small rise in global temperatures over the past century—and whether such emissions will drive temperatures even higher in coming decades.

Such a change in temperature might, if drastic enough, have serious consequences, as is made clear today in a second article by Mr. Stevens. Global warming could cause a rise in sea level that would flood coastal lowlands, an increase in weather extremes and damage to forests and croplands in some regions. Forestalling truly severe damage might well warrant action to slow the emission of greenhouse gases by reducing the world's reliance on fossil fuels. But that would be a wrenching, costly process that few political leaders are eager to undertake absent compelling evidence that human activities really are driving world temperatures toward dangerous levels.

Now the U.N.'s Intergovernmental Panel on Climate Change, the scientific panel charged with analyzing the problem, has concluded in a draft report that it is seeing signals that man-made global warming is under way. The signals are not in the form of a "smoking gun." Instead, they are found in computer patterns. The computer models that predict rising temperatures seem to be matching up more closely with some of the patterns of climate change actually observed. There are great uncertainties in how much the temperature will rise and how great any damage might be. But the case for being concerned about global warming is getting stronger.

That makes it especially distressing that committees in the House and Senate are slashing funds for programs aimed at protecting the global environment. Steep cuts have been imposed on research to study global climate change, on programs to help reduce carbon emissions and on funds to help developing countries phase out their ozone-destroying chemicals. It is perverse that, as the evidence of global atmopsheric harm gets somewhat stronger, the political response to mitigating it gets progressively weaker.

[From the New York Times, Sept. 10, 1995]

EXPERTS CONFIRM HUMAN ROLE IN GLOBAL WARMING

(By William K. Stevens)

In an important shift of scientific judgment, experts advising the world's governments on climate change are saying for the first time that human activity is a likely cause of the warming of the global atmosphere.

While many climatologists have thought this to be the case, all but a few have held until now that the climate is so naturally variable that they could not be sure they were seeing a clear signal of the feared greenhouse effect—the heating of the atmosphere because of the carbon dioxide released by burning coal, oil and wood.

Even the string of very warm years in the 1980's and 1990's could have been just a natural swing of the climatic pendulum, the experts have said.

But a growing body of data and analysis now suggests that the warming of the last century, and especially of the last few years, "is unlikely to be entirely due to natural causes and that a pattern of climatic response to human activities is identifiable in the climatological record," says a draft summary of a new report by the Intergovernmental Panel on Climate Change.

The panel's role is to advise governments now negotiating reductions in emissions of greenhouse gases like carbon dioxide under the 1992 treaty on climate change.

The panel's draft summary, although intended for internal use, was recently made available on the Internet. The draft has been through at least one round of scientific review but its wording may change, since it is now being reviewed by governments. Scientists who prepared the full chapter on which the summary statement is based say they do not expect any substantial change in their basic assessment. The chapter has gone through extensive review by scientists around the world.

"I think the scientific justification for the statement is there, unequivocally," said Dr. Tom M.L. Wigley, a climatologist at the National Center for Atmospheric Research in Boulder, Colo., one of the chapter's authors.

The scientific community "has discovered the smoking gun," said Dr. Michael Oppenheimer, an atmospheric scientist with the Environmental Defense Fund, who is familiar with the draft report. "This finding is of paramount importance. For many years, policy makers have asked, 'Where's the signal?' " The intergovernmental panel, he said, "is telling us that the signal is here."

But Dr. Wigley and others involved in the reassessment say it is not yet known how much of the last century's warming can be attributed to human activity and how much is part of the earth's natural fluctuation that leads to ice ages at one extreme and warm periods at the other.

Nevertheless, the panel's conclusion marks a watershed in the views of climatologists, who with the notable exception of Dr. James E. Hansen of the NASA Goddard Institute for Space Studies in New York have until now refused to declare publicly that they can discern the signature of the greenhouse effect.

[From the New York Times, Sept. 18, 1995]

SCIENTISTS SAY EARTH'S WARMING COULD SET OFF WIDE DISRUPTIONS

(By William K. Stevens)

The earth has entered a period of climatic change that is likely to cause widespread economic, social and environmental dislocation over the next century if emissions of heat-trapping gases are not reduced, according to experts advising the world's governments.

The picture of probable disruption, including adverse changes and some that are beneficial, emerges from draft sections of a new assessment of the climate problem by the Intergovernmental Panel on Climate Change and from interviews with scientists involved in the assessment. The panel, a United Nations group of 2,500 scientists from around the world, advises parties to a 1992 treaty that are negotiating reductions in heat-trapping greenhouse gases like carbon dioxide.

The new feature of the assessment—the first in five years by the intergovernmental panel—is that the experts are now more confident than before that global climate change is indeed in progress and that at least some of the warming is due to human action, specifically the burning of coal, oil and wood, which releases carbon dioxide into the atmosphere. Like its predecessors, the forecast depends heavily on uncertain computer simulations of the atmosphere's response to heat-trapping gases.

While some environmentalists and their allies have long believed potentially catastrophic human-induced climate change to be a fact, and some political conservatives and industry groups have been skeptical, experts in the mainstream of climate science have never confirmed either view.

So far, most governments have taken small steps to rein in emissions of greenhouse gases, with the hope of at least avoiding further contribution to the warming problem. But even before the current reassessment, parties to the 1992 treaty had agreed that these steps were inadequate and had opened talks aimed at stronger measures.

According to draft sections of the new forecast, some of the predicted effects of climate change may now be emerging for the first time or with increasing clarity. The possible early effects include these:

A continuing rise in average global sea level, which is likely to amount to more than a foot and a half by the year 2100. This, say the scientists, would inundate parts of many heavily populated river deltas and the cities on them, making them uninhabitable, and would destroy many beaches around the world. At the most likely rate of rise, some experts say, most of the beaches on the East Coast of the United States would be gone in 25 years. They are already disappearing at an average of 2 to 3 feet a year.

An increase in extremes of temperature, dryness and precipitation in some regions. A United States Government study conducted by one of the panel's scientists has shown that these extremes are increasing in America. There is a 90 to 95 percent chance, the study concluded, that climate change caused by the emission of greenhouse gases like carbon dioxide is responsible. The intergovernmental panel forecasts an increase in droughts like the current one in the Northeastern United States, heat waves like the one in Chicago this summer, and more fires and floods in some regions.

A "striking" retreat of mountain glaciers around the world, accompanied in the Northern Hemisphere by as shrinking snow cover in winter. In some semi-arid regions, the panel says, runoff from melting glaciers may increase water resources. But in most places, rivers and streams could be diminished in the summer.

"While there will be some beneficial effects of climate change, there will be many adverse effects, with some being potentially irreversible," says one of the panel's draft summaries.

Beneficial effects, if the panel's forecast is right, would include, for instance, milder winters in northern climes, an increase in rainfall in some regions that need it, and faster crop growth. Grain belts of North America and Russia could expand. Agricultural production worldwide is not expected to decrease much.

But some regions—especially sub-Saharan Africa, South and Southeast Asia and tropical Latin America—could suffer losses in their harvests. Deserts are expected to expand, and the heartlands of continents to become drier. There would be more rain throughout the world. Northern temperate regions would experience more rain and less snow in winter. In summer, water would evaporate faster, drying the soil.

Natural ecosystems, being untended, would be even more vulnerable than cropland. Forest trees could not keep up with shifting climatic zones, and some forests would disappear, the panel says.

Computerized models indicated that if atmospheric carbon dioxide levels double, "one-third of all the forest area of the earth will change," said Dr. Steven P. Hamburg, a forest ecologist at Brown University who is a member of the intergovernmental panel. "But we still don't have a good grasp of what it will look like," he added. Carbon dioxide concentrations are expected to double late in the next century if no further action is taken to limit emissions.

Climate forecasting is a difficult and often controversial science. One major subject of dissension are the computer models on which the intergovernmental panel's report largely depends. The climate experts on the panel believe their models have become increasingly reliable. But skeptics continue to assert that the models fail to simulate the present climate realistically and hence are an unsure guide to future climates.

There is wide agreement among scientists that the average surface temperature of the globe has already risen by about 1 degree Fahrenheit over the last century, with the steepest rise taking place in the last 40 years. But given the natural variability of the earth's climate and the wide fluctuations in temperature known to have occurred in the distant past, climate experts have until now been almost unanimous in saying they could not prove that human emission of greenhouse gases was playing in part in the warming.

Scientific opinion among climatologists is now shifting, and more are prepared to say that human activity is a likely cause of at least part of the climatic change experienced so far.

The human contribution to global warming could range from highly significant to trivial. The scientists say it is not yet possible to measure how much of the warming has been caused by human activity and how much is a result of natural causes.

Computer models are the principal basis for the draft report's forecast that the world's average surface temperature will rise by about 1.5 to 6 degrees Fahrenheit by the year 2100 if no further action is taken to rein in greenhouse gas emissions. Further warming—50 to 70 percent more than what took place by 2100—would take place after that year, the report says. The warming would be somewhat larger if, as appears possible, industry stops emitting sulfate aerosols, which exert a cooling effect by reflecting sunlight and are air pollutants in their own right.

Mr. BROWN of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the Lofgren amendment. Again, I take this time not because of my concern with what will happen to this legislation, because I have already said it is not going anywhere, but to support some issues here, to explore some issues. Some of them involve the views of the gentleman from California [Mr. ROHRABACHER] who I would characterize as an original member of the Flat Earth Society, except that he is on a space committee, so he could not be part of that any more.

Mr. Chairman, the gentleman from California [Mr. ROHRABACHER] has made his position so clear with regard to long-range climate research and other things of that sort, global warming, that we need to explore this. Frankly, I want the gentleman to be the clear leader of those who think that the Reagan-Bush position announced by their Science Advisory Committee was liberal clap trap.

Mr. Chairman, that is going to divide the Republicans on this issue. Of course the true believers like the gentleman from California [Mr. ROHRABACHER] hope they will prevail, and I hope that the liberals like Bush and Reagan will prevail on these kinds of issues.

Now, the gentleman may or may not recall that the Committee on Science in its earlier incarnation first established an environmental subcommittee in 1975. I was the chairman of the subcommittee at that time. Global warming was an issue before us at that time. We did not know what to believe, so we had extensive hearings.

We had scientists who said, there is clear indication of global warming. We had scientists who said, that is malarkey, there is clear indication of global cooling. Then we had scientists in the middle, who said, it is an open question at this point. We need more research. That is a favorite ploy of all scientists. We need more research. The issue was important enough that we funded more research, and we continued to fund it for 20 years.

Today, that curve of those who think it is warming, those who think it is cooling, and those who think we need more information has changed substantially. There are very few who think it is cooling, a lot more who think it is warming, and of course the majority still think we need more information, which is why we fund long-term global climate research. It is important, and we need to continue funding it. I hope that we will continue to do that, although the majority view has gradually grown larger and larger, that global warming is a serious problem.

Now, a point has been made by a number of gentlemen on the other side that we have too many agencies doing global warming research. We have a dozen or so, I think the number was. The Defense Department is studying global warming because it has something to do with our defense posture: If all of the ice caps in the North and South Pole melt, it will affect our strategies. It will affect submarine detection, it will affect other things of that sort.

The Coast Guard is worried, because if it raises the level of the ocean, they have a whole new problem. Where is the coast that they used to be concerned about? It will have changed substantially.

Other agencies like the Energy Department, for example, are interested because it has to do with the energy mix that we use in this country, and what its effects will be. These are legitimate. These relate to the core mission of these agencies.

Now, should we scrap them all and say, we will just have one agency do it, the Weather Service? No. We recognize the complexity of this, and many other issues of a research nature, and in the office of the President, we have a science adviser and we have a Presidential Science Advisory Committee.

We used to have something called a FCCSET Committee, which is an interesting name. It meant the Federal Coordinating Council on Science Engineering and Technology, which was aimed at resolving the respective jurisdictions of the various agencies, cabinet level agencies on complex, interagency science problems.

The problem is not putting everything in one basket and say, nobody else does it. Defense is going to want to do it if it relates to defense and energy if it relates to energy. The problem is making sure they do not waste money on it. That does not necessarily mean they do not lose similar research, but they do not lose money on it, and they get the best science that is possible.

Mr. ROHRABACHER. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from California.

Mr. ROHRABACHER. Mr. Chairman, am I incorrect in my assumption that the impact of the amendment would be that all of the other areas of Environmental Protection Agency research would suffer as a result of this amendment because the funds that would have to be spent according to this amendment would be coming from all of those other areas? Is that not what we are talking about here?

Mr. BROWN of California. Mr. Chairman, the gentleman raises an interesting point.

The CHAIRMAN. The time of the gentleman from California [Mr. BROWN] has expired.

(By unanimous consent, Mr. BROWN of California was allowed to proceed for 1 additional minute.)

Mr. BROWN of California. Mr. Chairman, the EPA's research function has already suffered. The gentleman on your side spent the first part of this year emasculating EPA, making sure they went through a lot of hurdles in getting the proper science to justify their regulation. They have so many restrictions on the regulatory process that they are going through, and so many injunctions by using good science, they cannot possibly do it with the seriously eroded budget that you have given them. So they are in real trouble.

Yes, they will be in trouble, they will have to redistribute funding here, but that is a very small part of the total problems that they face at the present time, which will grow greater if you have your way.

Mr. WALKER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have been enlightened by the discussion a little bit here too. We had the gentlewoman presenting her amendment telling us about the Nobel Prize winners. They got their money out of the Department of Energy and out of NSF; none of it came out of EPA or NOAA that related to the amendment of the gentlewoman from California [Ms. LOFGREN]. That talks about the diversity and the multiplicity of places at which this kind of research is being done. So when we cite the Noble Prize winners, the fact is that they are in accounts where the gentlewoman is not touching.

Mr. Chairman, I was also fascinated by the gentleman from California [Mr. WAXMAN] lecturing us about the Flat Earth Society. The gentleman lectures us about the Flat Earth Society and then criticized this committee for having the audacity to allow scientists to come in who do not agree with his point of view.

Now, the fact is, the reason why the Flat Earth Society was able to stay in place for so long is because there was a consensus among all of the scientists that the Earth was flat. So for centuries we belabored under the opinion, the scientifically confirmed opinion that the Earth was flat, and it was a few nutty scientists who said, no, maybe it is round. Maybe it is round. They were regarded as nuts, they were thrown out of the academy. They were not listened to.

Well, the fact is, diversity is a very important part of science. It is a very good thing to have diverse points of view in science, just as it is a very good thing to have a diverse point of view in politics.

Now, the fact that this committee has made a determination that we are not going to do one-directional scientists, just because there is a consensus, just because everybody believes the earth is flat, we do not think that that is the only people we have to listen to. We think that maybe we ought to listen to people who have differing points of view.

We do not have to agree with them. We do not have to agree with anybody that comes before the committee to testify, but it sure does help to have all of the points of view available to us before we make determinations, particularly policy determinations that can affect us for years to come.

When we are trying to balance a budget, we are looking out 7 years. The decisions that we make here look out 7 years. We would like to know whether or not the things that we are doing are based upon sound science, which gets us to the amendment of the gentlewoman from California [Ms. LOFGREN].

The gentlewoman's amendment is about an agency, the Office of Research and Development at EPA that was designed for one purpose. The one purpose of that particular research agency, its mission, is to assure that EPA regulations follow good science. That is what it is all about. The idea is the fact that what they are supposed to do is give us the good science so that we have good science behind our regulations.

Now, sometimes we ignore that science. Sometimes we spend $100 million to look at clean air and then because we are worried about what the report may look like, we pass a clean air bill before we get the study. We do that around here. Normally we think it is maybe a good idea to look at some good science before we regulate.

Now, that is what we said in our bill. We said that in the whole area that is called global warming, one of the issues that we are looking at is ocean depletion. The fact is, EPA has the jurisdiction to regulate ozone. So, what we have done under our bill is given them the authority to continue their research in this area, this large area known as global change, we have given them the authority to continue to do research in those areas that they regulate; namely, the ozone depletion.

What we have said, however, is, there are other areas that they have been looking at where they have no jurisdiction to regulate. We think it would be better for them to focus their mission, use their money the way it was intended to be used at their agency and let other people with other missions that fit more with the process do the other work.

Now, the gentlewoman from California [Ms. LOFGREN] would have us think, as others have had us think, that somehow there is no other money anywhere in the Government to do this, that the EPA has to do it because there is no other money. The fact is, we are spending $1.8 billion on global change, and at 12 different agencies that I just read off here, spending tens of millions, even hundreds of millions of dollars, this work is going on.

The Nobel Prize winners to which the gentlewoman referred got their money out of the DOE and NSF. We have not done anything to stop DOE and NSF from doing global change.

□ 1530

That is an appropriate place for some of this long-term basic research she talked about. She said there ought to be a consensus on basic research. There should be.

But the fact is the EPA's ORD office is not a basic research office. It is an office designed to do mission-oriented research. It is an office designed to supply the EPA the good science it needs to back up its regulation.

That is what we are trying to do. We are trying to make certain we prioritize moneys in ways that they do the job that they were intended to do. You cannot get to a balanced budget any other way. I would suggest that the right way to proceed here is to reject the gentlewoman's amendment and support the committee.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by my colleague the gentlewoman from California [Ms. LOFGREN].

Once again we find ourselves in the position of cutting and eliminating programs prior to having any hearings to consider their merits and shortcomings. Therefore, I would like to take this opportunity to raise some important issues and to challenge what I believe is a fundamentally flawed assumption providing the underlying actions that are being taken.

The global climate change research has been singled out for significant cuts or outright elimination in all departmental research budgets this year. In Interior it was cut by 7 percent, NASA by 37 percent, NOAA by 21 percent, the Department of Energy, by 57 percent, USDA by 6 percent, and the EPA by 100 percent.

We are told that this is for the purposes of efficiency and to eliminate redundancies in the program. However, there have been little if any examples provided to assure us that only duplicative global research programs are being eliminated or that in fact duplication exists.

USDA has a global change research program so that experts in agriculture and forestry science can determine what, if any, effects changes in temperature, moisture, and regional weather patterns will have on our agriculture and forest systems. The Department of the Interior manages Federal land, such as forests and rangeland and wildlife refuges. They also manage vital water distribution networks in cooperation with Western States. It seems to me we might want to understand what effects the climate might have on these resources as well.

The Department of Energy has responsibility for energy research, fossil fuel energy as well as alternative energy. No one disputes that carbon dioxide is a greenhouse gas, that its atmospheric concentration has increased and continues to do so, and that fossil fuel burning is a primary source for that increase. Understanding the global carbon balance from the perspective of fossil fuel consumption as well as other sources is a role that DOE is best suited to play.

NASA oversees the design, construction, operation, and maintenance of our satellites and it compiles data gathered from them. Without measurements, we are reduced to hand-waving. Perhaps that is all fine in some people's opinion but it seems to me that when we pump billions of dollars into these agencies, we ought to find out what the impact is going to be.

The EPA is the Agency that is charged with the responsibility of protecting our environment. Their role should be to use our knowledge of emission sources and technology to suggest options for mitigating and controlling those greenhouse emissions.

These programs are not duplicative. They are intended to make the best use of the expertise and knowledge base of each agency to ensure that we have comprehensive approaches and assessments of a complex global phenomenon.

I realize that many of my colleagues remain unconvinced that global climate change is a problem, just an example of environmental hysteria. If you are so confident of that, then why stop the research that can prove your point?

Ignorance is not bliss, it is just ignorance. We should support this comprehensive research effort so that if these climate changes create the problems that some believe they will, we will be able to approach the problem with the best possible information. If it is not a problem, we will have proof of that, and we will have extended our knowledge on climate and its impacts on the natural systems on which we depend.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. KENNEDY] has expired.

(On request, of Mr. BROWN of California, and by unanimous consent, Mr. KENNEDY was allowed to proceed for 2 additional minutes.)

Mr. KENNEDY of Massachusetts. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Chairman, I want to acknowledge the excellence of the gentleman's statement. I was trying in my own inadequate way to make some of these points that he has made so well in indicating the core interest of many departments in this overall issue of global warming.

I also want to take just a moment to ask the distinguished chairman of the Committee on Science, who earlier made the statement, and the gentleman from California [Mr.

ROHRABACHER] has repeated it, I think, that EPA's Office of Research and Development only has a mandate to do research in the areas in which it regulates. That does not happen to be the case, and if the gentleman thinks that I am wrong, I would invite him to substantiate his statement, because under both Reagan and Bush ORD was mandated to do research in areas in which they had no regulatory authority, and that has continued under Mr. Clinton. If he has some other understanding, I would like to have that put forward in the record so that the House as a whole can understand the basis for that kind of a statement.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. KENNEDY of Massachusetts. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, the gentleman simply is going back to the original intent of the EPA. There is no doubt that they have been mandated to do things beyond what was the original intent of the agency, and have done things well beyond the scope of doing regulation. It is one of the reasons why we have had bad regulation, because we have not had good science. One of the things that we are attempting to do is to assure that we do good science pursuant to regulation and use their limited resources in the proper way. That is the point this gentleman is making.

Mr. BROWN of California. The gentleman's actions contradict his words because he has drastically cut in this bill research, basic research, which he would agree is basic research, which would contribute to the good science that is necessary. In fact, that is my main objection to this bill. It guts the science——

Mr. ROHRABACHER. If the gentleman will yield, what are the basic research cuts in this bill?

Mr. KENNEDY of Massachusetts. Reclaiming my time, the fact of the matter is, just to repeat the cuts, you have a 7-percent cut in the Interior Department, a 37-percent cut in the NASA, 21 percent in NOAA, 57 percent in the Department of Energy, USDA by 6 percent, and EPA by 100 percent. The truth of the matter is you are gutting the research capabilities of this country so you can stick your head in the sand. You want to fight the notion that somehow you are in the flat earth society. You are not in the flat earth society, you have got your head stuck in the sand. You are in the ostrich society.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. KENNEDY] has again expired.

(On request of Mr. BROWN of California, and by unanimous consent, Mr. KENNEDY of Massachusetts was allowed to proceed for 2 additional minutes.)

Mr. KENNEDY of Massachusetts. I continue to yield to the gentleman from California.

Mr. BROWN of California. Mr. Chairman, the distinguished gentleman from Pennsylvania voted for in 1990 the Global Change Research Act which authorized EPA to do global change research. Now he is arguing that they have no mandate to do so because it does not involve regulation. I have just asserted that there is no mandate that they only do research that has relationships to regulation. I further state that the gentleman has cut basic research, which he denies, because he has stated over and over that the actual figures are that there is a 1.1-percent increase.

Mr. Chairman, I include for the RECORD the following table which shows that we in the area of basic research, there has been a decrease of 1.3 percent in the budget that the gentleman is proposing:

	Fiscal year		H.R. 2405	Percent change from 1995
	1995	1996		
DOE	$1,648	$1,773	$1,699	+3.1
NSF	1,958	2,107	1,911	−2.4
NASA	1,850	1,822	1,784	−3.6
NIST	40	48	42	+5
EPA	107	120	92	−14
Total	5,603	5,870	5,528	−1.3

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. KENNEDY of Massachusetts. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I thank the gentleman for yielding.

I think we ought to have an answer from the other side about these important charges, but I want to use this opportunity to say that we do all want a diversification of scientific opinion but if we do not fund the research, we are not going to have researchers doing the work to give those considered opinions.

On the ozone depletion hearings, I do not want us in that area or any other area to find science that is politically correct. It seemed to me that from what I understand about those hearings, scientists who had never published peer review articles were given an elevated status to argue against what hundreds of other scientists around the world had found as a genuine threat in the ozone depletion problem.

I have a history with this issue because in 1977 when we enacted a change in the Clean Air Act, we first started to hear about the hole in the ozone. Of course a lot of people said, "Let's study it, let's study it, let's don't take action." This is one of those rare examples of a scientific issue that moved so quickly that it moved from the theoretical to the measurable.

Mr. ROHRABACHER. Mr. Chairman, if the gentleman would be courteous enough to yield to a question, I held the hearing, the hearings the gentleman was referring to, you were invited to, and I seem to remember you were supposed to be at those hearings. You did not show up. Now you are on the floor complaining about the hearings.

Mr. WAXMAN. I am complaining about a trend in this House and I think those hearings exemplify it, where there is a politically popular, politically correct point of view that seems to be given a spotlight, and I have no problems with having diverse opinions. But let us give spotlights and elevation to views of people that do not have the scientific standing of the hundreds of other scientists that have studied this problem and have raised concerns about it.

Mr. KENNEDY of Massachusetts. Reclaiming my time, I think when all is said and done on this debate, there is a very simple thing that is going on, which is that there is an attempt to protect ordinary citizens from the devastating impact of global warming, and there is a recognition by some that that is going to take an increase in funds for companies to invest in the kinds of technologies to be able to withstand that protection that the ordinary people of this country need. We want to protect the American people. You once again want to protect the wealthy and powerful interests of this country.

Mr. TANNER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from California [Mr. BROWN].

Mr. BROWN of California. Mr. Chairman, this is chapter 10 in the effort to explore a few more of the issues here and this is the one having to do with whether we are cutting or not cutting basic research. We can also call this the battle of the dueling charts because the gentleman from Pennsylvania [Mr. WALKER] has his chart and I have my chart here.

This is the trend in basic R&D. The authorization bill cuts basic R&D. It indicates the agency and the amount of the cuts below the zero baseline.

It does show that there are increases in two areas of R&D. One is defense, basic R&D, and the other is in NIST.

I have the actual numbers here, and I do not ask you to accept these as my word against the gentleman from Pennsylvania [Mr. WALKER]. The gentleman from Pennsylvania [Mr. WALKER] has had his staff use his definitions of basic research and to come up with some figures that show that he is right, that there has been an increase. I am going to use the data which the Federal agencies supplied to OMB pursuant to OMB circular A–11, and the actual numbers for basic research as submitted to OMB by the agencies in accordance with A–11 are as follows:

DOE will have an increase of plus 3.1, that is indicated over here; National Science Foundation, which I think the number of the gentleman from Pennsylvania [Mr. WALKER] shows an increase, the OMB is minus 2.4 percent;

NASA, minus 3.6 percent; NIST, plus 5 percent, and that is because they have eliminated all of the applied research and left just the basic; EPA, minus 14 percent; and the total is minus 1.3 percent according to OMB.

I do not know why sometimes the gentleman from Pennsylvania [Mr. WALKER] is willing to rely on OMB when it agrees with him, sometimes he is not. I am just presenting these as the figures that are the official Government tally of what is happening to basic research under the scenario that we have before us.

□ 1545

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from California [Ms. LOFGREN].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Ms. LOFGREN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 199, noes 215, not voting 18, as follows:

[Roll No. 709]

AYES—199

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Blute
Boehlert
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Cramer
Davis
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
English
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Forbes
Ford
Fox
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gillmor
Gilman
Gonzalez
Gordon
Greenwood
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Heineman
Hilliard
Hinchey
Holden
Horn
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kildee
Kleczka
Klink
LaFalce
Lantos
LaTourette
Lazio
Leach
Levin
Lewis (GA)
Lincoln
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Minge
Mink
Montgomery
Moran
Morella
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pomeroy
Poshard
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Saxton
Schroeder
Schumer
Scott
Serrano
Shays
Skaggs
Slaughter
Smith (MI)
Smith (NJ)
Spratt
Stokes
Studds
Stupak
Tanner
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Velazquez
Vento
Visclosky
Walsh
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOES—215

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bliley
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Fowler
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Goodlatte
Goodling
Goss
Graham
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Hoke
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Jones
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
Laughlin
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
Longley
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Royce
Salmon
Sanford
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Traficant
Upton
Vucanovich
Waldholtz
Walker
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—18

Bilirakis
Chapman
Dornan
Emerson
Fields (LA)
Gibbons
Green
Kennelly
Moakley
Mollohan
Murtha
Roth
Stark
Stockman
Tejeda
Torkildsen
Tucker
Volkmer

□ 1604

The Clerk announced the following pairs:

On this vote:

Mr. Stark for, with Mr. Dornan against.

Mr. Moakley for, with Mr. Bilirakis against.

Mr. TAYLOR of Mississippi and Mr. GILCHREST changed their vote from "aye" to "no."

Mr. SHAYS, Mr. HALL of Ohio, and Mrs. KELLY changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. GENE GREEN of Texas. Mr. Chairman, I would like the RECORD to show that had I been present for rollcall vote No. 709, I would have voted "aye." I was tied up in traffic and could not make it here in the 17 minutes.

PERSONAL EXPLANATION

Mr. TORKILDSEN. Mr. Chairman, during the last vote I was inadvertently detained while coming from a committee markup. I ask that the RECORD reflect that I would have voted "yes" on rollcall 709 had I been present.

The CHAIRMAN. Are there further amendments to title IV?

AMENDMENT NO. 8 OFFERED BY MR. KENNEDY OF MASSACHUSETTS

Mr. KENNEDY of Massachusetts. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. KENNEDY of Massachusetts: Page 133, line 5, insert "or" after "Technology Initiative,".

Page 133, lines 6 and 7, strike "; or" and all that follows through "pollution research".

Mr. KENNEDY of Massachusetts. Mr. Chairman, take a deep breath—fill up your lungs—but do not assume that you are breathing clean air. The air that is now in your lungs passed through several hundred feet of dark, dusty, dirty ductwork before reaching this room. Nearly 30 different species of fungus have been found to grow in the dank recesses of building ventilation systems.

Viruses and bacteria that thrive in air ducts have been proven to cause influenza, pneumonia, tuberculosis, and dozens of other diseases. In addition to those living dangers, the air we breathe indoors can also contain high concentrations of radon, asbestos, formaldehyde, benzene, carbon monoxide, tobacco smoke, lead, and chlorine.

Every breath you take puts you at risk of exposure to these contaminants. Americans spend an average of 90 percent of their time indoors, and the air we breathe in schools and workplaces can be 1,000 times more toxic than the outdoor air. The right to breathe clean

air should not end the moment we walk indoors.

Yet today, the Republicans are telling us that sound science is no science. Yes, folks, believe it or not, the bill that is before us today would eliminate the EPA's nonregulatory indoor air research program. The research that this bill intends to kill is the research that would fuel future discoveries enabling us to prevent illnesses related to indoor air contamination. My amendment would strike out this prohibitive language.

I find this effort to limit research to be an ironic one, as the Congress last year passed the Indoor Air Act—a bill that I have introduced every year since the 100th Congress—with bipartisan support on the suspension calendar. We adjourned at the end of the session before the bill could be signed into law, but support for the concept of increasing indoor air pollution research was clearly validated by this Chamber.

So why now retreat from this commitment? The Republican leadership on the Science Committee would have you believe that the EPA indoor air research dollars are duplicative because the Occupational Safety and Health Administration [OSHA] oversees issues of indoor air pollution as well.

This argument is faulted on several accounts; among them is the fact that exposure to hazardous indoor air pollutants pose significant threats that reach beyond the OSHA-regulated workplace environment. Indoor air quality is also a problem in residential buildings and other institutional settings, such as nursing homes, schools, and hospitals.

This retreat is also odd, considering the fact that the Science Committee explicitly gave EPA the responsibility for carrying out indoor air quality research in title IV of the Superfund Amendments and Reauthorization Act in 1986.

The EPA rightly plays an important role in safeguarding public health—especially for our schoolchildren and senior citizens. Our Federal research dollars spent on indoor air pollution have proven to be a successful investment as a result of the coordination of information between the agencies that have jurisdiction over this issue. The EPA works closely with both OSHA and the National Institute of Occupational Safety and Health [NIOSH] to coordinate research efforts.

The indoor air research conducted at the EPA provides the crucial link needed to solve this problem in a more global sense: by addressing risks outside of the workplace. Though without EPA involvement, not even the workplace is guaranteed to be protected. OSHA's jurisdiction over indoor air quality standards only covers the private sector workplace. Public sector workplace buildings are covered only in the 23 States that have adopted OSHA regulations. Massachusetts, for example, is not an OSHA State and would not be covered. And we certainly have had our share of indoor air quality problems in Massachusetts.

Recently, the registry of motor vehicles in Boston was shut down, and all employees relocated to another site, because of the building's indoor air pollution problems.

Employees in my district at the Suffolk County courthouse suffered ailments connected to indoor air quality problems during building renovation, and a number of offices in the building have been closed.

Students, faculty, and staff at the University of Massachusetts-Boston Harvard campus have suffered nausea, eye irritation, and other illnesses traced to indoor air pollution at the main campus building.

One of the hospitals in my district, Brigham & Women's Hospital, has been plagued by environmental hazards connected to poor indoor air quality. They were forced to shut down the eighth floor, and are doing a floor-by-floor safety review study.

But problems with indoor air quality are not unique to my district. Having sponsored the Indoor Air Quality Act each of the last four Congresses, I regularly receive information from workers, students, parents, and concerned citizens about the problems they are facing with indoor air pollution all over the country—from New York to California. This issue affects us all.

At any moment, 21.2 million Americans are working in 1.4 million offices, schools, factories, and other structures where indoor air quality is a problem. How can we ignore these numbers?

The cost of indoor air pollution is staggering as well. Americans spend an extra $1.5 billion each year in medical bills, and the loss in productivity for businesses translates into tens of billions of dollars more.

Some may say that the argument is centered around limiting unnecessary regulatory burdens. But we are voting today on funds for EPA's research office. This office has no regulatory function.

I can find no reason why this research should be eliminated.

Through this research, the EPA works with private standard-setting bodies to develop ventilation standards and works with industries to develop and test building products which reduce potentially toxic emissions. This program is a voluntary exchange of information for the betterment of consumer health.

Unfortunately, the bill that we have before us today reflects the decision that the best policy is to leave consumers, homeowners, and builders without the scientific information they need to make informed decisions.

While much is known about some indoor air pollutants, scientists know little about sources and exposures in different indoor environments and more research is needed to understand the impact and severity of various health risks.

The health of our citizens mandates that we guard against the irresponsible and foolish choice to eliminate the EPA's ability to conduct indoor air pollution research.

I urge my colleagues to take a deep breath when the yeas and nays are ordered on this amendment—and think hard and fast about the need for clean indoor air before you toss away an invaluable resource for public health protection.

Confirm the need for clean indoor air standards. Vote "yes" on the Kennedy amendment.

□ 1615

Mr. BROWN of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, at the risk of becoming repetitious I would like to rise in support of the amendment offered by the gentleman from Massachusetts [Mr. KENNEDY].

Mr. Chairman, we have in the bill this one section which puts three limits on what the EPA can do. One was the one which we just dealt with, the elimination of EPA's right to do a climate action plan, a second one is the indoor air pollution research, and a third one, which I will offer an amendment to eliminate, has to do with environmental technology initiatives.

Mr. Chairman, I do not think that most Members recognize that these are key environmental votes. These represent a step backward which is going to be recorded and reported throughout this country.

On the last vote, Mr. Chairman, a couple dozen Republicans apparently were aware of this and chose to vote in support of the amendment. I hope that by calling attention to the matter, pointing out that this represents a concentrated effort that is emasculating this particular paragraph, three significant opportunities for EPA to perform a great public service, we may be able to successfully pass the next two of these amendments.

Now the gentleman from Massachusetts has offered the amendment to eliminate the prohibition against doing indoor air pollution research. Again, I point to the report that was referenced earlier in debate, some more of that liberal claptrap offered by the Science Advisory Board to President Bush in 1990, in which it points out, and I will read this paragraph.

Risks to human health, pollution indoors:

> Building occupants may be exposed to radon and its decay products as well as to many airborne combustion products, including nitrogen dioxide and environmental tobacco smoke. Indoor exposure to toxic agents in consumer products (e.g., solvents, pesticides, formaldehyde) also can cause cancer and a range of non-cancer health effects.

Due to the large population directly exposed to a number of agents, some of which are highly toxic, this problem poses relatively high human health risks.

Now that has been said over and over, the gentleman from Massachusetts [Mr. KENNEDY] said it with great eloquence, and this is what the Bush administration science advisory panel said, presumably the body charged with identifying the areas of most critical research.

Now of course, as we know and as I delight in pointing out, on their side there is a slight division of opinion as to whether this is respectable or not respectable, and I am glad to accentuate that in any way that I can, and I think that my colleagues should all be aware that it was diseases like Legionnaires' disease, for example, which is the result of indoor air pollution coming from the kinds of sources that the gentleman from Massachusetts described so eloquently, fungal products, unknown toxins that come through the air conditioning system. I ask my colleagues, do you want to not have any more information about this? You want to not know what these agents are? Do you prefer to remain ignorant of how to control them? That is what my colleagues are doing with their prohibition against indoor air research.

Now I honestly do not think my colleagues understood that. I think in good faith they felt that this was something that us liberals invented to provide for more Government regulation and greater funding. I see some affirmative nods over here. I would like them to stand up and reflect that because I think this is what the American people are going to want to weigh, and I have faith that the American people will make the right decision when it comes to affirming whether or not they want to abdicate any responsibility for protecting the health of the American people, and that is exactly the position they are putting themselves in, and they are making it very easy for me.

Mr. Chairman, I just delight in pointing this out, and I hope that my colleagues will stand up and offer a rebuttal.

Mr. Chairman, I rise in support of the amendment offered by my colleague from Massachusetts. The chairman has repeatedly stated that this bill provides adequate funds for research. The provision of the bill that my colleague is seeking to change with his amendment is a glaring example that this is not true. Indoor air pollution has consistently been identified as a significant health risk and as an area that needs additional research by EPA's Science Advisory Panel.

The concerns that were expressed in committee by the chairman were regulatory in nature. This program is strictly a research program. It was authorized by the Science Committee under title IV of the Superfund amendments of 1986. For nearly 10 years this program has generated information that has been used to disseminate information to State indoor air programs and to building owners and managers on how to avoid and mitigate indoor air quality problems. EPA also works in conjunction with industry to develop voluntary methods to reduce the health risks associated with indoor air pollution.

This program is not about regulating indoor air in private homes. It is not about regulating at all. This program performs necessary research which has beneficial impacts on human health through nonregulatory means. The question is do we want to have the facts about indoor air quality or not. I urge my colleagues to support knowledge over ignorance by supporting the Kennedy amendment.

Mr. WAXMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rose reluctantly because I wanted to give the chance for the Republicans to comment on this amendment, and I do not see them rising to their feet, so I want to take this opportunity to strike the last word and speak out in support of the amendment.

It just makes no sense at all to zero out EPA funding for indoor air, and I think my colleague, the gentleman from California [Mr. BROWN] was most eloquent, as was the gentleman from Massachusetts [Mr. KENNEDY], in arguing that we have got to continue funding the research on indoor air pollution. Health experts consistently rank this air pollution problem as one of the greatest environmental threats.

Mr. Chairman, the gentleman from California [Mr. BROWN] indicated it was the Bush administration that set out its priorities for those environmental problems which are the greatest threat to human health, and they ranked the problems of indoor air pollution as one of the highest. EPA research is crucial to understanding this problem, and EPA has already made enormous contributions in the area of indoor air research.

For example, Mr. Chairman, they have done ground-breaking work on environmental tobacco smoke, an issue that we did not know was as serious as it is turning out to be, or radon toxic emissions from carpets, toxic substances from carpets.

Mr. Chairman, in the last Congress this House voted overwhelmingly, recognizing that indoor air pollution is a serious health matter. We passed legislation overwhelmingly with bipartisan support that directed EPA to conduct more studies on indoor air so that we would have the science needed to address these problems.

I cannot believe that the election last November would change the view of almost all the Democrats and Republicans who served in the last Congress to support this research, to now change it to deny the funding to have EPA do this research. I do not think we ought to turn our back on science and on the consensus we had in the last Congress. It would be a terrible mistake. It would certainly be shortsighted.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I would like to get this straight.

As I understand it, this bill says in essence that EPA can do no research on indoor air.

Mr. WAXMAN. That is my understanding.

Mr. OBEY. And the argument for that is that OSHA does that research?

Mr. WAXMAN. I have not heard an argument.

If I can reclaim my time, we have not heard an argument. I have waited for the Republicans to stand up and respond to this amendment. Maybe they are going to support it. Maybe they see they are in error.

I further yield to the gentleman.

Mr. OBEY. My understanding is that the rationale for this is that for instance OSHA does this research, but OSHA relies on NIOSH to do its research, and the NIOSH budget, if anyone will bother to look, has been cut drastically in the Labor-HEW bill which has passed this House. I mean it would seem to me that this provision makes about as much sense as, say, passing a new Federal mandate saying people cannot breathe indoors.

Mr. WAXMAN. Reclaiming my time, to rely on OSHA is not sensible when OSHA would have jurisdiction over acting to deal with workplace hazards. Cutting funds on the research at EPA, we are not going to understand the hazards. I guess if we do not know about it, we would not have to take any actions to deal with it.

□ 1630

That does not eliminate the threat, and it does not eliminate the fact that some of the exposures indoors, in the air we breathe, can cause cancer. The cancer rates in this country are at an extraordinarily high level. I cannot fathom how this in any way could be a partisan issue. I do not think it makes sense to take the position that what we do not know will not hurt us, because it certainly will come back to cause serious health threats.

Mr. Chairman, I urge support for the amendment.

Mr. HASTINGS of Florida. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as a Member in Congress from Florida, in a fairly subtropical type environment, we have come to know a number of hazards, ranging from simple molds all the way to Radon that may be hazardous to individuals. In that sense, I find it absurd that we are here debating something that has not been concluded scientifically, and that is the safety of indoor air. I rise in strong support of the

amendment offered by the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. HASTINGS of Florida. I yield to the gentleman from Massachusetts.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I would say to the gentleman from California [Mr. BROWN], I think I have finally figured out why the Republicans are not responding. What has happened here, I think, they have figured out if we actually banned indoor air pollution in this building they would not be able to talk.

The fact of the matter, what we hear from the other side of the aisle is a lot of pollution in this Chamber, a lot of pollution for this country, and a lot of pollution that is going to affect future generations of this land.

All we are trying to do here is that while some people are afraid that this is going to mean that somehow we are going to find out that smoking a cigarette might be hazardous to other people's health, when they are going to find out that the glue on the floor could possibly affect you, when you sit next to a copying machine, that the fumes that come off the copying machine might make you sick. It is no secret to the American people that in many, many buildings that we live and work in, that you get headaches, you get red eyes, you feel bad.

What does your fellow worker, your mother, tell you to do? To go outside, take a walk, get some fresh air. The air we breathe is a thousand times more polluted indoors than it is outdoors. Why do we not research and find out what kinds of contaminants are causing that illness? Why do we not find out what is wrong, and let the American people know?

We have worked with the floor manufacturers, we have worked with the building owners. We got a much tougher bill passed in this Congress last year to try to deal with actually fixing what was broke. Now all we are trying to do is get the basic research done which was a fundamental and important component of the legislation that was passed last year.

Have a heart. Let us just find out what is wrong in this country, find out and do the research, so we can fix and protect our American citizens. That is what this bill will do. That is what I think we ought to have the guts and the courage to go out and find.

I would hope that the people of this Chamber would support the Kennedy amendment and vote for knowledge, vote against the prohibition on gaining more knowledge in research from the EPA for the purposes of indoor air pollution.

Mr. WALKER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the gentleman from California and the gentleman from Massachusetts keep referring to last year's Congress. The American people made a fundamental change in Congress because of some of the lousy policies we passed in the past Congress, and in fact, mandated us to do something towards balancing the budget. We are moving in that kind of direction. We think that one of the ways to do that is by rationalizing what agencies do.

EPA is in fact not the place that regulates indoor air; OSHA is. NIOSH is the place that does the research relative to OSHA research, so the fact is that the appropriate place to prioritize this research is in that agency.

Mr. OBEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the last statement I just heard is the greatest exercise in circular logic I have seen in at least an hour in this place. Let me simply say that the gentleman just said, "Well, we do not have to have EPA do this research, because OSHA does it and OSHA is going to be able to use NIOSH." Yet, the Republicans went after NIOSH with a vengeance when it was before this House in the Labor-HEW bill. They have had a longstanding history of trying to chain NIOSH and preventing it from doing much in the way of significant research.

It seems to me it is absolutely ludicrous to use a budget justification for saying that an agency cannot do research which is crucial to public health. There is no area in this country that costs us more dollars each year than preventable diseases, and an awful lot of them are caused by air borne pollutants. The tiny, tiny pittance that EPA would spend on research on indoor air is a tiny fraction of 1 percent of the cost of human diseases caused by polluted air each year.

I have never in my life heard such a Flat Earth justification for an idiotic piece of legislation as I heard just 3 minutes ago.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Chairman, the gentleman has added substantially to the debate in pointing out the issues that he did, but let me broaden this just a little bit. Actually, this entire bill is intended to implement a 5-year plan to cut one-third or more from all research. The committee does not have jurisdiction over OSHA or NIOSH, so I cannot speak as the gentleman can with regard to what is happening there. But there are cuts within the research areas in our jurisdiction that extend all the way from total elimination of substantial areas to 75 percent cuts, even with agencies which enjoy the public support. And I know that the gentleman does not support it, but NASA is taking a one-third cut in that Republican budget. I hope the gentleman will not support it just because of that.

The point that I am making here is that the Administration, and I will put this in the RECORD, feels that this emasculates our efforts to provide the seed corn, the knowledge necessary to expand the opportunities for our children and our grandchildren; that it is the greatest reduction in U.S. investments in research and development that we have ever had.

Then we get to the point where the other side argues, as they have on several occasions in this bill, that they cannot afford to find it. This is the defense of the teenager who shot his mother and father and then pleaded to the judge that he was an orphan and should not be penalized. They have eliminated the money and then pleaded that they cannot do the research that needs to be done.

Mr. Chairman, we have to face this problem. This is a real problem. We need to understand that R&D can be cut, but should it be cut more on health and safety, like indoor air pollution, than we are cutting in military weapons systems, which are relatively uncut? It is a priority matter. This Congress has to decide what its priorities are, and obviously, this bill reflects one rather restricted set of priorities which I hope will be rejected by the adoption of some of these amendments.

Mr. OBEY. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. KENNEDY].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 195, noes 218, not voting 19, as follows:

[Roll No. 710]

AYES—195

Abercrombie	Bryant (TX)	Deutsch
Ackerman	Canady	Dicks
Allard	Cardin	Dingell
Baldacci	Castle	Dixon
Barcia	Clay	Doggett
Barrett (WI)	Clayton	Doyle
Becerra	Clement	Durbin
Beilenson	Clyburn	Edwards
Bentsen	Coburn	Engel
Bereuter	Coleman	English
Berman	Collins (IL)	Eshoo
Bishop	Collins (MI)	Evans
Blute	Conyers	Farr
Boehlert	Costello	Fattah
Bonior	Coyne	Filner
Borski	Davis	Flake
Brewster	de la Garza	Foglietta
Brown (CA)	DeFazio	Foley
Brown (FL)	DeLauro	Forbes
Brown (OH)	Dellums	Ford

Frank (MA)
Frost
Furse
Gejdenson
Gilchrest
Gillmor
Gilman
Gonzalez
Gordon
Green
Greenwood
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Horn
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kildee
King
Kleczka
Klink
LaFalce
LaHood
Lantos
Lazio
Leach
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Longley
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Molinari
Moran
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pomeroy
Porter
Portman
Poshard
Rahall
Ramstad
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Thompson
Thornton
Thurman
Torkildsen
Torres
Towns
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOES—218

Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bevill
Bilbray
Bliley
Boehner
Bonilla
Bono
Boucher
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Goodlatte
Goodling
Goss
Graham
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kim
Kingston
Klug
Knollenberg
Kolbe
Largent
Latham
LaTourette
Laughlin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Peterson (MN)
Petri
Pickett
Pombo
Pryce
Quillen
Quinn
Radanovich
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—19

Andrews
Bilirakis
Chapman
Dornan
Emerson
Fazio
Fields (LA)
Gephardt
Gibbons
Kennelly
McIntosh
Mfume
Moakley
Mollohan
Murtha
Roth
Tejeda
Torricelli
Tucker

□ 1701

The Clerk announced the following pair:

On this vote:

Mr. Moakley for, with Mr. McIntosh against.

Mr. HUTCHINSON changed his vote from "aye" to "no."

Mr. SPRATT and Mrs. ROUKEMA changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. ROHRABACHER. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. LAHOOD) having assumed the Chair, Mr. KINGSTON, 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. 2405) to authorize appropriations for fiscal years 1996 and 1997 for civilian science activities of the Federal Government, and for other purposes, had come to no resolution thereon.

APPOINTMENT OF CONFEREES ON H.R. 1868, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1996

Mr. CALLAHAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1868) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, 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 Alabama?

There was no objection.

MOTION TO INSTRUCT CONFEREES OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I offer a motion to instruct conferees.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. OBEY moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill, H.R. 1868, be instructed to disagree to any Senate amendment that would require the Executive Branch to spend more in fiscal year 1996 than fiscal year 1995 for assistance to any country or project.

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. OBEY] will be recognized for 30 minutes, and the gentleman from Alabama [Mr. CALLAHAN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, I yield myself such time as I may consume. I doubt that this will take very much time at all.

Mr. Speaker, this amendment simply instructs the conferees to refuse to agree to any Senate amendment that would require the executive branch to spend more in fiscal year 1996 than it did in fiscal year 1995 for assistance to any country or project.

When this bill left this House under the leadership of the gentleman from Alabama [Mr. CALLAHAN], we had very few earmarks. The Senate added some 40. This simply indicates that in an era of declining budgets, we should not be requiring an additional amount of money be spent anywhere.

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

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

Mr. Speaker, I appreciate the kind comments of the gentleman from Wisconsin. I want to say during this past year it has been a pleasure to work with the gentleman. His vast knowledge of this very complicated foreign policy and foreign operations of this country has been invaluable to me, both from him and from the gentleman from Texas [Mr. WILSON].

With respect to the earmarks as mentioned in your bill or your desire to have a lack thereof of earmarks, the gentleman knows my philosophy there. I totally support that. Therefore, I totally support the gentleman's motion and would encourage its adoption.

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

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

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Wisconsin [Mr. OBEY].

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. CALLAHAN, PORTER, LIVINGSTON, LIGHTFOOT, WOLF, PACKARD, KNOLLENBERG, FORBES, BUNN of Oregon, WILSON, YATES, Ms. PELOSI, Mr. TORRES, and Mr. OBEY.

There was no objection.

GENERAL LEAVE

Mr. CALLAHAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and that I may include tabular and extraneous material on H.R. 1868.

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

There was no objection.

COMMUNICATION FROM THE HONORABLE TOM DELAY, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable TOM DELAY, Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, October 12, 1995.

DEAR MR. SPEAKER, This is to formally notify you pursuant to Rule L (50) of the Rules of the House that Bill Jarrell, my Deputy Chief of Staff, has been served with a subpoena issued by the United States Justice Department. This subpoena relates to his previous employment by a former Member of the House.

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

Sincerely,

TOM DELAY,
Member of Congress.

COMMUNICATION FROM THE HONORABLE SAM M. GIBBONS, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable SAM GIBBONS, Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, October 12, 1995.

Hon. NEWT GINGRICH,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that my office has been served with a subpoena issued by the United States District Court for the Middle District of Florida.

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

Sincerely,

SAM M. GIBBONS,
United States Congressman.

LEGISLATIVE PROGRAM

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

Mr. ARMEY. Mr. Speaker, I would like to advise my colleagues in the House that due to the extraordinary effort of cooperation that has been made by the potential conferees on the telecommunications bill and on the appropriations bill we just handled, we will be able to handle this evening the legislative schedule that we had scheduled for tomorrow. In that context, by working a little later this evening, we will be able to avoid having to be here for votes tomorrow.

At this time, and again if I can express my appreciation to the Subcommittee on Foreign Operations of Appropriations and to the Committee on Commerce for their willingness to move up their work to this evening, on behalf of all our membership, we will be able to complete this matter of going to conference on the telecommunications bill now, then return to the science bill, finish our work for the week this evening and be free from the requirement of votes tomorrow.

We will have a further announcement about next week's schedule as the evening progresses. I would like to try to project a time when we could complete our work this evening. At approximately 9 o'clock this evening, we should have then been able to have our last vote of the week.

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

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

Mr. SKAGGS. Mr. Speaker, is it the leader's intention that we would have even a pro forma session tomorrow?

Mr. ARMEY. We are still checking on the possibility. I can tell you that there will be a pro forma session on Monday, no votes required on Monday. But whether or not there is a pro forma session necessary for tomorrow is something we are still checking on.

TELECOMMICATIONS COMPETITION AND DEREGULATION ACT OF 1995

Mr. BLILEY. Mr. Speaker, pursuant to section 2 of House Resolution 207, I call up the Senate bill (S. 652) to provide for a procompetitive, deregulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition, and for other purposes.

The Clerk read the title of the Senate bill.

The text of the Senate bill is as follows:

S. 652

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Telecommunications Competition and Deregulation Act of 1995".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Purpose.
Sec. 4. Goals.
Sec. 5. Findings.
Sec. 6. Amendment of Communications Act of 1934.
Sec. 7. Effect on other law.
Sec. 8. Definitions.

TITLE I—TRANSITION TO COMPETITION

Sec. 101. Interconnection requirements.
Sec. 102. Separate affiliate and safeguard requirements.
Sec. 103. Universal service.
Sec. 104. Essential telecommunications carriers.
Sec. 105. Foreign investment and ownership reform.
Sec. 106. Infrastructure sharing.
Sec. 107. Coordination for telecommunications network-level interoperability.

TITLE II—REMOVAL OF RESTRICTIONS TO COMPETITION

SUBTITLE A—REMOVAL OF RESTRICTIONS

Sec. 201. Removal of entry barriers.
Sec. 202. Elimination of cable and telephone company cross-ownership restriction.
Sec. 203. Cable Act reform.
Sec. 204. Pole attachments.
Sec. 205. Entry by utility companies.
Sec. 206. Broadcast reform.

SUBTITLE B—TERMINATION OF MODIFICATION OF FINAL JUDGMENT

Sec. 221. Removal of long distance restrictions.
Sec. 222. Removal of manufacturing restrictions.
Sec. 223. Existing activities.
Sec. 224. Enforcement.
Sec. 225. Alarm monitoring services.
Sec. 226. Nonapplicability of Modification of Final Judgment.

TITLE III—AN END TO REGULATION

Sec. 301. Transition to competitive pricing.
Sec. 302. Biennial review of regulations; elimination of unnecessary regulations and functions.
Sec. 303. Regulatory forbearance.
Sec. 304. Advanced telecommunications incentives.
Sec. 305. Regulatory parity.
Sec. 306. Automated ship distress and safety systems.
Sec. 307. Telecommunications numbering administration.
Sec. 308. Access by persons with disabilities.
Sec. 309. Rural markets.
Sec. 310. Telecommunications services for health care providers for rural areas, educational providers, and libraries.
Sec. 311. Provision of payphone service and telemessaging service.
Sec. 312. Direct Broadcast Satellite.

TITLE IV—OBSCENE, HARASSING, AND WRONGFUL UTILIZATION OF TELECOMMUNICATIONS FACILITIES

Sec. 401. Short title.

Sec. 402. Obscene or harassing use of telecommunications facilities under the Communications Act of 1934.
Sec. 403. Obscene programming on cable television.
Sec. 404. Broadcasting obscene language on radio.
Sec. 405. Separability.
Sec. 406. Additional prohibition on billing for toll-free telephone calls.
Sec. 407. Scrambling of cable channels for nonsubscribers.
Sec. 408. Scrambling of sexually explicit adult video service programming.
Sec. 409. Cable operator refusal to carry certain programs.
Sec. 410. Restrictions on access by children to obscene and indecent material on electronic information networks open to the public.

TITLE V—PARENTAL CHOICE IN TELEVISION

Sec. 501. Short title.
Sec. 502. Findings.
Sec. 503. Rating code for violence and other objectionable content on television.
Sec. 504. Requirement for manufacture of televisions that block programs.
Sec. 505. Shipping or importing of televisions that block programs.

TITLE VI—NATIONAL EDUCATION TECHNOLOGY FUNDING CORPORATION

Sec. 601. Short title.
Sec. 602. Findings; purpose.
Sec. 603. Definitions.
Sec. 604. Assistance for educational technology purposes.
Sec. 605. Audits.
Sec. 606. Annual report; testimony to the Congress.

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. Spectrum auctions.
Sec. 702. Renewed efforts to regulate violent programming.
Sec. 703. Prevention of unfair billing practices for information or services provided over toll-free telephone calls.
Sec. 704. Disclosure of certain records for investigations of telemarketing fraud.
Sec. 705. Telecommuting public information program.
Sec. 706. Authority to acquire cable systems.

SEC. 3. PURPOSE.

It is the purpose of this Act to increase competition in all telecommunications markets and provide for an orderly transition from regulated markets to competitive and deregulated telecommunications markets consistent with the public interest, convenience, and necessity.

SEC. 4. GOALS.

This Act is intended to establish a national policy framework designed to accelerate rapidly the private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition, and to meet the following goals:

(1) To promote and encourage advanced telecommunications networks, capable of enabling users to originate and receive affordable, high-quality voice, data, image, graphic, and video telecommunications services.

(2) To improve international competitiveness markedly.

(3) To spur economic growth, create jobs, and increase productivity.

(4) To deliver a better quality of life through the preservation and advancement of universal service to allow the more efficient delivery of educational, health care, and other social services.

SEC. 5. FINDINGS.

The Congress makes the following findings:

(1) Competition, not regulation, is the best way to spur innovation and the development of new services. A competitive market place is the most efficient way to lower prices and increase value for consumers. In furthering the principle of open and full competition in all telecommunications markets, however, it must be recognized that some markets are more open than others.

(2) Local telephone service is predominantly a monopoly service. Although business customers in metropolitan areas may have alternative providers for exchange access service, consumers do not have a choice of local telephone service. Some States have begun to open local telephone markets to competition. A national policy framework is needed to accelerate the process.

(3) Because of their monopoly status, local telephone companies and the Bell operating companies have been prevented from competing in certain markets. It is time to eliminate these restrictions. Nonetheless, transition rules designed to open monopoly markets to competition must be in place before certain restrictions are lifted.

(4) Transition rules must be truly transitional, not protectionism for certain industry segments or artificial impediments to increased competition in all markets. Where possible, transition rules should create investment incentives through increased competition. Regulatory safeguards should be adopted only where competitive conditions would not prevent anticompetitive behavior.

(5) More competitive American telecommunications markets will promote United States technological advances, domestic job and investment opportunities, national competitiveness, sustained economic development, and improved quality of American life more effectively than regulation.

(6) Congress should establish clear statutory guidelines, standards, and time frames to facilitate more effective communications competition and, by so doing, will reduce business and customer uncertainty, lessen regulatory processes, court appeals, and litigation, and thus encourage the business community to focus more on competing in the domestic and international communications marketplace.

(7) Where competitive markets are demonstrably inadequate to safeguard important public policy goals, such as the continued universal availability of telecommunications services at reasonable and affordable prices, particularly in rural America, Congress should establish workable regulatory procedures to advance those goals, provided that in any proceeding undertaken to ensure universal availability, regulators shall seek to choose the most procompetitive and least burdensome alternative.

(8) Competitive communications markets, safeguarded by effective Federal and State antitrust enforcement, and strong economic growth in the United States which such markets will foster are the most effective means of assuring that all segments of the American public command access to advanced telecommunications technologies.

(9) Achieving full and fair competition requires strict parity of marketplace opportunities and responsibilities on the part of incumbent telecommunications service providers as well as new entrants into the telecommunications marketplace, provided that any responsibilities placed on providers should be the minimum required to advance a clearly defined public policy goal.

(10) Congress should not cede its constitutional responsibility regarding interstate and foreign commerce in communications to the Judiciary through the establishment of procedures which will encourage or necessitate judicial interpretation or intervention into the communications marketplace.

(11) Ensuring that all Americans, regardless of where they may work, live, or visit, ultimately have comparable access to the full benefits of competitive communications markets requires Federal and State authorities to work together affirmatively to minimize and remove unnecessary institutional and regulatory barriers to new entry and competition.

(12) Effectively competitive communications markets will ensure customers the widest possible choice of services and equipment, tailored to individual desires and needs, and at prices they are willing to pay.

(13) Investment in and deployment of existing and future advanced, multipurpose technologies will best be fostered by minimizing government limitations on the commercial use of those technologies.

(14) The efficient development of competitive United States communications markets will be furthered by policies which aim at ensuring reciprocal opening of international investment opportunities.

SEC. 6. AMENDMENT OF COMMUNICATIONS ACT OF 1934.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Communications Act of 1934 (47 U.S.C. 151 et seq.).

SEC. 7. EFFECT ON OTHER LAW.

(a) ANTITRUST LAWS.—Except as provided in subsections (b) and (c), nothing in this Act shall be construed to modify, impair, or supersede the applicability of any antitrust law.

(b) MODIFICATION OF FINAL JUDGMENT.—This Act shall supersede the Modification of Final Judgment to the extent that it is inconsistent with this Act.

(c) TRANSFER OF MFJ.—After the date of enactment of this Act, the Commission shall administer any provision of the Modification of Final Judgment not overridden or superseded by this Act. The District Court for the District of Columbia shall have no further jurisdiction over any provision of the Modification of Final Judgment administered by the Commission under this Act or the Communications Act of 1934. The Commission may, consistent with this Act (and the amendments made by this Act), modify any provision of the Modification of Final Judgment that it administers.

(d) GTE CONSENT DECREE.—This Act shall supersede the provisions of the Final Judgment entered in United States v. GTE Corp., No. 83-1298 (D.C. D.C.), and such Final Judgment shall not be enforced after the effective date of this Act.

SEC. 8. DEFINITIONS.

(a) TERMS USED IN THIS ACT.—As used in this Act—

(1) COMMISSION.—The term "Commission" means the Federal Communications Commission.

(2) MODIFICATION OF FINAL JUDGMENT.—The term "Modification of Final Judgment" means the decree entered on 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 Act.

(3) GTE CONSENT DECREE.—The term "GTE Consent Decree" means the order entered on December 21, 1984, as restated January 11, 1985, in United States v. GTE Corporation, Civil Action No. 83-1298 (United States District Court, District of Columbia), and includes any judgment or order with respect to such action entered on or after January 11, 1985, and before the date of enactment of this Act.

(4) INTEGRATED TELECOMMUNICATIONS SERVICE PROVIDER.—The term "integrated telecommunications service provider" means any person engaged in the provision of multiple services, such as voice, data, image, graphics, and video services, which make common use of all or part of the same transmission facilities, switches, signalling, or control devices.

(b) TERMS USED IN THE COMMUNICATIONS ACT OF 1934.—Section 3 (47 U.S.C. 153) is amended by adding at the end thereof the following:

"(gg) 'Modification of Final Judgment' means the decree entered on 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 the Telecommunications Competition and Deregulation Act of 1995.

"(hh) 'Bell operating company' means any company listed in appendix A of the Modification of Final Judgment to the extent such company provides telephone exchange service or exchange access service, and includes any successor or assign of any such company, but does not include any affiliate of such company.

"(ii) '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, the term 'own' means to own an equity interest (or the equivalent thereof) of more than 10 percent.

"(jj) 'Telecommunications Act of 1995' means the Telecommunications Competition and Deregulation Act of 1995.

"(kk) 'Local exchange carrier' means a provider of telephone exchange service or exchange access service.

"(ll) 'Telecommunications' means the transmission, between or among points specified by the user, of information of the user's choosing, including voice, data, image, graphics, and video, without change in the form or content of the information, as sent and received, with or without benefit of any closed transmission medium.

"(mm) 'Telecommunications service' means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used to transmit the telecommunications service.

"(nn) 'Telecommunications carrier' means any provider of telecommunications services, except that such term does not include hotels, motels, hospitals, and other aggregators of telecommunications services (as defined in section 226). A telecommunications carrier shall only be treated as a common carrier under this Act to the extent that it is engaged in providing telecommunications services for voice, data, image, graphics, or video that it does not own, control, or select, except that the Commission shall continue to determine whether the provision of fixed and mobile satellite service shall be treated as common carriage.

"(oo) 'Telecommunications number portability' means the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.

"(pp) 'Information service' means the offering of services that—

"(1) employ computer processing applications that act on the format, content, code, protocol, or similar aspects of the subscriber's transmitted information;

"(2) provide the subscriber additional, different, or restructured information; or

"(3) involve subscriber interaction with stored information.

"(qq) 'Cable service' means cable service as defined in section 602.

"(rr) 'Rural telephone company' means a telecommunications carrier operating entity to the extent that such entity provides telephone exchange service, including access service subject to part 69 of the Commission's rules (47 C.F.R. 69.1 et seq.), to—

"(1) any service area that does not include either—

"(A) any incorporated place of 10,000 inhabitants or more, or any part thereof, based on the most recent population statistics of the Bureau of the Census; or

"(B) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the Bureau of the Census as of January 1, 1995; or

"(2) fewer than 100,000 access lines within a State.

"(ss) 'Service area' means a geographic area established by the Commission and the States for the purpose of determining universal service obligations and support mechanisms. In the case of an area served by a rural telephone company, 'service area' means such company's 'study area' unless and until the Commission and the States, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c), establish a different definition of service area for such company.

"(tt) 'LATA' means a local access and transport area as defined in United States v. Western Electric Co., 569 F. Supp. 990 (U. S. District Court, District of Columbia) and subsequent judicial orders relating thereto, except that, with respect to commercial mobile services, the term 'LATA' means the geographic areas defined or used by the Commission in issuing licenses for such services: *Provided however*, That in the case of a Bell operating company cellular affiliate, such geographic area shall be no smaller than the LATA area for such affiliate on the date of enactment of the Telecommunications Act of 1995.".

TITLE I—TRANSITION TO COMPETITION

SEC. 101. INTERCONNECTION REQUIREMENTS.

(a) REQUIRED INTERCONNECTION.—Title II (47 U.S.C. 201 et seq.) is amended by inserting after section 228 the following:

"Part II—Competition in Telecommunications

"SEC. 251. INTERCONNECTION.

"(a) DUTY TO PROVIDE INTERCONNECTION.—

"(1) IN GENERAL.—A local exchange carrier, or class of local exchange carriers, determined by the Commission to have market power in providing telephone exchange service or exchange access service has a duty under this Act, upon request—

"(A) to enter into good faith negotiations with any telecommunications carrier requesting interconnection between the facilities and equipment of the requesting telecommunications carrier and the carrier, or class of carriers, of which the request was made for the purpose of permitting the telecommunications carrier to provide telephone exchange or exchange access service; and

"(B) to provide such interconnection, at rates that are reasonable and nondiscriminatory, according to the terms of the agreement and in accordance with the requirements of this section.

"(2) INITIATION.—A local exchange carrier, or class of carriers, described in paragraph (1) shall commence good faith negotiations to conclude an agreement, whether through negotiation under subsection (c) or arbitration or intervention under subsection (d), within 15 days after receiving a request from any telecommunications carrier seeking to provide telephone exchange or exchange access service. Nothing in this Act shall prohibit multilateral negotiations between or among a local exchange carrier or class of carriers and a telecommunications carrier or class of carriers seeking interconnection under subsection (c) or subsection (d). At the request of any of the parties to a negotiation, a State may participate in the negotiation of any portion of an agreement under subsection (c).

"(3) MARKET POWER.—For the purpose of determining whether a carrier has market power under paragraph (1), the relevant market shall include all providers of telephone exchange or exchange access services in a local area, regardless of the technology used by any such provider.

"(b) MINIMUM STANDARDS.—An interconnection agreement entered into under this section shall, if requested by a telecommunications carrier requesting interconnection, provide for—

"(1) nondiscriminatory access on an unbundled basis to the network functions and services of the local exchange carrier's telecommunications network (including switching software, to the extent defined in implementing regulations by the Commission);

"(2) nondiscriminatory access on an unbundled basis to any of the local exchange carrier's telecommunications facilities and information, including databases and signaling, necessary to the transmission and routing of any telephone exchange service or exchange access service and the interoperability of both carriers' networks;

"(3) interconnection to the local exchange carrier's telecommunications facilities and services at any technically feasible point within the carrier's network;

"(4) interconnection that is at least equal in type, quality, and price (on a per unit basis or otherwise) to that provided by the local exchange carrier to itself or to any subsidiary, affiliate, or any other party to which the carrier provides interconnection;

"(5) nondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by the local exchange carrier at just and reasonable rates;

"(6) the local exchange carrier to take whatever action under its control is necessary, as soon as is technically feasible, to provide telecommunications number portability and local dialing parity in a manner that—

"(A) permits consumers to be able to dial the same number of digits when using any telecommunications carrier providing telephone exchange service or exchange access service in the market served by the local exchange carrier;

"(B) permits all such carriers to have nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listing with no unreasonable dialing delays; and

"(C) provides for a reasonable allocation of costs among the parties to the agreement;

"(7) telecommunications services and network functions of the local exchange carrier to be available to the telecommunications carrier on an unbundled basis without any unreasonable conditions on the resale or sharing of those services or functions, including the origination, transport, and termination of such telecommunications services, other than reasonable conditions required by a State; and for purposes of this paragraph, it is not an unreasonable condition for a State to limit the resale—

"(A) of services included in the definition of universal service to a telecommunications carrier who resells that service to a category of customers different from the category of customers being offered that universal service by such carrier if the State orders a carrier to provide the same service to different categories of customers at different prices necessary to promote universal service; or

"(B) of subsidized universal service in a manner that allows companies to charge another carrier rates which reflect the actual cost of providing those services to that carrier, exclusive of any universal service support received for providing such services in accordance with section 214(d)(5);

"(8) reciprocal compensation arrangements for the origination and termination of telecommunications;

"(9) reasonable public notice of changes in the information necessary for the transmission and routing of services using that local exchange carrier's facilities or networks, as well as of any other changes that would affect the interoperability of those facilities and networks; and

"(10) a schedule of itemized charges and conditions for each service, facility, or function provided under the agreement.

"(c) AGREEMENTS ARRIVED AT THROUGH NEGOTIATION.—Upon receiving a request for interconnection, a local exchange carrier may meet its interconnection obligations under this section by negotiating and entering into a binding agreement with the telecommunications carrier seeking interconnection without regard to the standards set forth in subsection (b). The agreement shall include a schedule of itemized charges for each service, facility, or function included in the agreement. The agreement, including any interconnection agreement negotiated before the date of enactment of the Telecommunications Act of 1995, shall be submitted to the State under subsection (e).

"(d) AGREEMENTS ARRIVED AT THROUGH ARBITRATION OR INTERVENTION.—

"(1) IN GENERAL.—Any party negotiating an interconnection agreement under this section may, at any point in the negotiation, ask a State to participate in the negotiation and to arbitrate any differences arising in the course of the negotiation. The refusal of any other party to the negotiation to participate further in the negotiations, to cooperate with the State in carrying out its function as an arbitrator, or to continue to negotiate in good faith in the presence, or with the assistance, of the State shall be considered a failure to negotiate in good faith.

"(2) INTERVENTION.—If any issues remain open in a negotiation commenced under this section more than 135 days after the date upon which the local exchange carrier received the request for such negotiation, then the carrier or any other party to the negotiation may petition a State to intervene in the negotiations for purposes of resolving any such remaining open issues. Any such request must be made during the 25-day period that begins 135 days after the carrier receives the request for such negotiation and ends 160 days after that date.

"(3) DUTY OF PETITIONER.—

"(A) A party that petitions a State under paragraph (2) shall, at the same time as it submits the petition, provide the State all relevant documentation concerning the negotiations necessary to understand—

"(i) the unresolved issues;

"(ii) the position of each of the parties with respect to those issues; and

"(iii) any other issue discussed and resolved by the parties.

"(B) A party petitioning a State under paragraph (2) shall provide a copy of the petition and any documentation to the other party not later than the day on which the State receives the petition.

"(4) OPPORTUNITY TO RESPOND.—A party to a negotiation under this section with respect to which the other party has petitioned a State under paragraph (2) may respond to the other party's petition and provide such additional information as it wishes within 25 days after the State receives the petition.

"(5) ACTION BY STATE.—

"(A) A State proceeding to consider a petition under this subsection shall be conducted in accordance with the rules promulgated by the Commission under subsection (i). The State shall limit its consideration of any petition under paragraph (2) (and any response thereto) to the issues set forth in the petition and in the response, if any, filed under paragraph (4).

"(B) The State may require the petitioning party and the responding party to provide such information as may be necessary for the State to reach a decision on the unresolved issues. If either party refuses or fails unreasonably to respond on a timely basis to any reasonable request from the State, then the State may proceed on the basis of the best information available to it from whatever source derived.

"(C) The State shall resolve each issue set forth in the petition and the response, if any, by imposing appropriate conditions upon the parties to the agreement, and shall conduct the review of the agreement (including the issues resolved by the State) not later than 10 months after the date on which the local exchange carrier received the request for interconnection under this section.

"(D) In resolving any open issues and imposing conditions upon the parties to the agreement, a State shall ensure that the requirements of this section are met by the solution imposed by the State and are consistent with the Commission's rules defining minimum standards.

"(6) CHARGES.—If the amount charged by a local exchange carrier, or class of local exchange carriers, for an unbundled element of the interconnection provided under subsection (b) is determined by arbitration or intervention under this subsection, then the charge—

"(A) shall be

"(i) based on the cost (determined without reference to a rate-of-return or other rate-based proceeding) of providing the unbundled element,

"(ii) nondiscriminatory, and

"(iii) individually priced to the smallest element that is technically feasible and economically reasonable to provide; and

"(B) may include a reasonable profit.

"(e) APPROVAL BY STATE.—Any interconnection agreement under this section shall be submitted for approval to the State. A State to which an agreement is submitted shall approve or reject the agreement, with written findings as to any deficiencies. The State may only reject—

"(1) an agreement under subsection (c) if it finds that the agreement discriminates against a telecommunications carrier not a party to the agreement; and

"(2) an agreement under subsection (d) if it finds that—

"(A) the agreement does not meet the standards set forth in subsection (b), or

"(B) the implementation of the agreement is not in the public interest.

If the State does not act to approve or reject the agreement within 90 days after receiving the agreement, or 30 days in the case of an agreement negotiated under subsection (c), the agreement shall be deemed approved. No State court shall have jurisdiction to review the action of a State in approving or rejecting an agreement under this section.

"(f) FILING REQUIRED.—A State shall make a copy of each agreement approved under subsection (e) available for public inspection and copying within 10 days after the agreement is approved. The State may charge a reasonable and nondiscriminatory fee to the parties to the agreement to cover the costs of approving and filing such agreement.

"(g) AVAILABILITY TO OTHER TELECOMMUNICATIONS CARRIERS.—A local exchange carrier shall make available any service, facility, or function provided under an interconnection agreement to which it is a party to any other telecommunications carrier that requests such interconnection upon the same terms and conditions as those provided in the agreement.

"(h) COLLOCATION.—A State may require telecommunications carriers to provide for actual collocation of equipment necessary for interconnection at the premises of the carrier at reasonable charges, if the State finds actual collocation to be in the public interest.

"(i) IMPLEMENTATION.—

"(1) RULES AND STANDARDS.—The Commission shall promulgate rules to implement the requirements of this section within 6 months after the date of enactment of the Telecommunications Act of 1995. In establishing the standards for determining what facilities and information are necessary for purposes of subsection (b)(2), the Commission shall consider, at a minimum, whether—

"(A) access to such facilities and information that are proprietary in nature is necessary; and

"(B) the failure to provide access to such facilities and information would impair the ability of the telecommunications carrier seeking interconnection to provide the services that it seeks to offer.

"(2) COMMISSION TO ACT IF STATE WILL NOT ACT.—If a State, through action or inaction, fails to carry out its responsibility under this section in accordance with the rules prescribed by the Commission under paragraph

(1) in any proceeding or other matter under this section, then the Commission shall issue an order preempting the State's jurisdiction of that proceeding or matter within 90 days after being notified (or taking notice) of such failure, and shall assume the responsibility of the State under this section with respect to the proceeding or matter and act for the State.

"(3) WAIVERS AND MODIFICATIONS FOR RURAL CARRIERS.—The Commission or a State shall, upon petition or on its own initiative, waive or modify the requirements of subsection (b) for a rural telephone company or companies, and may waive or modify the requirements of subsection (b) for local exchange carriers with fewer than 2 percent of the Nation's subscriber lines installed in the aggregate nationwide, to the extent that the Commission or a State determines that such requirements would result in unfair competition, impose a significant adverse economic impact on users of telecommunications services, be technically infeasible, or otherwise not be in the public interest. The Commission or a State shall act upon any petition filed under this paragraph within 180 days of receiving such petition. Pending such action, the Commission or a State may suspend enforcement of the requirement or requirements to which the petition applies with respect to the petitioning carrier or carriers.

"(j) STATE REQUIREMENTS.—Nothing in this section precludes a State from imposing requirements on a telecommunications carrier for intrastate services that are necessary to further competition in the provision of telephone exchange service or exchange access service, as long as the State's requirements are not inconsistent with the Commission's regulations to implement this section.

"(k) ACCESS CHARGE RULES.—Nothing in this section shall affect the Commission's interexchange-to-local exchange access charge rules for local exchange carriers or interexchange carriers in effect on the date of enactment of the Telecommunications Act of 1995.

"(l) REVIEW OF INTERCONNECTION STANDARDS.—Beginning 3 years after the date of enactment of the Telecommunications Act of 1995 and every 3 years thereafter, the Commission shall review the standards and requirements for interconnection established under subsection (b). The Commission shall complete each such review within 180 days and may modify or waive any requirements or standards established under subsection (b) if it determines that the modification or waiver meets the requirements of section 260.

"(m) COMMERCIAL MOBILE SERVICE PROVIDERS.—The requirements of this section shall not apply to commercial mobile services provided by a wireline local exchange carrier unless the Commission determines under subsection (a)(3) that such carrier has market power in the provision of commercial mobile service.".

(c) TECHNICAL AMENDMENTS.—

(1) Title II (47 U.S.C. 201 et seq.) is amended by inserting before section 201 the following:

"PART I—GENERAL PROVISIONS".

(2) Section 2(b) (47 U.S.C. 152(b)) is amended by striking "sections 223 through 227, inclusive, and section 332," and inserting "section 214(d), sections 223 through 227, part II of title II, and section 332,".

SEC. 102. SEPARATE AFFILIATE AND SAFEGUARD REQUIREMENTS.

(a) IN GENERAL.—Part II of title II (47 U.S.C. 251 et seq.), as added by section 101 of this Act, is amended by inserting after section 251 the following new section:

"SEC. 252. SEPARATE AFFILIATE; SAFEGUARDS.

"(a) SEPARATE AFFILIATE REQUIRED FOR COMPETITIVE ACTIVITIES.—

"(1) IN GENERAL.—A Bell operating company (including any affiliate) which is a local exchange carrier that is subject to the requirements of section 251(a) may not provide any service described in paragraph (2) unless it provides that service through one or more affiliates that—

"(A) are separate from any operating company entity that is subject to the requirements of section 251(a); and

"(B) meet the requirements of subsection (b).

"(2) SERVICES FOR WHICH A SEPARATE AFFILIATE IS REQUIRED.—The services for which a separate affiliate is required by paragraph (1) are:

"(A) Information services, including cable services and alarm monitoring services, other than any information service a Bell operating company was authorized to provide before July 24, 1991.

"(B) Manufacturing services.

"(C) InterLATA services other than—

"(i) incidental services, not including information services;

"(ii) out-of-region services; or

"(iii) services authorized under an order entered by the United States District Court for the District of Columbia pursuant to the Modification of Final Judgment before the date of enactment of the Telecommunications Act of 1995.

"(b) STRUCTURAL AND TRANSACTIONAL REQUIREMENTS.—The separate affiliate required by this section—

"(1) shall maintain books, records, and accounts in the manner prescribed by the Commission which shall be separate from the books, records, and accounts maintained by the Bell operating company of which it is an affiliate;

"(2) shall have separate officers, directors, and employees from the Bell operating company of which it is an affiliate;

"(3) may not obtain credit under any arrangement that would permit a creditor, upon default, to have recourse to the assets of the Bell operating company; and

"(4) shall conduct all transactions with the Bell operating company of which it is an affiliate on an arm's length basis with any such transactions reduced to writing and available for public inspection.

"(c) NONDISCRIMINATION SAFEGUARDS.—In its dealings with its affiliate described in subsection (a) a Bell operating company—

"(1) may not discriminate between that company or affiliate and any other entity in the provision or procurement of goods, services, facilities, and information, or in the establishment of standards;

"(2) may not provide any goods, services, facilities, or information to such company or affiliate unless the goods, services, facilities, or information are made available to other persons on reasonable and nondiscriminatory terms and conditions, unbundled to the smallest element that is technically feasible and economically reasonable to provide, and at just and reasonable rates that are not higher on a per-unit basis than those charged for such services to any affiliate of such company; and

"(3) shall account for all transactions with an affiliate described in subsection (a) in accordance with generally accepted accounting principles.

"(d) BIENNIAL AUDIT.—

"(1) GENERAL REQUIREMENT.—A company required to operate a separate affiliate under this section shall obtain and pay for a joint Federal/State audit every 2 years conducted by an independent auditor selected by the Commission, and working at the direction of, the Commission and the State commission of each State in which such company provides service, to determine whether such company has complied with this section and the regulations promulgated under this section, and particularly whether such company has complied with the separate accounting requirements under subsection (b).

"(2) RESULTS SUBMITTED TO COMMISSION; STATE COMMISSIONS.—The auditor described in paragraph (1) shall submit the results of the audit to the Commission and to the State commission of each State in which the company audited provides service, which shall make such results available for public inspection. Any party may submit comments on the final audit report.

"(3) ACCESS TO DOCUMENTS.—For purposes of conducting audits and reviews under this subsection—

"(A) the independent auditor, the Commission, and the State commission shall have access to the financial accounts and records of each company and of its affiliates necessary to verify transactions conducted with that company that are relevant to the specific activities permitted under this section and that are necessary for the regulation of rates;

"(B) the Commission and the State commission shall have access to the working papers and supporting materials of any auditor who performs an audit under this section; and

"(C) the State commission shall implement appropriate procedures to ensure the protection of any proprietary information submitted to it under this section.

"(e) JOINT MARKETING.—

"(1) A Bell operating company affiliate required by this section may not market or sell telephone exchange services provided by the Bell operating company unless that company permits other entities offering the same or similar service to market and sell its telephone exchange services.

"(2) A Bell operating company may not market or sell any service provided by an affiliate required by this section until that company has been authorized to provide interLATA services under section 255.

"(3) The joint marketing and sale of services permitted under this subsection shall not be considered to violate the nondiscrimination provisions of subsection (c).

"(f) ADDITIONAL REQUIREMENTS FOR PROVISION OF INTERLATA SERVICES.—A Bell operating company—

"(1) shall fulfill any requests from an unaffiliated entity for exchange access service within a period no longer than that in which it provides such exchange access service to itself or to its affiliates;

"(2) shall fulfill any such requests with exchange access service of a quality that meets or exceeds the quality of exchange access service provided by the Bell operating company to itself or its affiliate;

"(3) shall provide exchange access service to all carriers at rates that are just, reasonable, not unreasonably discriminatory, and based on costs;

"(4) shall not provide any facilities, services, or information concerning its provision of exchange access service to the affiliate described in subsection (a) unless such facilities, services, or information are made available to other providers of interLATA services in that market on the same terms and conditions;

"(5) shall charge the affiliate described in subsection (a), and impute to itself or any

intraLATA interexchange affiliate, the same rates for access to its telephone exchange service and exchange access service that it charges unaffiliated interexchange carriers for such service; and

"(6) may provide any interLATA or intraLATA facilities or services to its interLATA affiliate if such services or facilities are made available to all carriers at the same rates and on the same terms and conditions so long as the costs are appropriately allocated.

"(g) PROPRIETARY INFORMATION.—

"(1) IN GENERAL.—In complying with the requirements of this section, each Bell operating company and any affiliate of such company has a duty to protect the confidentiality of propriety information relating to other common carriers, to equipment manufacturers, and to customers. A Bell operating company may not share customer proprietary information in aggregate form with its affiliates unless such aggregate information is available to other carriers or persons under the same terms and conditions. Individually identifiable customer proprietary information and other proprietary information may be—

"(A) shared with any affiliated entity required by this section or with any unaffiliated entity only with the consent of the person to which such information relates or from which it was obtained (including other carriers); or

"(B) disclosed to appropriate authorities pursuant to court order.

"(2) EXCEPTIONS.—Paragraph (1) does not limit the disclosure of individually identifiable customer proprietary information by each Bell operating company as necessary—

"(A) to initiate, render, bill, and collect for telephone exchange service, interexchange service, or telecommunications service requested by a customer; or

"(B) to protect the rights or property of the carrier, or to protect users of any of those services and other carriers from fraudulent, abusive, or unlawful use of, or subscription to, any such service.

"(3) SUBSCRIBER LIST INFORMATION.—For purposes of this subsection, the term 'customer proprietary information' does not include subscriber list information.

"(h) COMMISSION MAY GRANT EXCEPTIONS.—The Commission may grant an exception from compliance with any requirement of this section upon a showing that the exception is necessary for the public interest, convenience, and necessity.

"(i) APPLICATION TO UTILITY COMPANIES.—

"(1) REGISTERED PUBLIC UTILITY HOLDING COMPANY.—A registered company may provide telecommunications services only through a separate subsidiary company that is not a public utility company.

"(2) OTHER UTILITY COMPANIES.—Each State shall determine whether a holding company subject to its jurisdiction—

"(A) that is not a registered holding company, and

"(B) that provides telecommunications service,

is required to provide that service through a separate subsidiary company.

"(3) SAVINGS PROVISION.—Nothing in this subsection or the Telecommunications Act of 1995 prohibits a public utility company from engaging in any activity in which it is legally engaged on the date of enactment of the Telecommunications Act of 1995; provided it complies with the terms of any applicable authorizations.

"(4) DEFINITIONS.—For purposes of this subsection, the terms 'public utility company', 'associate company', 'holding company', 'subsidiary company', 'registered holding company', and 'State commission' have the same meaning as they have in section 2 of the Public Utility Holding Company Act of 1935.".

(b) IMPLEMENTATION.—The Commission shall promulgate any regulations necessary to implement section 252 of the Communications Act of 1934 (as added by subsection (a)) not later than one year after the date of enactment of this Act. Any separate affiliate established or designated for purposes of section 252(a) of the Communications Act of 1934 before the regulations have been issued in final form shall be restructured or otherwise modified, if necessary, to meet the requirements of those regulations.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act.

SEC. 103. UNIVERSAL SERVICE.

(a) FINDINGS.—The Congress finds that—

(1) the existing system of universal service has evolved since 1930 through an ongoing dialogue between industry, various Federal-State Joint Boards, the Commission, and the courts;

(2) this system has been predicated on rates established by the Commission and the States that require implicit cost shifting by monopoly providers of telephone exchange service through both local rates and access charges to interexchange carriers;

(3) the advent of competition for the provision of telephone exchange service has led to industry requests that the existing system be modified to make support for universal service explicit and to require that all telecommunications carriers participate in the modified system on a competitively neutral basis; and

(4) modification of the existing system is necessary to promote competition in the provision of telecommunications services and to allow competition and new technologies to reduce the need for universal service support mechanisms.

(b) FEDERAL-STATE JOINT BOARD ON UNIVERSAL SERVICE.—

(1) Within one month after the date of enactment of this Act, the Commission shall institute and refer to a Federal-State Joint Board under section 410(c) of the Communications Act of 1934 a proceeding to recommend rules regarding the implementation of section 253 of that Act, including the definition of universal service. The Joint Board shall, after notice and public comment, make its recommendations to the Commission no later than 9 months after the date of enactment of this Act.

(2) The Commission may periodically, but no less than once every 4 years, institute and refer to the Joint Board a proceeding to review the implementation of section 253 of that Act and to make new recommendations, as necessary, with respect to any modifications or additions that may be needed. As part of any such proceeding the Joint Board shall review the definition of, and adequacy of support for, universal service and shall evaluate the extent to which universal service has been protected and advanced.

(c) COMMISSION ACTION.—The Commission shall initiate a single proceeding to implement recommendations from the initial Joint Board required by subsection (a) and shall complete such proceeding within 1 year after the date of enactment of this Act. Thereafter, the Commission shall complete any proceeding to implement recommendations from any further Joint Board required under subsection (b) within one year after receiving such recommendations.

(d) SEPARATIONS RULES.—Nothing in the amendments made by this Act to the Communications Act of 1934 shall affect the Commission's separations rules for local exchange carriers or interexchange carriers in effect on the date of enactment of this Act.

(e) AMENDMENT OF COMMUNICATIONS ACT.—Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 252 the following new section:

"SEC. 253. UNIVERSAL SERVICE.

"(a) UNIVERSAL SERVICE PRINCIPLES.—The Joint Board and the Commission shall base policies for the preservation and advancement of universal service on the following principles:

"(1) Quality services are to be provided at just, reasonable, and affordable rates.

"(2) Access to advanced telecommunications and information services should be provided in all regions of the Nation.

"(3) Consumers in rural and high cost areas should have access to telecommunications and information services, including interexchange services, that are reasonably comparable to those services provided in urban areas.

"(4) Consumers in rural and high cost areas should have access to telecommunications and information services at rates that are reasonably comparable to rates charged for similar services in urban areas.

"(5) Consumers in rural and high cost areas should have access to the benefits of advanced telecommunications and information services for health care, education, economic development, and other public purposes.

"(6) There should be a coordinated Federal-State universal service system to preserve and advance universal service using specific and predictable Federal and State mechanisms administered by an independent, nongovernmental entity or entities.

"(7) Elementary and secondary schools and classrooms should have access to advanced telecommunications services.

"(b) DEFINITION.—

"(1) IN GENERAL.—Universal service is an evolving level of intrastate and interstate telecommunications services that the Commission, based on recommendations from the public, Congress, and the Federal-State Joint Board periodically convened under section 103 of the Telecommunications Act of 1995, and taking into account advances in telecommunications and information technologies and services, determines—

"(A) should be provided at just, reasonable, and affordable rates to all Americans, including those in rural and high cost areas and those with disabilities;

"(B) are essential in order for Americans to participate effectively in the economic, academic, medical, and democratic processes of the Nation; and

"(C) are, through the operation of market choices, subscribed to by a substantial majority of residential customers.

"(2) DIFFERENT DEFINITION FOR CERTAIN PURPOSES.—The Commission may establish a different definition of universal service for schools, libraries, and health care providers for the purposes of section 264.

"(c) ALL TELECOMMUNICATIONS CARRIERS MUST PARTICIPATE.—Every telecommunications carrier engaged in instrastate, interstate, or foreign communication shall participate, on an equitable and nondiscriminatory basis, in the specific and predictable mechanisms established by the Commission and the States to preserve and advance universal service. Such participation shall be in the manner determined by the Commission and the States to be reasonably necessary to

preserve and advance universal service. Any other provider of telecommunications may be required to participate in the preservation and advancement of universal service, if the public interest so requires.

"(d) STATE AUTHORITY.—A State may adopt regulations to carry out its responsibilities under this section, or to provide for additional definitions, mechanisms, and standards to preserve and advance universal service within that State, to the extent that such regulations do not conflict with the Commission's rules to implement this section. A State may only enforce additional definitions or standards to the extent that it adopts additional specific and predictable mechanisms to support such definitions or standards.

"(e) ELIGIBILITY FOR UNIVERSAL SERVICE SUPPORT.—To the extent necessary to provide for specific and predictable mechanisms to achieve the purposes of this section, the Commission shall modify its existing rules for the preservation and advancement of universal service. Only essential telecommunications carriers designated under section 214(d) shall be eligible to receive support for the provision of universal service. Such support, if any, shall accurately reflect what is necessary to preserve and advance universal service in accordance with this section and the other requirements of this Act.

"(f) UNIVERSAL SERVICE SUPPORT.—The Commission and the States shall have as their goal the need to make any support for universal service explicit, and to target that support to those essential telecommunications carriers that serve areas for which such support is necessary. The specific and predictable mechanisms adopted by the Commission and the States shall ensure that essential telecommunications carriers are able to provide universal service at just, reasonable, and affordable rates. A carrier that receives universal service support shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

"(g) INTEREXCHANGE SERVICES.—The rates charged by any provider of interexchange telecommunications service to customers in rural and high cost areas shall be no higher than those charged by such provider to its customers in urban areas.

"(h) SUBSIDY OF COMPETITIVE SERVICES PROHIBITED.—A telecommunications carrier may not use services that are not competitive to subsidize competitive services. The Commission, with respect to interstate services, and the States, with respect to intrastate services, shall establish any necessary cost allocation rules, accounting safeguards, and guidelines to ensure that services included in the definition of universal service bear no more than a reasonable share of the joint and common costs of facilities used to provide those services.

"(i) CONGRESSIONAL NOTIFICATION REQUIRED.—

"(1) IN GENERAL.—The Commission may not take action to require participation by telecommunications carriers or other providers of telecommunications under subsection (c), or to modify its rules to increase support for the preservation and advancement of universal service, until—

"(A) the Commission submits to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Commerce of the House of Representatives a report on the participation required, or the increase in support proposed, as appropriate; and

"(B) a period of 120 days has elapsed since the date the report required under paragraph (1) was submitted.

"(2) NOT APPLICABLE TO REDUCTIONS.—This subsection shall not apply to any action taken to reduce costs to carriers or consumers.

"(j) EFFECT ON COMMISSION'S AUTHORITY.—Nothing in this section shall be construed to expand or limit the authority of the Commission to preserve and advance universal service under this Act.

"(k) EFFECTIVE DATE.—This section takes effect on the date of enactment of the Telecommunications Act of 1995, except for subsections (c), (d), (e), (f), and (i) which take effect one year after the date of enactment of that Act.".

(f) PROHIBITION ON EXCLUSION OF AREAS FROM SERVICE BASED ON RURAL LOCATION, HIGH COSTS, OR INCOME.—Part II of title II (47 U.S.C. 201 et seq.) as amended by this Act, is amended by adding after section 253 the following:

"SEC. 253A PROHIBITION ON EXCLUSION OF AREAS FROM SERVICE BASED ON RURAL LOCATION, HIGH COSTS, OR INCOME.

"(a) The Commission shall prohibit any telecommunications carrier from excluding from any of such carrier's services any high-cost area, or any area on the basis of the rural location or the income of the residents of such area: *Provided*, That a carrier may exclude an area in which the carrier can demonstrate that—

"(1) there will be insufficient consumer demand for the carrier to earn some return over the long term on the capital invested to provide such service to such area, and—

"(2) providing a service to such area will be less profitable for the carrier than providing the service in areas to which the carrier is already providing or has proposed to provide the service.

"(b) The Commission shall provide for public comment on the adequacy of the carrier's proposed service area on the basis of the requirements of this section.".

SEC. 104. ESSENTIAL TELECOMMUNICATIONS CARRIERS.

(a) IN GENERAL.—Section 214(d) (47 U.S.C. 214(d)) is amended—

(1) by inserting "(1) ADEQUATE FACILITIES REQUIRED.—" before "The Commission"; and

(2) by adding at the end thereof the following:

"(2) DESIGNATION OF ESSENTIAL CARRIER.—If one or more common carriers provide telecommunications service to a geographic area, and no common carrier will provide universal service to an unserved community or any portion thereof that requests such service within such area, then the Commission, with respect to interstate services, or a State, with respect to intrastate services, shall determine which common carrier serving that area is best able to provide universal service to the requesting unserved community or portion thereof, and shall designate that common carrier as an essential telecommunications carrier for that unserved community or portion thereof.

"(3) ESSENTIAL CARRIER OBLIGATIONS.—A common carrier may be designated by the Commission, or by a State, as appropriate, as an essential telecommunications carrier for a specific service area and become eligible to receive universal service support under section 253. A carrier designated as an essential telecommunications carrier shall—

"(A) provide through its own facilities or through a combination of its own facilities and resale of services using another carrier's facilities, universal service and any additional service (such as 911 service) required by the Commission or the State, to any community or portion thereof which requests such service;

"(B) offer such services at nondiscriminatory rates established by the Commission, for interstate services, and the State, for intrastate services, throughout the service area; and

"(C) advertise throughout the service area the availability of such services and the rates for such services using media of general distribution.

"(4) MULTIPLE ESSENTIAL CARRIERS.—If the Commission, with respect to interstate services, or a State, with respect to intrastate services, designates more than one common carrier as an essential telecommunications carrier for a specific service area, such carrier shall meet the service, rate, and advertising requirements imposed by the Commission or State on any other essential telecommunications carrier for that service area. A State shall require that, before designating an additional essential telecommunications carrier, the State agency authorized to make the designation shall find that—

"(A) the designation of an additional essential telecommunications carrier is in the public interest and that there will not be a significant adverse impact on users of telecommunications services or on the provision of universal service;

"(B) the designation encourages the development and deployment of advanced telecommunications infrastructure and services in rural areas; and

"(C) the designation protects the public safety and welfare, ensures the continued quality of telecommunications services, or safeguards the rights of consumers.

"(5) RESALE OF UNIVERSAL SERVICE.—The Commission, for interstate services, and the States, for intrastate services, shall establish rules to govern the resale of universal service to allocate any support received for the provision of such service in a manner that ensures that the carrier whose facilities are being resold is adequately compensated for their use, taking into account the impact of the resale on that carrier's ability to maintain and deploy its network as a whole. The Commission shall also establish, based on the recommendations of the Federal-State Joint Board instituted to implement this section, rules to permit a carrier designated as an essential telecommunications carrier to relinquish that designation for a specific service area if another telecommunications carrier is also designated as an essential telecommunications carrier for that area. The rules—

"(A) shall ensure that all customers served by the relinquishing carrier continue to be served, and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining essential telecommunications carrier if such remaining carrier provided universal service through resale of the facilities of the relinquishing carrier; and

"(B) shall establish criteria for determining when a carrier which intends to utilize resale to meet the requirements for designation under this subsection has adequate resources to purchase, construct, or otherwise obtain the facilities necessary to meet its obligation if the reselling carrier is no longer able or obligated to resell the service.

"(6) ENFORCEMENT.—A common carrier designated by the Commission or a State as an essential telecommunications carrier that refuses to provide universal service within a reasonable period to an unserved community or portion thereof which requests such service shall forfeit to the United States, in the

case of interstate services, or the State, in the case of intrastate services, a sum of up to $10,000 for each day that such carrier refuses to provide such service. In determining a reasonable period the Commission or the State, as appropriate, shall consider the nature of any construction required to serve such requesting unserved community or portion thereof, as well as the construction intervals normally attending such construction, and shall allow adequate time for regulatory approvals and acquisition of necessary financing.

"(7) INTEREXCHANGE SERVICES.—The Commission, for interstate services, or a State, for intrastate services, shall designate an essential telecommunications carrier for interexchange services for any unserved community or portion thereof requesting such services. Any common carrier designated as an essential telecommunications carrier for interexchange services under this paragraph shall provide interexchange services included in universal service to any unserved community or portion thereof which requests such service. The service shall be provided at nationwide geographically averaged rates for interstate interexchange services and at geographically averaged rates for intrastate interexchange services, and shall be just and reasonable and not unjustly or unreasonably discriminatory. A common carrier designated as an essential telecommunications carrier for interexchange services under this paragraph that refuses to provide interexchange service in accordance with this paragraph to an unserved community or portion thereof that requests such service within 180 days of such request shall forfeit to the United States a sum of up to $50,000 for each day that such carrier refuses to provide such service. The Commission or the State, as appropriate, may extend the 180-day period for providing interexchange service upon a showing by the common carrier of good faith efforts to comply within such period.

"(8) IMPLEMENTATION.—The Commission may, by regulation, establish guidelines by which States may implement the provisions of this section.".

(b) CONFORMING AMENDMENT.—The heading for section 214 is amended by inserting a semicolon and "essential telecommunications carriers" after "lines".

(c) TRANSITION RULE.—A rural telephone company is eligible to receive universal service support payments under section 253(e) of the Communications Act of 1934 as if such company were an essential telecommunications carrier until such time as the Commission, with respect to interstate services, or a State, with respect to intrastate services, designates an essential telecommunications carrier or carriers for the area served by such company under section 214 of that Act.

SEC. 105. FOREIGN INVESTMENT AND OWNERSHIP REFORM.

(a) IN GENERAL.—Section 310 (47 U.S.C. 310) is amended by adding at the end thereof the following new subsection:

"(f) TERMINATION OF FOREIGN OWNERSHIP RESTRICTIONS.—

"(1) RESTRICTION NOT TO APPLY WHERE RECIPROCITY FOUND.—Subsection (b) shall not apply to any common carrier license held, or for which application is made, after the date of enactment of the Telecommunications Act of 1995 with respect to any alien (or representative thereof), corporation, or foreign government (or representative thereof) if the Commission determines that the foreign country of which such alien is a citizen, in which such corporation is organized, or in which such foreign government is in control provides equivalent market opportunities for common carriers to citizens of the United States (or their representatives), corporations organized in the United States, and the United States Government (or its representative): *Provided*, That the President does not object within 15 days of such determination. If the President objects to a determination, the President shall, immediately upon such objection, submit to Congress a written report (in unclassified form, but with a classified annex if necessary) that sets forth a detailed explanation of the findings made and factors considered in objecting to the determination. The determination of whether market opportunities are equivalent shall be made on a market segment specific basis within 180 days after the application is filed. While determining whether such opportunities are equivalent on that basis, the Commission shall also conduct an evaluation of opportunities for access to all segments of the telecommunications market of the applicant.

"(2) SNAPBACK FOR RECIPROCITY FAILURE.—If the Commission determines that any foreign country with respect to which it has made a determination under paragraph (1) ceases to meet the requirements for that determination, then—

"(A) subsection (b) shall apply with respect to such aliens, corporations, and government (or their representatives) on the date on which the Commission publishes notice of its determination under this paragraph, and

"(B) any license held, or application filed, which could not be held or granted under subsection (b) shall be withdrawn, or denied, as the case may be, by the Commission under the provisions of subsection (b).".

(b) CONFORMING AMENDMENT.—Section 332(c)(6) (47 U.S.C. 332(c)(6)) is amended by adding at the end thereof the following:

"This paragraph does not apply to any foreign ownership interest or transfer of ownership to which section 310(b) does not apply because of section 310(f).".

(c) THE APPLICATION OF THE EXON-FLORIO LAW.—Nothing in this section (47 U.S.C. 310) shall limit in any way the application of the Exon-Florio law (50 U.S.C. App. 2170) to any transaction.

SEC. 106. INFRASTRUCTURE SHARING.

(a) REGULATIONS REQUIRED.—The Commission shall prescribe, within one year after the date of enactment of this Act, regulations that require local exchange carriers that were subject to Part 69 of the Commission's rules on or before that date to make available to any qualifying carrier such public switched network infrastructure, technology, information, and telecommunications facilities and functions as may be requested by such qualifying carrier for the purpose of enabling such qualifying carrier to provide telecommunications services, or to provide access to information services, in the service area in which such qualifying carrier has requested and obtained designation as an essential telecommunications carrier under section 214(d) and provides universal service by means of its own facilities.

(b) TERMS AND CONDITIONS OF REGULATIONS.—The regulations prescribed by the Commission pursuant to this section shall—

(1) not require a local exchange carrier to which this section applies to take any action that is economically unreasonable or that is contrary to the public interest;

(2) permit, but shall not require, the joint ownership or operation of public switched network infrastructure and services by or among such local exchange carrier and a qualifying carrier;

(3) ensure that such local exchange carrier will not be treated by the Commission or any State as a common carrier for hire or as offering common carrier services with respect to any infrastructure, technology, information, facilities, or functions made available to a qualifying carrier in accordance with regulations issued pursuant to this section;

(4) ensure that such local exchange carrier makes such infrastructure, technology, information, facilities, or functions available to a qualifying carrier on just and reasonable terms and conditions that permit such qualifying carrier to fully benefit from the economies of scale and scope of such local exchange carrier, as determined in accordance with guidelines prescribed by the Commission in regulations issued pursuant to this section;

(5) establish conditions that promote cooperation between local exchange carriers to which this section applies and qualifying carriers;

(6) not require a local exchange carrier to which this section applies to engage in any infrastructure sharing agreement for any services or access which are to be provided or offered to consumers by the qualifying carrier in such local exchange carrier's telephone exchange area; and

(7) require that such local exchange carrier file with the Commission or State for public inspection, any tariffs, contracts, or other arrangements showing the rates, terms, and conditions under which such carrier is making available public switched network infrastructure and functions under this section.

(c) INFORMATION CONCERNING DEPLOYMENT OF NEW SERVICES AND EQUIPMENT.—A local exchange carrier to which this section applies that has entered into an infrastructure sharing agreement under this section shall provide to each party to such agreement timely information on the planned deployment of telecommunications services and equipment, including any software or upgrades of software integral to the use or operation of such telecommunications equipment.

(d) DEFINITIONS.—For purposes of this section—

(1) QUALIFYING CARRIER.—The term "qualifying carrier" means a telecommunications carrier that—

(A) lacks economies of scale or scope, as determined in accordance with regulations prescribed by the Commission pursuant to this section; and

(B) is a common carrier which offers telephone exchange service, exchange access service, and any other service that is included in universal service, to all consumers without preference throughout the service area for which such carrier has been designated as an essential telecommunications carrier under section 214(d) of the Communications Act of 1934.

(2) OTHER TERMS.—Any term used in this section that is defined in the Communications Act of 1934 has the same meaning as it has in that Act.

SEC. 107. COORDINATION FOR TELECOMMUNICATIONS NETWORK-LEVEL INTEROPERABILITY.

(a) IN GENERAL.—To promote nondiscriminatory access to telecommunications networks by the broadest number of users and vendors of communications products and services through—

(1) coordinated telecommunications network planning and design by common carriers and other providers of telecommunications services, and

(2) interconnection of telecommunications networks, and of devices with such networks, to ensure the ability of users and information providers to seamlessly and transparently transmit and receive information between and across telecommunications networks,

the Commission may participate, in a manner consistent with its authority and practice prior to the date of enactment of this Act, in the development by appropriate voluntary industry standards-setting organizations to promote telecommunications network-level interoperability.

(b) DEFINITION OF TELECOMMUNICATIONS NETWORK-LEVEL INTEROPERABILITY.—As used in this section, the term "telecommunications network-level interoperability" means the ability of 2 or more telecommunications networks to communicate and interact in concert with each other to exchange information without degeneration.

(c) COMMISSION'S AUTHORITY NOT LIMITED.—Nothing in this section shall be construed as limiting the existing authority of the Commission.

TITLE II—REMOVAL OF RESTRICTIONS TO COMPETITION

Subtitle A—Removal of Restrictions

SEC. 201. REMOVAL OF ENTRY BARRIERS.

(a) PREEMPTION OF STATE RULES.—Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 253 the following:

"SEC. 254. REMOVAL OF BARRIERS TO ENTRY.

"(a) IN GENERAL.—No State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications services.

"(b) STATE REGULATORY AUTHORITY.—Nothing in this section shall affect the ability of a State to impose, on a competitively neutral basis and consistent with section 253, requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers.

"(c) STATE AND LOCAL GOVERNMENT AUTHORITY.—Nothing in this section affects the authority of a State or local government to manage the public rights-of-way or to require fair and reasonable compensation from telecommunications providers, on a competitively neutral and nondiscriminatory basis, for use of public rights-of-way on a nondiscriminatory basis, if the compensation required is publicly disclosed by such government.

"(d) PREEMPTION.—If, after notice and an opportunity for public comment, the Commission determines that a State or local government has permitted or imposed any statute, regulation, or legal requirement that violates subsection (a) or (b), the Commission shall preempt the enforcement of such statute, regulation, or legal requirement to the extent necessary to correct such violation or inconsistency.

"(e) COMMERCIAL MOBILE SERVICES PROVIDERS.—Nothing in this section shall affect the application of section 332(c)(3) to commercial mobile services providers.".

(b) PROVISION OF TELECOMMUNICATIONS SERVICES BY A CABLE OPERATOR.—

(1) JURISDICTION OF FRANCHISING AUTHORITY.—Section 621(b) (47 U.S.C. 541(b)) 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 for the provision of telecommunications services; and

"(ii) the provisions of this title shall not apply to such cable operator or affiliate for the provision of telecommunications services.

"(B) A franchising authority may not order a cable operator or affiliate thereof to discontinue the provision of a telecommunications service.

"(C) 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, franchise renewal, or transfer of a franchise.

"(D) Nothing in this paragraph affects existing Federal or State authority with respect to telecommunications services.".

(2) FRANCHISE FEES.—Section 622(b) (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.

(c) STATE AND LOCAL TAX LAWS.—Except as provided in section 202, nothing in this Act (or in the Communications Act of 1934 as amended by this Act) shall be construed to modify, impair, or supersede, or authorize the modification, impairment, or supersession of, any State or local law pertaining to taxation that is consistent with the requirements of the Constitution of the United States, this Act, the Communications Act of 1934, or any other applicable Federal law.

(d) EFFECTIVE DATE.—The amendments made by this section take effect on the date of enactment of this Act.

SEC. 202. ELIMINATION OF CABLE AND TELEPHONE COMPANY CROSS-OWNERSHIP RESTRICTION.

(a) IN GENERAL.—Section 613(b) (47 U.S.C. 533(b)) is amended to read as follows:

"(b) VIDEO PROGRAMMING AND CABLE SERVICES.—

"(1) DISTINCTION BETWEEN VIDEO PLATFORM AND CABLE SERVICE.—To the extent that any telecommunications carrier carries video programming provided by others, or provides video programming that it owns, controls, or selects directly to subscribers, through a common carrier video platform, neither the telecommunications carrier nor any video programming provider making use of such platform shall be deemed to be a cable operator providing cable service. To the extent that any telecommunications carrier provides video programming directly to subscribers through a cable system, the carrier shall be deemed to be a cable operator providing cable service.

"(2) BELL OPERATING COMPANY ACTIVITIES.—

"(A) Notwithstanding the provisions of section 252, to the extent that a Bell operating company carries video programming provided by others or provides video programming that it owns, controls, or selects over a common carrier video platform, it need not use a separate affiliate if—

"(i) the carrier provides facilities, services, or information to all programmers on the same terms and conditions as it provides such facilities, services, or information to its own video programming operations, and

"(ii) the carrier does not use its telecommunications services to subsidize its provision of video programming.

"(B) To the extent that a Bell operating company provides cable service as a cable operator, it shall provide such service through an affiliate that meets the requirements of section 252 (a), (b), and (d) and the Bell operating company's telephone exchange services and exchange access services shall meet the requirements of subparagraph (A)(ii) and section 252(c); except that, to the extent the Bell operating company provides cable service utilizing its own telephone exchange facilities, section 252(c) shall not require the Bell operating company to make video programming services capacity available on a non-discriminatory basis to other video programming services providers.

"(C) Upon a finding by the Commission that the requirement of a separate affiliate under the preceding subparagraph is no longer necessary to protect consumers, competition, or the public interest, the Commission shall exempt a Bell operating company from that requirement.

"(3) COMMON CARRIER VIDEO PLATFORM.—Nothing in this Act precludes a telecommunications carrier from carrying video programming provided by others directly to subscribers over a common carrier video platform. Nothing in this Act precludes a video programming provider making use of a common carrier video platform from being treated as an operator of a cable system for purposes of section 111 of title 17, United States Code.

"(4) RATES; ACCESS.—Notwithstanding paragraph (2)(A)(i), a provider of common carrier video platform services shall provide local broadcast stations, and to those public, educational, and governmental entities required by local franchise authorities to be given access to cable systems operating in the same market as the common carrier video platform, with access to that platform for the transmission of television broadcast programming at rates no higher than the incremental-cost-based rates of providing such access. Local broadcast stations shall be entitled to obtain access on the first tier of programming on the common carrier video platform. If the area covered by the common carrier video platform includes more than one franchising area, then the Commission shall determine the number of channels allocated to public, educational, and governmental entities that may be eligible for such rates for that platform.

"(5) COMPETITIVE NEUTRALITY.—A provider of video programming may be required to pay fees in lieu of franchise fees (as defined in section 622(g)(1)) if the fees—

"(A) are competitively neutral; and

"(B) are separately identified in consumer billing.

"(6) ACQUISITIONS; JOINT VENTURES; PARTNERSHIPS; JOINT USE OF FACILITIES.—

"(A) LOCAL EXCHANGE CARRIERS.—No local exchange carrier or any affiliate of such carrier owned by, operated by, controlled by, or under common control with such carrier may purchase or otherwise acquire more than a 10 percent financial interest, or any management interest, in any cable operator providing cable service within the local exchange carrier's telephone service area.

"(B) CABLE OPERATORS.—No cable operator or affiliate of a cable operator that is owned by, operated by, controlled by, or under common ownership with such cable operator may purchase or otherwise acquire, directly or indirectly, more than a 10 percent financial interest, or any management interest, in any local exchange carrier providing telephone exchange service within such cable operator's franchise area.

"(C) JOINT VENTURE.—A local exchange carrier and a cable operator whose telephone service area and cable franchise area, respectively, are in the same market may not enter into any joint venture or partnership to provide video programming directly to subscribers or to provide telecommunications services within such market.

"(D) EXCEPTION.—Notwithstanding subparagraphs (A), (B), and (C) of this paragraph, a local exchange carrier (with respect to a cable system located in its telephone service area) and a cable operator (with respect to the facilities of a local exchange carrier used to provide telephone exchange service in its cable franchise area) may obtain a controlling interest in, management interest in, or enter into a joint venture or partnership with such system or facilities to the extent that such system or facilities only serve incorporated or unincorporated—

"(i) places or territories that have fewer than 50,000 inhabitants; and

"(ii) are outside an urbanized area, as defined by the Bureau of the Census.

"(E) WAIVER.—The Commission may waive the restrictions of subparagraph (A), (B), or (C) only if the Commission determines that, because of the nature of the market served by the affected cable system or facilities used to provide telephone exchange service—

"(i) the incumbent cable operator or local exchange carrier would be subjected to undue economic distress by the enforcement of such provisions,

"(ii) the system or facilities would not be economically viable if such provisions were enforced, or

"(iii) the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

"(F) JOINT USE.—Notwithstanding subparagraphs (A), (B), and (C), a telecommunications carrier may obtain within such carrier's telephone service area, with the concurrence of the cable operator on the rates, terms, and conditions, the use of that portion of the transmission facilities of such a cable system extending from the last multiuser terminal to the premises of the end user in excess of the capacity that the cable operator uses to provide its own cable services. A cable operator that provides access to such portion of its transmission facilities to one telecommunications carrier shall provide nondiscriminatory access to such portion of its transmission facilities to any other telecommunications carrier requesting such access.

"(G) SAVINGS CLAUSE.—Nothing in this paragraph affects—

"(i) the authority of a local franchising authority (in the case of the purchase or acquisition of a cable operator, or a joint venture to provide cable service) or a State Commission (in the case of the acquisition of a local exchange carrier, or a joint venture to provide telephone exchange service) to approve or disapprove a purchase, acquisition, or joint venture, or

"(ii) the antitrust laws, as described in section 7(a) of the Telecommunications Competition and Deregulation Act of 1995.".

(b) NO PERMIT REQUIRED FOR VIDEO PROGRAMMING SERVICES.—Section 214 (47 U.S.C. 214) is amended by adding at the end thereof the following:

"(e) SPECIAL RULE.—No certificate is required under this section for a carrier to construct facilities to provide video programming services.".

(c) SAFEGUARDS.—Within one year after the date of enactment of this Act, the Commission shall prescribe regulations that—

(1) require a telecommunications carrier that provides video programming directly to subscribers to ensure that subscribers are offered the means to obtain access to the signals of local broadcast television stations identified under section 614 as readily as they are today;

(2) require such a carrier to display clearly and prominently at the beginning of any program guide or menu of program offerings the identity of any signal of any television broadcast station that is carried by the carrier;

(3) require such a carrier to ensure that viewers are able to access the signal of any television broadcast station that is carried by that carrier without first having to view advertising or promotional material, or a navigational device, guide, or menu that omits broadcasting services as an available option;

(4) except as required by paragraphs (1) through (3), prohibit such carrier and a multichannel video programming distributor using the facilities of such carrier from discriminating among video programming providers with respect to material or information provided by the carrier to subscribers for the purposes of selecting programming, or in the way such material or information is presented to subscribers;

(5) require such carrier and a multichannel video programming distributor using the facilities of such carrier to ensure that video programming providers or copyright holders (or both) are able suitably and uniquely to identify their programming services to subscribers;

(6) if such identification is transmitted as part of the programming signal, require a telecommunications carrier that provides video programming directly to subscribers and a multichannel video programming distributor using the facilities of such carrier to transmit such identification without change or alteration;

(7) prohibit such carrier from discriminating among video programming providers with regard to carriage and ensure that the rates, terms, and conditions for such carriage are just, reasonable, and nondiscriminatory;

(8) extend to such carriers and multichannel video programming distributors using the facilities of such carrier the Commission's regulations concerning network nonduplication (47 C.F.R. 76.92 et seq.) and syndicated exclusivity (47 C.F.R. 76.171 et seq.); and

(9) extend to such carriers and multichannel video programming distributors using the facilities of such carrier the protections afforded to local broadcast signals in section 614(b)(3), 614(b)(4)(A), and 615(g)(1) and (2) of such Act (47 U.S.C. 534(b)(3), 534(b)(4)(A), and 535(g) (1) and (2)).

(d) ENFORCEMENT.—The Commission shall resolve disputes under subsection (c) and the regulations prescribed under that subsection. Any such dispute shall be resolved with 180 days after notice of the dispute is submitted to the Commission. At that time, or subsequently in a separate 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 also seek any other remedy available under the law.

(e) EFFECTIVE DATES.—The amendment made by subsection (a) takes effect on the date of enactment of this Act. The amendment made by subsection (b) takes effect 1 year after that date.

SEC. 203. CABLE ACT REFORM.

(a) CHANGE IN DEFINITION OF CABLE SYSTEM.—Section 602(7) (47 U.S.C. 522(7)) is amended by striking out "(B) a facility that serves only subscribers in 1 or more multiple unit dwellings under common ownership, control, or management, unless such facility or facilities uses any public right-of-way;" and inserting "(B) a facility that serves subscribers without using any public right-of-way;".

(b) RATE DEREGULATION.—

(1) Section 623(c) (47 U.S.C. 543(c)) is amended—

(A) by striking "subscriber," and the comma after "authority" in paragraph (1)(B);

(B) by striking paragraph (2) and inserting the following:

"(2) STANDARD FOR UNREASONABLE RATES.—The Commission may only consider a rate for cable programming services to be unreasonable if it substantially exceeds the national average rate for comparable cable programming services provided by cable systems other than small cable systems, determined on a per-channel basis as of June 1, 1995, and redetermined, and adjusted if necessary, every 2 years thereafter.".

(2) Section 623(l)(1) (47 U.S.C. 543(l)(1)) is amended—

(A) by striking "or" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting a semicolon and "or"; and

(C) by adding at the end the following:

"(D) a local exchange carrier offers video programming services directly to subscribers, either over a common carrier video platform or as a cable operator, in the franchise area of an unaffiliated cable operator which is providing cable service in that franchise area, but only if the video programming services offered by the carrier in that area are comparable to the video programming services provided by the unaffiliated cable operator in that area.".

(c) GREATER DEREGULATION FOR SMALLER CABLE COMPANIES.—Section 623 (47 U.S.C. 543) is amended by adding at the end thereof the following:

"(m) SPECIAL RULES FOR SMALL COMPANIES.—

"(1) IN GENERAL.—Subsection (a), (b), or (c) does not apply to a small cable operator with respect to—

"(A) cable programming services, or

"(B) a basic service tier that was the only service tier subject to regulation as of December 31, 1994,

in any franchise area in which that operator serves 35,000 or fewer subscribers.

"(2) DEFINITION OF SMALL CABLE OPERATOR.—For purposes of this subsection, the term 'small cable operator' means a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.".

(d) PROGRAM ACCESS.—Section 628 (47 U.S.C. 628) is amended by adding at the end the following:

"(j) COMMON CARRIERS.—Any provision that applies to a cable operator under this section shall apply to a telecommunications carrier or its affiliate that provides video programming by any means directly to subscribers. Any such provision that applies to a satellite cable programming vendor in which a cable operator has an attributable interest shall apply to any satellite cable programming vendor in which such common carrier has an attributable interest.".

(e) EXPEDITED DECISION-MAKING FOR MARKET DETERMINATIONS UNDER SECTION 614.—

(1) IN GENERAL.—Section 614(h)(1)(C)(iv) (47 U.S.C. 614(h)(1)(C)(iv)) is amended to read as follows:

"(iv) Within 120 days after the date on which a request is filed under this subparagraph, the Commission shall grant or deny the request.".

(2) APPLICATION TO PENDING REQUESTS.—The amendment made by paragraph (1) shall apply to—

(A) any request pending under section 614(h)(1)(C) of the Communications Act of 1934 (47 U.S.C. 614(h)(1)(C)) on the date of enactment of this Act; and

(B) any request filed under that section after that date.

(f) EFFECTIVE DATE.—The amendments made by this section take effect on the date of enactment of this Act.

SEC. 204. POLE ATTACHMENTS.

Section 224 (47 U.S.C. 224) is amended—

(1) by inserting the following after subsection (a)(4):

"(5) The term 'telecommunications carrier' shall have the meaning given such term in subsection 3(nn) of this Act, except that, for purposes of this section, the term shall not include any person classified by the Commission as a dominant provider of telecommunications services as of January 1, 1995.";

(2) by inserting after "conditions" in subsection (c)(1) a comma and the following: "or access to poles, ducts, conduits, and rights-of-way as provided in subsection (f),";

(3) by inserting after subsection (d)(2) the following:

"(3) This subsection shall apply to the rate for any pole attachment used by a cable television system solely to provide cable service. Until the effective date of the regulations required under subsection (e), this subsection shall also apply to the pole attachment rates for cable television systems (or for any telecommunications carrier that was not a party to any pole attachment agreement prior to the date of enactment of the Telecommunications Act of 1995) to provide any telecommunications service or any other service subject to the jurisdiction of the Commission."; and

(4) by adding at the end thereof the following:

"(e)(1) The Commission shall, no later than 2 years after the date of enactment of the Telecommunications Act of 1995, prescribe regulations in accordance with this subsection to govern the charges for pole attachments by telecommunications carriers. Such regulations shall ensure that utilities charge just and reasonable and non-discriminatory rates for pole attachments.

"(2) A utility shall apportion the cost of providing space on a pole, duct, conduit, or right-of-way other than the usable space among entities so that such apportionment equals the sum of—

"(A) two-thirds of the costs of providing space other than the usable space that would be allocated to such entity under an equal apportionment of such costs among all attachments, plus

"(B) the percentage of usable space required by each such entity multiplied by the costs of space other than the usable space;

but in no event shall such proportion exceed the amount that would be allocated to such entity under an equal apportionment of such costs among all attachments.

"(3) A utility shall apportion the cost of providing usable space among all entities according to the percentage of usable space required for each entity. Costs shall be apportioned between the usable space and the space on a pole, duct, conduit, or right-of-way other than the usable space on a proportionate basis.

"(4) The regulations required under paragraph (1) shall become effective 5 years after the date of enactment of the Telecommunications Act of 1995. Any increase in the rates for pole attachments that result from the adoption of the regulations required by this subsection shall be phased in equal annual increments over a period of 5 years beginning on the effective date of such regulations.

"(f)(1) A utility shall provide a cable television system or any telecommunications carrier with nondiscriminatory access to any pole, duct, conduit, or right-of-way owned or controlled by it.

"(2) Notwithstanding paragraph (1), a utility providing electric service may deny a cable television system or telecommunications carrier access to its poles, ducts, conduits, or rights-of-way, on a non-discriminatory basis where there is insufficient capacity and for reasons of safety, reliability, and generally applicable engineering purposes.

"(g) A utility that engages in the provision of telecommunications services shall impute to its costs of providing such services (and charge any affiliate, subsidiary, or associate company engaged in the provision of such services) an amount equal to the pole attachment rate for which such company would be liable under this section.".

SEC. 205. ENTRY BY UTILITY COMPANIES.

(a) IN GENERAL.—

(1) AUTHORIZED ACTIVITIES OF UTILITIES.—Notwithstanding any other provision of law to the contrary (including the Public Utility Holding Company Act of 1935 (15 U.S.C. 79a et seq.)), an electric, gas, water, or steam utility, and any subsidiary company, affiliate, or associate company of such a utility, other than a public utility company that is an associate company of a registered holding company, may engage, directly or indirectly, in any activity whatsoever, wherever located, necessary or appropriate to the provision of—

(A) telecommunications services,

(B) information services,

(C) other services or products subject to the jurisdiction of the Federal Communications Commission under the Communications Act of 1934 (47 U.S.C. 151 et seq.), or

(D) products or services that are related or incidental to a product or service described in subparagraph (A), (B), or (C).

(2) REMOVAL OF SEC JURISDICTION.—The Securities and Exchange Commission has no jurisdiction under the Public Utility Holding Company Act of 1935 (15 U.S.C. 79a et seq.) over a holding company, or a subsidiary company, affiliate, or associate company of a holding company, to grant any authorization to enforce any requirement with respect to, or approve or otherwise review, any activity described in paragraph (1), including financing, investing in, acquiring, or maintaining any interest in, or entering into affiliate transactions or contracts, and any authority over audits or access to books and records.

(3) APPLICABILITY OF TELECOMMUNICATIONS REGULATION.—Nothing in this section shall affect the authority of the Federal Communications Commission under the Communications Act of 1934, or the authority of State commissions under State laws concerning the provision of telecommunications services, to regulate the activities of an associate company engaged in activities described in paragraph (1).

(4) COMMISSION RULES.—The Commission shall consider and adopt, as necessary, rules to protect the customers of a public utility company that is a subsidiary company of a registered holding company against potential detriment from the telecommunications activities of any other subsidiary of such registered holding company.

(b) PROHIBITION OF CROSS-SUBSIDIZATION.—Nothing in the Public Utility Holding Company Act of 1935 shall preclude the Federal Energy Regulatory Commission or a State commission from exercising its jurisdiction under otherwise applicable law to determine whether a public utility company may recover in rates the costs of any activity described in subsection (a)(1) which is performed by an associate company regardless of whether such costs are incurred through the direct or indirect purchase of goods and services from such associate company.

(c) ASSUMPTION OF LIABILITIES.—Any public utility company that is an associate company of a registered holding company and that is subject to the jurisdiction of a State commission with respect to its retail electric or gas rates shall not issue any security for the purpose of financing the acquisition, ownership, or operation of an associate company engaged in activities described in subsection (a)(1) without the prior approval of the State commission. Any public utility company that is an associate company of a registered holding company and that is subject to the jurisdiction of a State commission with respect to its retail electric or gas rates shall not assume any obligation or liability as guarantor, endorser, surety, or otherwise by the public utility in respect of any security of an associate company engaged in activities described in subsection (a)(1) without the prior approval of the State commission.

(d) PLEDGING OR MORTGAGING UTILITY ASSETS.—Any public utility company that is an associate company of a registered holding company and that is subject to the jurisdiction of a State commission with respect to its retail electric or gas rates shall not pledge, mortgage, or otherwise use as collateral any utility assets of the public utility or utility assets of any subsidiary company thereof for the benefit of an associate company engaged in activities described in subsection (a)(1) without the prior approval of the State commission.

(e) BOOKS AND RECORDS.—An associate company engaged in activities described in subsection (a)(1) which is an associate company of a registered holding company shall maintain books, records, and accounts separate from the registered holding company which identify all transactions with the registered holding company and its other associate companies, and provide access to books, records, and accounts to State commissions and the Federal Energy Regulatory Commission under the same terms of access, disclosure, and procedures as provided in section 201(g) of the Federal Power Act.

(f) INDEPENDENT AUDIT AUTHORITY FOR STATE COMMISSIONS.—

(1) STATE MAY ORDER AUDIT.—Any State commission with jurisdiction over a public utility company that—

(A) is an associate company of a registered holding company, and

(B) transacts business, directly or indirectly, with a subsidiary company, affiliate, or associate company of that holding company engaged in any activity described in subsection (a)(1),

may order an independent audit to be performed, no more frequently than on an annual basis, of all matters deemed relevant by the selected auditor that reasonably relate

to retail rates: *Provided*, That such matters relate, directly or indirectly, to transactions or transfers between the public utility company subject to its jurisdiction and the subsidiary company, affiliate, or associate company engaged in that activity.

(2) SELECTION OF FIRM TO CONDUCT AUDIT.—

(A) If a State commission orders an audit in accordance with paragraph (1), the public utility company and the State commission shall jointly select within 60 days a firm to perform the audit. The firm selected to perform the audit shall possess demonstrated qualifications relating to:

(i) competency, including adequate technical training and professional proficiency in each discipline necessary to carry out the audit, and

(ii) independence and objectivity, including that the firm be free from personal or external impairments to independence, and should assume an independent position with the State commission and auditee, making certain that the audit is based upon an impartial consideration of all pertinent facts and responsible opinions.

(B) The public utility company and the company engaged in activities under subsection (a)(1) shall cooperate fully with all reasonable requests necessary to perform the audit and the public utility company shall bear all costs of having the audit performed.

(3) AVAILABILITY OF AUDITOR'S REPORT.—The auditor's report shall be provided to the State commission within 6 months after the selection of the auditor, and provided to the public utility company 60 days thereafter.

(g) REQUIRED NOTICES.—

(1) AFFILIATE CONTRACTS.—A State commission may order any public utility company that is an associate company of a registered holding company and that is subject to the jurisdiction of the State commission to provide quarterly reports listing any contracts, leases, transfers, or other transactions with an associate company engaged in activities described in subsection (a)(1).

(2) ACQUISITION OF AN INTEREST IN ASSOCIATE COMPANIES.—Within 10 days after the acquisition by a registered holding company of an interest in an associate company that will engage in activities described in subsection (a)(1), any public utility company that is an associate company of such company shall notify each State commission having jurisdiction over the retail rates of such public utility company of such acquisition. In the notice an officer on behalf of the public utility company shall attest that, based on then current information, such acquisition and related financing will not materially impair the ability of such public utility company to meet its public service responsibility, including its ability to raise necessary capital.

(h) DEFINITIONS.—Any term used in this section that is defined in the Public Utility Holding Company Act of 1935 (15 U.S.C. 79a et seq.) has the same meaning as it has in that Act. The terms "telecommunications service" and "information service" shall have the same meanings as those terms have in the Communications Act of 1934.

(i) IMPLEMENTATION.—Not later than 1 year after the date of enactment of this Act, the Federal Communications Commission shall promulgate such regulations as may be necessary to implement this section.

(j) EFFECTIVE DATE.—This section takes effect on the date of enactment of this Act.

SEC. 206. BROADCAST REFORM.

(a) SPECTRUM REFORM.—

(1) ADVANCED TELEVISION SPECTRUM SERVICES.—If the Commission by rule permits licensees to provide advanced television services, then—

(A) it shall adopt regulations that allow such licensees to make use of the advanced television spectrum for the transmission of ancillary or supplementary services if the licensees provide without charge to the public at least one advanced television program service as prescribed by the Commission that is intended for and available to the general public on the advanced television spectrum; and

(B) it shall apply similar rules to use of existing television spectrum.

(2) COMMISSION TO COLLECT FEES.—To the extent that a television broadcast licensee provides ancillary or supplementary services using existing or advanced television spectrum—

(A) for which 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 payments to broadcast stations by third parties for transmission of program material or commercial advertising,

the Commission may collect from each such licensee an annual fee to the extent the existing or advanced television spectrum is used for such ancillary or supplementary services. In determining the amount of such fees, the Commission shall take into account the portion of the licensee's total existing or advanced television spectrum which is used for such services and the amount of time such services are provided. The amount of such fees to be collected for any such service shall not, in any event, exceed an amount equivalent on an annualized basis to the amount paid by providers of a competing service on spectrum subject to auction under section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)).

(3) PUBLIC INTEREST REQUIREMENT.—Nothing in this section shall be construed as relieving a television broadcasting station from its obligation to serve the public interest, convenience, and necessity. In the Commission's review of any application for renewal of a broadcast license for a television station that provides ancillary or supplementary services, the television licensee shall establish that all of its program services on the existing or advanced television spectrum are in the public interest. Any violation of the Commission rules applicable to ancillary or supplementary services shall reflect upon the licensee's qualifications for renewal of its license.

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

(A) The term "advanced television services" means television services provided using digital or other advanced technology to enhance audio quality and video resolution.

(B) The term "existing" means spectrum generally in use for television broadcast purposes on the date of enactment of this Act.

(b) OWNERSHIP REFORM.—

(1) IN GENERAL.—The Commission shall modify its rules for multiple ownership set forth in 47 CFR 73.3555 by—

(A) eliminating the restrictions on the number of television stations owned under subdivisions (e)(1) (ii) and (iii); and

(B) changing the percentage set forth in subdivision (e)(2)(ii) from 25 percent to 35 percent.

(2) RADIO OWNERSHIP.—The Commission shall modify its rules set forth in 47 CFR 73.3555 by eliminating any provisions limiting the number of AM or FM broadcast stations which may be owned or controlled by one entity either nationally or in a particular market. The Commission may refuse to approve the transfer or issuance of an AM or FM broadcast license to a particular entity if it finds that the entity would thereby obtain an undue concentration of control or would thereby harm competition. Nothing in this section shall require or prevent the Commission from modifying its rules contained in 47 CFR 73.3555(c) governing the ownership of both radio and television broadcast stations in the same market.

(3) LOCAL MARKETING AGREEMENT.—Nothing in this Act shall be construed to prohibit the continuation or renewal of any television local marketing agreement that is in effect on the date of enactment of this Act and that is in compliance with the Commission's regulations.

(4) STATUTORY RESTRICTIONS.—Section 613 (47 U.S.C. 533) is amended by striking subsection (a) and inserting the following:

"(a) The Commission shall review its ownership rules biennially as part of its regulatory reform review under section 259.".

(5) CONFORMING CHANGES.—The Commission shall amend its rules to make any changes necessary to reflect the effect of this section on its rules.

(6) EFFECTIVE DATE.—The Commission shall make the modifications required by paragraphs (1) and (2) effective on the date of enactment of this Act.

(c) TERM OF LICENSES.—Section 307(c) (47 U.S.C. 307(c)) is amended by striking the first four sentences and inserting the following:

"No license shall be granted for a term longer than 10 years. Upon application, a renewal of such license may be granted from time to time for a term of not to exceed 10 years, if the Commission finds that the public interest, convenience, and necessity would be served thereby.".

(d) BROADCAST LICENSE RENEWAL PROCEDURES.—

(1) Section 309 (47 U.S.C. 309) is amended by adding at the end thereof the following:

"(k)(1)(A) Notwithstanding subsections (c) and (d), if the licensee of a broadcast station submits an application to the Commission for renewal of such license, the Commission shall grant the application if it finds, after notice and opportunity for comment, with respect to that station during the preceding term of its license, that—

"(i) the station has served the public interest, convenience, and necessity;

"(ii) there have been no serious violations by the licensee of this Act or the rules and regulations of the Commission; and

"(iii) there have been no other violations by the licensee of this Act or the rules and regulations of the Commission which, taken together, would constitute a pattern of abuse.

"(B) If any licensee of a broadcast station fails to meet the requirements of this subsection, the Commission may deny the application for renewal in accordance with paragraph (2), or grant such application on appropriate terms and conditions, including renewal for a term less than the maximum otherwise permitted.

"(2) If the Commission determines, after notice and opportunity for a hearing, that a licensee has failed to meet the requirements specified in paragraph (1)(A) and that no mitigating factors justify the imposition of lesser sanctions, the Commission shall—

"(A) issue an order denying the renewal application filed by such licensee under section 308; and

"(B) only thereafter accept and consider such applications for a construction permit as may be filed under section 308 specifying the channel or broadcasting facilities of the former licensee.

"(3) In making the determinations specified in paragraphs (1) or (2)(A), the Commission shall not consider whether the public interest, convenience, and necessity might be served by the grant of a license to a person other than the renewal applicant.".

(2) Section 309(d) (47 U.S.C. 309(d)) is amended by inserting "(or subsection (k) in the case of renewal of any broadcast station license)" after "with subsection (a)" each place it appears.

(3) The amendments made by this subsection apply to applications filed after May 31, 1995.

(4) This section shall operate only if the Commission shall amend its "Application for renewal of License for AM, FM, TV, Translator or LPTV Station" (FCC Form 303–S) to require that, for commercial TV applicants only, the applicant attach as an exhibit to the application a summary of written comments and suggestions received from the public and maintained by the licensee in accordance with section 73.1202 of title 47, Code of Federal Regulations, that comment on the applicant's programming, if any, characterized by the commentor as constituting violent programming.

Subtitle B—Termination of Modification of Final Judgment

SEC. 221. REMOVAL OF LONG DISTANCE RESTRICTIONS.

(a) IN GENERAL.—Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 254 the following new section:

"SEC. 255. INTEREXCHANGE TELECOMMUNICATIONS SERVICES.

"(a) IN GENERAL.—Notwithstanding any restriction or obligation imposed before the date of enactment of the Telecommunications Act of 1995 under section II(D) of the Modification of Final Judgment, a Bell operating company, or any subsidiary or affiliate of a Bell operating company, that meets the requirements of this section may provide—

"(1) interLATA telecommunications services originating in any region in which it is the dominant provider of wireline telephone exchange service or exchange access service after the Commission determines that it has fully implemented the competitive checklist found in subsection (b)(2) in the area in which it seeks to provide interLATA telecommunications services, in accordance with the provisions of subsection (c);

"(2) interLATA telecommunications services originating in any area where that company is not the dominant provider of wireline telephone exchange service or exchange access service in accordance with the provisions of subsection (d); and

"(3) interLATA services that are incidental services in accordance with the provisions of subsection (e).

"(b) SPECIFIC INTERLATA INTERCONNECTION REQUIREMENTS.—

"(1) IN GENERAL.—A Bell operating company may provide interLATA services in accordance with this section only if that company has reached an interconnection agreement under section 251 and that agreement provides, at a minimum, for interconnection that meets the competitive checklist requirements of paragraph (2).

"(2) COMPETITIVE CHECKLIST.—Interconnection provided by a Bell operating company to other telecommunications carriers under section 251 shall include:

"(A) Nondiscriminatory access on an unbundled basis to the network functions and services of the Bell operating company's telecommunications network that is at least equal in type, quality, and price to the access the Bell operating company affords to itself or any other entity.

"(B) The capability to exchange telecommunications between customers of the Bell operating company and the telecommunications carrier seeking interconnection.

"(C) Nondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by the Bell operating company at just and reasonable rates where it has the legal authority to permit such access.

"(D) Local loop transmission from the central office to the customer's premises, unbundled from local switching or other services.

"(E) Local transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services.

"(F) Local switching unbundled from transport, local loop transmission, or other services.

"(G) Nondiscriminatory access to—

"(i) 911 and E911 services;

"(ii) directory assistance services to allow the other carrier's customers to obtain telephone numbers; and

"(iii) operator call completion services.

"(H) White pages directory listings for customers of the other carrier's telephone exchange service.

"(I) Until the date by which neutral telephone number administration guidelines, plan, or rules are established, nondiscriminatory access to telephone numbers for assignment to the other carrier's telephone exchange service customers. After that date, compliance with such guidelines, plan, or rules.

"(J) Nondiscriminatory access to databases and associated signaling, including signaling links, signaling service control points, and signaling service transfer points, necessary for call routing and completion.

"(K) Until the date by which the Commission determines that final telecommunications number portability is technically feasible and must be made available, interim telecommunications number portability through remote call forwarding, direct inward dialing trunks, or other comparable arrangements, with as little impairment of functioning, quality, reliability, and convenience as possible. After that date, full compliance with final telecommunications number portability.

"(L) Nondiscriminatory access to whatever services or information may be necessary to allow the requesting carrier to implement local dialing parity in a manner that permits consumers to be able to dial the same number of digits when using any telecommunications carrier providing telephone exchange service or exchange access service.

"(M) Reciprocal compensation arrangements on a nondiscriminatory basis for the origination and termination of telecommunications.

"(N) Telecommunications services and network functions provided on an unbundled basis without any conditions or restrictions on the resale or sharing of those services or functions, including both origination and termination of telecommunications services, other than reasonable conditions required by the Commission or a State. For purposes of this subparagraph, it is not an unreasonable condition for the Commission or a State to limit the resale—

"(i) of services included in the definition of universal service to a telecommunications carrier who intends to resell that service to a category of customers different from the category of customers being offered that universal service by such carrier if the Commission or State orders a carrier to provide the same service to different categories of customers at different prices necessary to promote universal service; or

"(ii) of subsidized universal service in a manner that allows companies to charge another carrier rates which reflect the actual cost of providing those services to that carrier, exclusive of any universal service support received for providing such services in accordance with section 214(d)(5).

"(3) JOINT MARKETING OF LOCAL AND LONG DISTANCE SERVICES.—Until a Bell operating company is authorized to provide interLATA services in a telephone exchange area where that company is the dominant provider of wireline telephone exchange service or exchange access service, or until 36 months have passed since the enactment of the Telecommunications Act of 1995, whichever is earlier, a telecommunications carrier that serves greater than 5 percent of the Nation's presubscribed access lines may not jointly market in such telephone exchange area telephone exchange service purchased from such company with interLATA services offered by that telecommunications carrier.

"(4) COMMISSION MAY NOT EXPAND COMPETITIVE CHECKLIST.—The Commission may not, by rule or otherwise, limit or extend the terms used in the competitive checklist.

"(c) IN-REGION SERVICES.—

"(1) APPLICATION.—Upon the enactment of the Telecommunications Act of 1995, a Bell operating company or its affiliate may apply to the Commission for authorization notwithstanding the Modification of Final Judgment to provide interLATA telecommunications service originating in any area where such Bell operating company is the dominant provider of wireline telephone exchange service or exchange access service. 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) DETERMINATION BY COMMISSION.—

"(A) DETERMINATION.—Not later than 90 days after receiving an application under paragraph (1), the Commission shall issue a written determination, on the record after a hearing and opportunity for comment, granting or denying the application in whole or in part. Before making any determination under this subparagraph, the Commission shall consult with the Attorney General regarding the application. In consulting with the Commission under this subparagraph, the Attorney General may apply any appropriate standard.

"(B) APPROVAL.—The Commission may only approve the authorization requested in an application submitted under paragraph (1) if it finds that—

"(i) the petitioning Bell operating company has fully implemented the competitive checklist found in subsection (b)(2); and

"(ii) the requested authority will be carried out in accordance with the requirements of section 252,

and if the Commission determines that the requested authorization is consistent with the public interest, convenience, and necessity. If the Commission does not approve an application under this subparagraph, it shall state the basis for its denial of the application.

"(3) PUBLICATION.—Not later than 10 days after issuing a determination under paragraph (2), the Commission shall publish in the Federal Register a brief description of the determination.

"(4) JUDICIAL REVIEW.—

"(A) COMMENCEMENT OF ACTION.—Not later than 45 days after a determination by the Commission is published under paragraph (3), the Bell operating company or its subsidiary or affiliate that applied to the Commission under paragraph (1), 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 its application, may commence an action in any United States Court of Appeals against the Commission for judicial review of the determination regarding the application.

"(B) JUDGMENT.—

"(i) The Court shall enter a judgment after reviewing the determination in accordance with section 706 of title 5 of the United State Code.

"(ii) 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 affirmance or reversal applies.

"(5) REQUIREMENTS RELATING TO SEPARATE AFFILIATE; SAFEGUARDS; AND INTRALATA TOLL DIALING PARITY.—

"(A) SEPARATE AFFILIATE; SAFEGUARDS.—Other than interLATA services authorized by an order entered by the United States District Court for the District of Columbia pursuant to the Modification of Final Judgment before the date of enactment of the Telecommunications Act of 1995, a Bell operating company, or any affiliate of such a company, providing interLATA services authorized under this subsection may provide such interLATA services in that market only in accordance with the requirements of section 252.

"(B) INTRALATA TOLL DIALING PARITY.—

"(i) A Bell operating company granted authority to provide interLATA services under this subsection shall provide intraLATA toll dialing parity throughout that market coincident with its exercise of that authority. If the Commission finds that such a Bell operating company has provided interLATA service authorized under this clause before its implementation of intraLATA toll dialing parity throughout that market, or fails to maintain intraLATA toll dialing parity throughout that market, the Commission, except in cases of inadvertent interruptions or other events beyond the control of the Bell operating company, shall suspend the authority to provide interLATA service for that market until the Commission determines that intraLATA toll dialing parity is implemented or reinstated.

"(ii) Except for single-LATA States and States which have issued an order by June 1, 1995 requiring a Bell operating company to implement toll dialing parity, a State may not require a Bell operating company to implement toll dialing parity in an intraLATA area before a Bell operating company has been granted authority under this subsection to provide interLATA services in that area or before three years after the date of enactment of the Telecommunications Act of 1995, whichever is earlier. Nothing in this clause precludes a State from issuing an order requiring toll dialing parity in an intraLATA area prior to either such date so long as such order does not take effect until after the earlier of either such dates.

"(iii) In any State in which intraLATA toll dialing parity has been implemented prior to the earlier date specified in clause (ii), no telecommunications carrier that serves greater than five percent of the Nation's presubscribed access lines may jointly market interLATA telecommunications services and intraLATA toll telecommunications services in a telephone exchange area in such State until a Bell operating company is authorized under this subsection to provide interLATA services in such telephone exchange area or until three years after the date of enactment of the Telecommunications Act of 1995, whichever is earlier.

"(d) OUT-OF-REGION SERVICES.—Effective on the date of enactment of the Telecommunications Act of 1995, a Bell operating company or its affiliate may provide interLATA telecommunications services originating in any area where such company is not the dominant provider of wireline telephone exchange service or exchange access service.

"(e) INCIDENTAL SERVICES.—

"(1) IN GENERAL.—Effective on the date of enactment of the Telecommunications Act of 1995, a Bell operating company or its affiliate may provide interLATA services that are incidental to—

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

"(ii) providing the capability for interaction by such subscribers to select or respond to such audio programming, video programming, or other programming services, to order, or control transmission of the programming, polling or balloting, and ordering other goods or services,

"(iii) 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, or

"(iv) providing alarm monitoring services,

"(B) providing—

"(i) a telecommunications service, using the transmission facilities of a cable system that is an affiliate of such company, between LATAs within a cable system franchise area in which such company is not, on the date of enactment of the Telecommunications Act of 1995, a provider of wireline telephone exchange service, or

"(ii) two-way interactive video services or Internet services over dedicated facilities to or for elementary and secondary schools as defined in section 264(d),

"(C) providing a service that permits a customer that is located in one LATA to retrieve stored information from, or file information for storage in, information storage facilities of such company that are located in another LATA area, so long as the customer acts affirmatively to initiate the storage or retrieval of information, except that—

"(i) such service shall not cover any service that establishes a direct connection between end users or any real-time voice and data transmission,

"(ii) such service shall not include voice, data, or facsimile distribution services in which the Bell operating company or affiliate forwards customer-supplied information to customer- or carrier-selected recipients,

"(iii) such service shall not include any service in which the Bell operating company or affiliate searches for and connects with the intended recipient of information, or any service in which the Bell operating company or affiliate automatically forwards stored voicemail or other information to the intended recipient, and

"(iv) customers of such service shall not be billed a separate charge for the interLATA telecommunications furnished in conjunction with the provision of such service,

"(D) providing signaling information used in connection with the provision of telephone exchange service or exchange access service to another local exchange carrier; or

"(E) 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 telephone exchange service or exchange access service.

"(2) LIMITATIONS.—The provisions of paragraph (1) are intended to be narrowly construed. The transmission facilities used by a Bell operating company or affiliate thereof to provide interLATA telecommunications under paragraph (1)(C) and subsection (f) shall be leased by that company from unaffiliated entities on terms and conditions (including price) no more favorable than those available to the competitors of that company until that Bell operating company receives authority to provide interLATA services under subsection (c). The interLATA services provided under paragraph (1)(A) are limited to those interLATA transmissions incidental to the provision by a Bell operating company or its affiliate of video, audio, and other programming services that the company or its affiliate is engaged in providing to the public. A Bell operating company may not provide telecommunications services not described in paragraph (1) without receiving the approvals required by subsection (c). The provision of services authorized under this subsection by a Bell operating company or its affiliate shall not adversely affect telephone exchange ratepayers or competition in any telecommunications market.

"(f) COMMERCIAL MOBILE SERVICE.—A Bell operating company may provide interLATA commercial mobile service except where such service is a replacement for land line telephone exchange service for a substantial portion of the land line telephone exchange service in a State in accordance with section 322(c) and with the regulations prescribed by the Commission.

"(g) DEFINITIONS.—As used in this section—

"(1) AUDIO PROGRAMMING SERVICES.—The term 'audio programming services' means programming provided by, or generally considered to be comparable to programming provided by, a radio broadcast station.

"(2) VIDEO PROGRAMMING SERVICES; OTHER PROGRAMMING SERVICES.—The terms 'video programming service' and 'other programming services' have the same meanings as such terms have under section 602 of this Act.

"(h) CERTAIN SERVICE APPLICATIONS TREATED AS IN-REGION SERVICE APPLICATIONS.—For purposes of this section, a Bell operating company application to provide 800 service, private line service, or their equivalents that—

"(1) terminate in an area where the Bell operating company is the dominant provider of wireline telephone exchange service or exchange access service, and

"(2) allow the called party to determine the interLATA carrier,

shall be considered an in-region service subject to the requirements of subsection (c) and not of subsection (d).".

(b) LONG DISTANCE ACCESS FOR COMMERCIAL MOBILE SERVICES.—

(1) IN GENERAL.—Notwithstanding any restriction or obligation imposed pursuant to the Modification of Final Judgment or other consent decree or proposed consent decree prior to the date of enactment of this Act, a person engaged in the provision of commercial mobile services (as defined in section 332(d)(1) of the Communications Act of 1934), insofar as such person is so engaged, shall not be required by court order or otherwise to provide equal access to interexchange telecommunications carriers, except as provided by this section. Such a person shall ensure that its subscribers can obtain unblocked access to the provider of interexchange services of the subscriber's choice through the use of an interexchange carrier identification code assigned to such provider, except that the requirements for unblocking shall not apply to mobile satellite services unless the Commission finds it to be in the public interest.

(2) EQUAL ACCESS REQUIREMENT CONDITIONS.—The Commission may only require a person engaged in the provision of commercial mobile services to provide equal access to interexchange carriers if—

(A) such person, insofar as such person is so engaged, is subject to the interconnection obligations of section 251(a) of the Communications Act of 1934, and

(B) the Commission finds that such requirement is in the public interest.

SEC. 222. REMOVAL OF MANUFACTURING RESTRICTIONS.

(a) IN GENERAL.—Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 255 the following new section:

"SEC. 256. REGULATION OF MANUFACTURING BY BELL OPERATING COMPANIES.

"(a) AUTHORIZATION.—

"(1) IN GENERAL.—Notwithstanding any restriction or obligation imposed before the date of enactment of the Telecommunications Act of 1995 pursuant to the Modification of Final Judgment on the lines of business in which a Bell operating company may engage, if the Commission authorizes a Bell operating company to provide interLATA services under section 255, then that company may be authorized by the Commission to manufacture and provide telecommunications equipment, and to manufacture customer premises equipment, at any time after that determination is made, subject to the requirements of this section and the regulations prescribed, except that neither a Bell operating company nor any of its affiliates may engage in such manufacturing in conjunction with a Bell operating company not so affiliated or any of its affiliates.

"(2) CERTAIN RESEARCH AND DESIGN ARRANGEMENTS; ROYALTY AGREEMENTS.—Upon adoption of rules by the Commission under section 252, a Bell operating company may—

"(A) engage in research and design activities related to manufacturing, and

"(B) enter into royalty agreements with manufacturers of telecommunications equipment.

"(b) SEPARATE AFFILIATE; SAFEGUARDS.—Any manufacturing or provision of equipment authorized under subsection (a) shall be conducted in accordance with the requirements of section 252.

"(c) PROTECTION OF SMALL TELEPHONE COMPANY INTERESTS.—

"(1) EQUIPMENT TO BE MADE AVAILABLE TO OTHERS.—A manufacturing affiliate of a Bell operating company shall make available, without discrimination or self-preference as to price, delivery, terms, or conditions, to all local exchange carriers, for use with the public telecommunications network, any telecommunications equipment, including software integral to such telecommunications equipment, including upgrades, manufactured by such affiliate if each such purchasing carrier—

"(A) does not manufacture telecommunications equipment or have an affiliate which manufactures telecommunications equipment; or

"(B) agrees to make available, to the Bell operating company that is the parent of the manufacturing affiliate or any of the local exchange carrier affiliates of such Bell company, any telecommunications equipment, including software integral to such telecommunications equipment, including upgrades, manufactured for use with the public telecommunications network by such purchasing carrier or by any entity or organization with which such purchasing carrier is affiliated.

"(2) NON-DISCRIMINATION STANDARDS.—

"(A) A Bell operating company and any entity acting on its behalf shall make procurement decisions and award all supply contracts for equipment, services, and software on the basis of open, competitive bidding, and an objective assessment of price, quality, delivery, and other commercial factors.

"(B) A Bell operating company and any entity it owns or otherwise controls, or which is acting on its behalf or on behalf of its affiliate, shall permit any person to participate fully on a non-discriminatory basis in the process of establishing standards and certifying equipment used in or interconnected to the public telecommunications network.

"(C) A Bell operating company shall, consistent with the antitrust laws, engage in joint network planning and design with local exchange carriers operating in the same area of interest. No participant in such planning shall be allowed to delay the introduction of new technology or the deployment of facilities to provide telecommunications services, and agreement with such other carriers shall not be required as a prerequisite for such introduction or deployment. A Bell operating company shall provide, to other local exchange carriers operating in the same area of interest, timely information on the planned deployment of telecommunications equipment, including software integral to such telecommunications equipment and upgrades of that software.

"(D) A manufacturing affiliate of a Bell operating company may not restrict sales to any local exchange carrier of telecommunications equipment, including software integral to the operation of such equipment and related upgrades.

"(E) A Bell operating company and any entity it owns or otherwise controls shall protect the proprietary information submitted with contract bids and in the standards and certification processes from release not specifically authorized by the owner of such information.

"(d) COLLABORATION WITH OTHER MANUFACTURERS.—A Bell operating company and its affiliates may engage in close collaboration with any manufacturer of customer premises equipment or telecommunications equipment not affiliated with a Bell operating company during the design and development of hardware, software, or combinations thereof relating to such equipment.

"(e) INFORMATION ON PROTOCOLS AND TECHNICAL REQUIREMENTS.—The Commission shall prescribe regulations to require that each Bell operating company shall 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. Such regulations shall require each such Bell company to 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.

"(f) ADDITIONAL RULES AND REGULATIONS.—The Commission may prescribe such additional rules and regulations as the Commission determines are necessary to carry out the provisions of this section, and otherwise to prevent discrimination and cross-subsidization in a Bell operating company's dealings with its affiliate and with third parties.

"(g) ADMINISTRATION AND ENFORCEMENT.—

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

"(2) CIVIL ACTIONS BY INJURED PARTIES.—Any party injured by an act or omission of a Bell operating company or its manufacturing affiliate which violates the requirements of paragraph (1) or (2) 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 party may seek relief from the Commission pursuant to sections 206 through 209.

"(h) APPLICATION TO BELL COMMUNICATIONS RESEARCH.—Nothing in this section—

"(1) provides any authority for Bell Communications Research, or any successor entity, to manufacture or provide telecommunications equipment or to manufacture customer premises equipment; or

"(2) prohibits Bell Communications Research, or any successor entity, from engaging in any activity in which it is lawfully engaged on the date of enactment of the Telecommunications Act of 1995, including providing a centralized organization for the provision of engineering, administrative, and other services (including serving as a single point of contact for coordination of the Bell operating companies to meet national security and emergency preparedness requirements).

"(i) DEFINITIONS.—As used in this section—

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

"(2) The term 'manufacturing' has the same meaning as such term has in the Modification of Final Judgment.

"(3) The term 'telecommunications equipment' means equipment, other than customer premises equipment, used by a carrier to provide telecommunications services.".

(b) EFFECT ON PRE-EXISTING MANUFACTURING AUTHORITY.—Nothing in this section, or in section 256 of the Communications Act of 1934 as added by this section, prohibits 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 Act.

SEC. 223. EXISTING ACTIVITIES.

Nothing in this Act, or any amendment made by this Act, prohibits a Bell operating company from engaging, at any time after the date of enactment of this Act, in any activity 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 such order was entered on or before the date of enactment of this Act.

SEC. 224. ENFORCEMENT.

(a) IN GENERAL.—Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 256 the following:

"SEC. 257. ENFORCEMENT.

"(a) IN GENERAL.—In addition to any penalty, fine, or other enforcement remedy under this Act, the failure by a telecommunications carrier to implement the requirements of section 251 or 255, including a failure to comply with the terms of an interconnection agreement approved under section 251, is punishable by a civil penalty of not to exceed $1,000,000 per offense. Each day of a continuing offense shall be treated as a separate violation for purposes of levying any penalty under this subsection.

"(b) NONCOMPLIANCE WITH INTERCONNECTION OR SEPARATE SUBSIDIARY REQUIREMENTS.—

"(1) A Bell operating company that repeatedly, knowingly, and without reasonable cause fails to implement an interconnection agreement approved under section 251, to comply with the requirements of such agreement after implementing them, or to comply with the separate affiliate requirements of this part may be fined up to $500,000,000 by a district court of the United States of competent jurisdiction.

"(2) A Bell operating company that repeatedly, knowingly, and without reasonable cause fails to meet its obligations under section 255 for the provision of interLATA service may have its authority to provide any service suspended if its right to provide that service is conditioned upon its meeting those obligations.

"(c) ENFORCEMENT BY PRIVATE RIGHT OF ACTION.—

"(1) DAMAGES.—Any person who is injured in its business or property by reason of a violation of section 251 or 255 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.

"(2) INTEREST.—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) PAYMENT OF CIVIL PENALTIES, DAMAGES, OR INTEREST.—No civil penalties, damages, or interest assessed against any local exchange carrier as a result of a violation referred to in this section will be charged directly or indirectly to that company's rate payers.".

(b) CERTAIN BROADCASTS.—Section 1307(a)(2) of title 18, United States Code, is amended—

(1) by striking "or" after the semicolon at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting a semicolon and "or"; and

(3) by adding at the end thereof the following:

"(C) conducted by a commercial organization and is contained in a publication published in a State in which such activities or the publication of such activities are authorized or not otherwise prohibited, or broadcast by a radio or television station licensed in a State in which such activities or the broadcast of such activities are authorized or not otherwise prohibited.".

SEC. 225. ALARM MONITORING SERVICES.

Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 257 the following new section:

"SEC. 258. REGULATION OF ENTRY INTO ALARM MONITORING SERVICES.

"(a) IN GENERAL.—Except as provided in this section, a Bell operating company, or any affiliate of that company, may not provide alarm monitoring services for the protection of life, safety, or property. A Bell operating company may transport alarm monitoring service signals on a common carrier basis only.

"(b) AUTHORITY TO PROVIDE ALARM MONITORING SERVICES.—Beginning 4 years after the date of enactment of the Telecommunications Act of 1995, a Bell operating company may provide alarm monitoring services for the protection of life, safety, or property if it has been authorized to provide interLATA services under section 255 unless the Commission finds that the provision of alarm monitoring services by such company is not in the public interest. The Commission may not find that provision of alarm monitoring services by a Bell operating company is in the public interest until it finds that it has the capability effectively to enforce any requirements, limitations, or conditions that may be placed upon a Bell operating company in the provision of alarm monitoring services, including the regulations prescribed under subsection (c).

"(c) REGULATIONS REQUIRED.—

"(1) Not later than 1 year after the date of enactment of the Telecommunications Act of 1995, the Commission shall prescribe regulations—

"(A) to establish such requirements, limitations, or conditions as are—

"(i) necessary and appropriate in the public interest with respect to the provision of alarm monitoring services by Bell operating companies and their affiliates, and

"(ii) effective at such time as a Bell operating company or any of its subsidiaries or affiliates is authorized to provide alarm monitoring services; and

"(B) 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.

"(2) A Bell operating company, its affiliates, and any local exchange carrier are prohibited from recording or using in any fashion the occurrence or 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, the local exchange carrier, or any other entity. Any regulations necessary to enforce this paragraph shall be issued initially within 6 months after the date of enactment of the Telecommunications Act of 1995.

"(d) EXPEDITED CONSIDERATION OF COMPLAINTS.—The procedures established under subsection (c) 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 subsidiaries and affiliates from continuing to engage in such violation pending such final determination.

"(e) REMEDIES.—The Commission may use any remedy available under title V of this Act to terminate and to impose sanctions on violations described in subsection (c). Such remedies may include, if the Commission determines that such violation was willful or repeated, ordering the Bell operating company or its affiliate to cease offering alarm monitoring services.

"(f) SAVINGS PROVISION.—Subsections (a) and (b) do not prohibit or limit the provision of alarm monitoring services by a Bell operating company or an affiliate that was engaged in providing those services as of June 1, 1995, to the extent that such company—

"(1) continues to provide those services through the affiliate through which it was providing them on that date; and

"(2) does not acquire, directly or indirectly, an equity interest in another entity engaged in providing alarm monitoring services.

"(g) ALARM MONITORING SERVICES DEFINED.—As used in this section, the term 'alarm monitoring services' means services that detect threats to life, safety, or property by burglary, fire, vandalism, bodily injury, or other emergency through the use of devices that transmit signals to a central point in a customer's residence, place of business, or other fixed premises which—

"(1) retransmits such signals to a remote monitoring center by means of telecommunications facilities of the Bell operating company and any subsidiary or affiliate; and

"(2) serves to alert persons at the monitoring center of the need to inform customers, other persons, or police, fire, rescue, or other security or public safety personnel of the threat at such premises.

Such term does not include medical monitoring devices attached to individuals for the automatic surveillance of ongoing medical conditions.".

SEC. 226. NONAPPLICABILITY OF MODIFICATION OF FINAL JUDGMENT.

Notwithstanding any other provision of law or of any judicial order, no person shall be subject to the provisions of the Modification of Final Judgment solely by reason of having acquired commercial mobile service or private mobile service assets or operations previously owned by a Bell operating company or an affiliate of a Bell operating company.

TITLE III—AN END TO REGULATION

SEC. 301. TRANSITION TO COMPETITIVE PRICING.

(a) PRICING FLEXIBILITY.—

(1) IN GENERAL.—The Commission and the States shall provide to telecommunications carriers price flexibility in the rates charged consumers for the provision of telecommunications services within one year after the date of enactment of this Act. The Commission or a State may establish the rate consumers may be charged for services included in the definition of universal service, as well as the contribution, if any, that all carriers must contribute for the preservation and advancement of universal service. Pricing

flexibility implemented pursuant to this section for the purpose of allowing a regulated telecommunications provider to respond to competition by repricing services subject to competition shall not have the effect of using noncompetitive services to subsidize competitive services.

(2) CONSUMER PROTECTION.—The Commission and the States shall ensure that rates for telephone service remain just, reasonable, and affordable as competition develops for telephone exchange service and telephone exchange access service. Until sufficient competition exists in a market, the Commission or a State may establish the rate that a carrier may charge for any such service if such rate is necessary for the protection of consumers. Any such rate shall cease to be regulated whenever the Commission or a State determines that it is no longer necessary for the protection of consumers. The Commission shall establish cost allocation guidelines for facilities owned by an essential telecommunications carrier that are used for the provision of both services included in the definition of universal service and video programming sold by such carrier directly to subscribers, if such allocation is necessary for the protection of consumers.

(3) RATE-OF-RETURN REGULATION ELIMINATED.—

(A) In instituting the price flexibility required under paragraph (1) the Commission and the States shall establish alternative forms of regulation for Tier 1 telecommunications carriers that do not include regulation of the rate of return earned by such carrier as part of a plan that provides for any or all of the following—

(i) the advancement of competition in the provision of telecommunications services;

(ii) improvements in productivity;

(iii) improvements in service quality;

(iv) measures to ensure customers of noncompetitive services do not bear the risks associated with the provision of competitive services;

(v) enhanced telecommunications services for educational institutions; or

(vi) any other measures Commission or a State, as appropriate, determines to be in the public interest.

(B) The Commission or a State, as appropriate, may apply such alternative forms of regulation to any other telecommunications carrier that is subject to rate of return regulation under this Act.

(C) Any such alternative form of regulation—

(i) shall be consistent with the objectives of preserving and advancing universal service, guaranteeing high quality service, ensuring just, reasonable, and affordable rates, and encouraging economic efficiency; and

(ii) shall meet such other criteria as the Commission or a State, as appropriate, finds to be consistent with the public interest, convenience, and necessity.

(D) Nothing in this section shall prohibit the Commission, for interstate services, and the States, for intrastate services, from considering the profitability of telecommunications carriers when using alternative forms of regulation other than rate of return regulation (including price regulation and incentive regulation) to ensure that regulated rates are just and reasonable.

(b) TRANSITION PLAN REQUIRED.—If the Commission or a State adopts rules for the distribution of support payments under section 253 of the Communications Act of 1934, as amended by this Act, such rules shall include a transition plan to allow essential telecommunications carriers to provide for an orderly transition from the universal service support mechanisms in existence upon the date of enactment of this Act and the support mechanisms established by the Commission and the States under this Act or the Communications Act of 1934 as amended by this Act. Any such transition plan shall—

(1) provide a phase-in of the price flexibility requirements under subsection (a) for an essential telecommunications carrier that is also a rural telephone company; and

(2) require the United States Government and the States, where permitted by law, to modify any regulatory requirements (including conditions for the repayment of loans and the depreciation of assets) applicable to carriers designated as essential telecommunications carriers in order to more accurately reflect the conditions that would be imposed in a competitive market for similar assets or services.

(c) DUTY TO PROVIDE SUBSCRIBER LIST INFORMATION.—

(1) IN GENERAL.—A carrier that provides local exchange telephone service shall provide subscriber list information gathered in its capacity as a provider of such service on a timely and unbundled basis, under nondiscriminatory and reasonable rates, terms, and conditions, to any person requesting such information for the purpose of publishing directories in any format.

(2) SUBSCRIBER LIST INFORMATION DEFINED.—As used in this subsection, the term "subscriber list information" means any information—

(A) identifying the listed names of subscribers of a carrier and such subscribers' listed telephone numbers, addresses, or primary advertising classifications, as such classifications are assigned at the time of the establishment of service, or any combination of such names, numbers, addresses, or classifications; and

(B) that the carrier or an affiliate has published, caused to be published, or accepted for publication in a directory in any format.

(d) CONFIDENTIALITY.—A telecommunications carrier has a duty to protect the confidentiality of proprietary information of, and relating to, other common carriers and customers, including common carriers reselling the telecommunications services provided by a telecommunications carrier. A telecommunications carrier that receives such information from another carrier for purposes of provisioning, billing, or facilitating the resale of its service shall use such information only for such purpose, and shall not use such information for its own marketing efforts. Nothing in this subsection prohibits a carrier from using customer information obtained from its customers, either directly or indirectly through its agents—

(1) to provide, market, or bill for its services; or

(2) to perform credit evaluations on existing or potential customers.

(e) REGULATORY RELIEF.—

(1) STREAMLINED PROCEDURES FOR CHANGES IN CHARGES, CLASSIFICATIONS, REGULATIONS, OR PRACTICES.—

(A) Section 204(a) (47 U.S.C. 204(a)) is amended—

(i) by striking "12 months" the first place it appears in paragraph (2)(A) and inserting "5 months";

(ii) by striking "effective," and all that follows in paragraph (2)(A) and inserting "effective."; and

(iii) by adding at the end thereof the following:

"(3) A local exchange carrier may file with the Commission a new or revised charge, classification, regulation, or practice on a streamlined basis. Any such charge, classification, regulation, or practice shall be deemed lawful and shall be effective 7 days (in the case of a reduction in rates) or 15 days (in the case of an increase in rates) after the date on which it is filed with the Commission unless the Commission takes action under paragraph (1) before the end of that 7-day or 15-day period, as is appropriate.".

(B) Section 208(b) (47 U.S.C. 208(b)) is amended—

(i) by striking "12 months" the first place it appears in paragraph (1) and inserting "5 months"; and

(ii) by striking "filed," and all that follows in paragraph (1) and inserting "filed.".

(2) EXTENSIONS OF LINES UNDER SECTION 214; ARMIS REPORTS.—Notwithstanding section 305, the Commission shall permit any local exchange carrier—

(A) to be exempt from the requirements of section 214 of the Communications Act of 1934 for the extension of any line; and

(B) to file cost allocation manuals and ARMIS reports annually, to the extent such carrier is required to file such manuals or reports.

(3) FOREBEARANCE AUTHORITY NOT LIMITED.—Nothing in this subsection shall be construed to limit the authority of the Commission or a State to waive, modify, or forebear from applying any of the requirements to which reference is made in paragraph (1) under any other provision of this Act or other law.

SEC. 302. BIENNIAL REVIEW OF REGULATIONS; ELIMINATION OF UNNECESSARY REGULATIONS AND FUNCTIONS.

(a) BIENNIAL REVIEW.—Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 258 the following new section:

"SEC. 259. REGULATORY REFORM.

"(a) BIENNIAL REVIEW OF REGULATIONS.—In every odd-numbered year (beginning with 1997), the Commission, with respect to its regulations under this Act, and a Federal-State Joint Board established under section 410, for State regulations—

"(1) shall review all regulations issued under this Act, or under State law, in effect at the time of the review that apply to operations or activities of providers of any telecommunications services; and

"(2) shall determine whether any such regulation is no longer necessary in the public interest as the result of meaningful economic competition between the providers of such service.

"(b) EFFECT OF DETERMINATION.—The Commission shall repeal any regulation it determines to be no longer necessary in the public interest. The Joint Board shall notify the Governor of any State of any State regulation it determines to be no longer necessary in the public interest.

"(c) CLASSIFICATION OF CARRIERS.—In classifying carriers according to 47 CFR 32.11 and in establishing reporting requirements pursuant to 47 CFR part 43 and 47 CFR 64.903, the Commission shall adjust the revenue requirements to account for inflation as of the release date of the Commission's Report and Order in CC Docket No. 91-141, and annually thereafter. This subsection shall take effect on the date of enactment of the Telecommunications Act of 1995.".

(b) ELIMINATION OF UNNECESSARY COMMISSION REGULATIONS AND FUNCTIONS.—

(1) REPEAL SETTING OF DEPRECIATION RATES.—The first sentence of section 220(b) (47 U.S.C. 220(b)) is amended by striking

"shall prescribe for such carriers" and inserting "may prescribe, for such carriers as it determines to be appropriate,".

(2) USE OF INDEPENDENT AUDITORS.—Section 220(c) (47 U.S.C. 220(c)) is amended by adding at the end thereof the following: "The Commission may obtain the services of any person licensed to provide public accounting services under the law of any State to assist with, or conduct, audits under this section. While so employed or engaged in conducting an audit for the Commission under this section, any such person shall have the powers granted the Commission under this subsection and shall be subject to subsection (f) in the same manner as if that person were an employee of the Commission.".

(3) SIMPLIFICATION OF FEDERAL-STATE COORDINATION PROCESS.—The Commission shall simplify and expedite the Federal-State coordination process under section 410 of the Communications Act of 1934.

(4) PRIVATIZATION OF SHIP RADIO INSPECTIONS.—Section 385 (47 U.S.C. 385) is amended by adding at the end thereof the following: "In accordance with such other provisions of law as apply to Government contracts, the Commission may enter into contracts with any person for the purpose of carrying out such inspections and certifying compliance with those requirements, and may, as part of any such contract, allow any such person to accept reimbursement from the license holder for travel and expense costs of any employee conducting an inspection or certification.".

(5) MODIFICATION OF CONSTRUCTION PERMIT REQUIREMENT.—Section 319(d) (47 U.S.C. 319(d)) is amended by striking the third sentence and inserting the following: "The Commission may waive the requirement for a construction permit with respect to a broadcasting station in circumstances in which it deems prior approval to be unnecessary. In those circumstances, a broadcaster shall file any related license application within 10 days after completing construction.".

(6) LIMITATION ON SILENT STATION AUTHORIZATIONS.—Section 312 (47 U.S.C. 312) is amended by adding at the end the following:

"(g) If a broadcasting station fails to transmit broadcast signals for any consecutive 12-month period, then the station license granted for the operation of that broadcast station expires at the end of that period, notwithstanding any provision, term, or condition of the license to the contrary.".

(7) EXPEDITING INSTRUCTIONAL TELEVISION FIXED SERVICE PROCESSING.—The Commission shall delegate, under section 5(c) of the Communications Act of 1934, the conduct of routine instructional television fixed service cases to its staff for consideration and final action.

(8) DELEGATION OF EQUIPMENT TESTING AND CERTIFICATION TO PRIVATE LABORATORIES.—Section 302 (47 U.S.C. 302) is amended by adding at the end the following:

"(e) The Commission may—

"(1) authorize the use of private organizations for testing and certifying the compliance of devices or home electronic equipment and systems with regulations promulgated under this section;

"(2) accept as prima facie evidence of such compliance the certification by any such organization; and

"(3) establish such qualifications and standards as it deems appropriate for such private organizations, testing, and certification.".

(9) MAKING LICENSE MODIFICATION UNIFORM.—Section 303(f) (47 U.S.C. 303(f)) is amended by striking "unless, after a public hearing," and inserting "unless".

(10) PERMIT OPERATION OF DOMESTIC SHIP AND AIRCRAFT RADIOS WITHOUT LICENSE.—Section 307(e) (47 U.S.C. 307(e)) is amended by—

(A) striking "service and the citizens band radio service" in paragraph (1) and inserting "service, citizens band radio service, domestic ship radio service, domestic aircraft radio service, and personal radio service"; and

(B) striking "service' and 'citizens band radio service'" in paragraph (3) and inserting "service', 'citizens band radio service', 'domestic ship radio service', 'domestic aircraft radio service', and 'personal radio service'".

(11) EXPEDITED LICENSING FOR FIXED MICROWAVE SERVICE.—Section 309(b)(2) (47 U.S.C. 309(b)(2)) is amended by striking subparagraph (A) and redesignating subparagraphs (B) through (G) as (A) through (F), respectively.

(12) ELIMINATE FCC JURISDICTION OVER GOVERNMENT-OWNED SHIP RADIO STATIONS.—

(A) Section 305 (47 U.S.C. 305) is amended by striking subsection (b) and redesignating subsections (c) and (d) as (b) and (c), respectively.

(B) Section 382(2) (47 U.S.C. 382(2)) is amended by striking "except a vessel of the United States Maritime Administration, the Inland and Coastwise Waterways Service, or the Panama Canal Company,".

(13) MODIFICATION OF AMATEUR RADIO EXAMINATION PROCEDURES.—

(A) Section 4(f)(H)(N) (47 U.S.C. 4(f)(4)(B)) is amended by striking "transmissions, or in the preparation or distribution of any publication used in preparation for obtaining amateur station operator licenses," and inserting "transmission".

(B) The Commission shall modify its rules governing the amateur radio examination process by eliminating burdensome record maintenance and annual financial certification requirements.

(14) STREAMLINE NON-BROADCAST RADIO LICENSE RENEWALS.—The Commission shall modify its rules under section 309 of the Communications Act of 1934 (47 U.S.C. 309) relating to renewal of nonbroadcast radio licenses so as to streamline or eliminate comparative renewal hearings where such hearings are unnecessary or unduly burdensome.

SEC. 303. REGULATORY FORBEARANCE.

Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 259 the following new section:

"SEC. 260. COMPETITION IN PROVISION OF TELECOMMUNICATIONS SERVICE.

"(a) REGULATORY FLEXIBILITY.—Notwithstanding section 332(c)(1)(A) of this Act, the Commission shall forbear from applying any regulation or any provision of this Act to a telecommunications carrier or service, or class of carriers or services, in any or some of its or their geographic markets if the Commission determines that—

"(1) enforcement of such regulation or provision is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that carrier or service are just and reasonable and are not unjustly or unreasonably discriminatory;

"(2) enforcement of such regulation or provision is not necessary for the protection of consumers or the preservation and advancement of universal service; and

"(3) forbearance from applying such regulation or provision is consistent with the public interest.

"(b) COMPETITIVE EFFECT TO BE WEIGHED.—In making the determination under subsection (a)(3), the Commission shall consider whether forbearance from enforcing the regulation or provision will promote competitive market conditions, including the extent to which such forbearance will enhance competition among providers of telecommunications services. If the Commission determines that such forbearance will promote competition among providers of telecommunications services, that determination may be the basis for a Commission finding that forbearance is in the public interest.

"(c) END OF REGULATION PROCESS.—Any telecommunications carrier, or class of telecommunications carriers, may submit a petition to the Commission requesting that the Commission exercise the authority granted under this section with respect to that carrier or those carriers, or any service offered by that carrier or carriers. Any such petition shall be deemed granted if the Commission does not deny the petition for failure to meet the requirements for forebearance under subsection (a) within 90 days after the Commission receives it, unless the 90-day period is extended by the Commission. The Commission may extend the initial 90-day period by an additional 60 days if the Commission finds that an extension is necessary to meet the requirements of subsection (a). The Commission may grant or deny a petition in whole or in part and shall explain its decision in writing.

"(d) LIMITATION.—Except as provided in section 251(i)(3), the Commission may not waive the unbundling requirements of section 251(b) or 255(b)(2) under subsection (a) until it determines that those requirements have been fully implemented.".

SEC. 304. ADVANCED TELECOMMUNICATIONS INCENTIVES.

(a) IN GENERAL.—The Commission and each State commission with regulatory jurisdiction over telecommunications services shall encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans (including, in particular, elementary and secondary schools and classrooms) by utilizing, in a manner consistent with the public interest, convenience, and necessity, price cap regulation, regulatory forbearance, or other regulating methods that remove barriers to infrastructure investment.

(b) INQUIRY.—The Commission shall, within 2 years after the date of enactment of this Act, and regularly thereafter, initiate a notice of inquiry concerning the availability of advanced telecommunications capability to all Americans (including, in particular, elementary and secondary schools and classrooms) and shall complete the inquiry within 180 days after its initiation. In the inquiry, the Commission shall determine whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion. If the Commission's determination is negative, it shall take immediate action under this section, and it may preempt State commissions that fail to act to ensure such availability.

(c) DEFINITIONS.—For purposes of this section—

(1) COMMUNICATIONS ACT TERMS.—Any term used in this section which is defined in the Communications Act of 1934 shall have the same meaning as it has in that Act.

(2) ADVANCED TELECOMMUNICATIONS CAPABILITY.—The term "advanced telecommunications capability" means high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications.

(3) ELEMENTARY AND SECONDARY SCHOOLS.—The term "elementary and secondary schools" means elementary schools and secondary schools, as defined in paragraphs (14)

and (25), respectively, of section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

SEC. 305. REGULATORY PARITY.

Within 3 years after the date of enactment of this Act, and periodically thereafter, the Commission shall—

(1) issue such modifications or terminations of the regulations applicable to persons offering telecommunications or information services under title II, III, or VI of the Communications Act of 1934 as are necessary to implement the changes in such Act made by this Act;

(2) in the regulations that apply to integrated telecommunications service providers, take into account the unique and disparate histories associated with the development and relative market power of such providers, making such modifications and adjustments as are necessary in the regulation of such providers as are appropriate to enhance competition between such providers in light of that history; and

(3) provide for periodic reconsideration of any modifications or terminations made to such regulations, with the goal of applying the same set of regulatory requirements to all integrated telecommunications service providers, regardless of which particular telecommunications or information service may have been each provider's original line of business.

SEC. 306. AUTOMATED SHIP DISTRESS AND SAFETY SYSTEMS.

Notwithstanding any provision of the Communications Act of 1934 or any other provision of law or regulation, 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 telegraphy station operated by one or more radio officers or operators. This section shall take effect for each vessel upon a determination by the United States Coast Guard that such vessel has the equipment required to implement the Global Maritime Distress and Safety System installed and operating in good working condition.

SEC. 307. TELECOMMUNICATIONS NUMBERING ADMINISTRATION.

Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 260 the following new section:

"SEC. 261. TELECOMMUNICATIONS NUMBERING ADMINISTRATION.

"(a) INTERIM NUMBER PORTABILITY.—In connection with any interconnection agreement reached under section 251 of this Act, a local exchange carrier shall make available interim telecommunications number portability, upon request, beginning on the date of enactment of the Telecommunications Act of 1995.

"(b) FINAL NUMBER PORTABILITY.—In connection with any interconnection agreement reached under section 251 of this Act, a local exchange carrier shall make available final telecommunications number portability, upon request, when the Commission determines that final telecommunications number portability is technically feasible.

"(c) NEUTRAL ADMINISTRATION OF NUMBERING PLANS.—

"(1) NATIONWIDE NEUTRAL NUMBER SYSTEM COMPLIANCE.— A telecommunications carrier providing telephone exchange service shall comply with the guidelines, plan, or rules established by an impartial entity designated or created by the Commission for the administration of a nationwide neutral number system.

"(2) OVERLAY OF AREA CODES NOT PERMITTED.—All telecommunications carriers providing telephone exchange service in the same telephone service area shall be permitted to use the same numbering plan area code under such guideline, plan, or rules.

"(d) COSTS.—The cost of establishing neutral number administration arrangements and number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission.".

SEC. 308. ACCESS BY PERSONS WITH DISABILITIES.

(a) IN GENERAL.—Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 261 the following new section:

"SEC. 262. ACCESS BY PERSONS WITH DISABILITIES.

"(a) DEFINITIONS.—As used in this section—

"(1) DISABILITY.—The term 'disability' has the meaning given to it by section 3(2)(A) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(2)(A)).

"(2) READILY ACHIEVABLE.—The term 'readily achievable' has the meaning given to it by section 301(9) of that Act (42 U.S.C. 12181(9)).

"(b) MANUFACTURING.—A manufacturer of telecommunications equipment and customer premises equipment shall ensure that the equipment is designed, developed, and fabricated to be accessible to and usable by individuals with disabilities, if readily achievable.

"(c) TELECOMMUNICATIONS SERVICES.—A provider of telecommunications service shall ensure that the service is accessible to and usable by individuals with disabilities, if readily achievable.

"(d) COMPATIBILITY.—Whenever the requirements of subsections (b) and (c) are not readily achievable, such a manufacturer or provider shall ensure that the equipment or service is compatible with existing peripheral devices or specialized customer premises equipment commonly used by individuals with disabilities to achieve access, if readily achievable.

"(e) GUIDELINES.—Within 18 months after the date of enactment of the Telecommunications Act of 1995, the Architectural and Transportation Barriers Compliance Board shall develop guidelines for accessibility of telecommunications equipment and customer premises equipment in conjunction with the Commission, the National Telecommunications and Information Administration and the National Institute of Standards and Technology. The Board shall review and update the guidelines periodically.

"(f) CLOSED CAPTIONING.—

"(1) IN GENERAL.—The Commission shall ensure that—

"(A) video programming is accessible through closed captions, if readily achievable, except as provided in paragraph (2); and

"(B) video programming providers or owners maximize the accessibility of video programming previously published or exhibited through the provision of closed captions, if readily achievable, except as provided in paragraph (2).

"(2) EXEMPTIONS.—Notwithstanding paragraph (1)—

"(A) the Commission may exempt programs, classes of programs, locally produced programs, providers, classes of providers, or services for which the Commission has determined that the provision of closed captioning would not be readily achievable to the provider or owner of such programming;

"(B) 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 a binding contract in effect on the date of enactment of the Telecommunications Act of 1995 for the remaining term of that contract (determined without regard to any extension of such term), except that nothing in this subparagraph relieves a video programming provider of its obligation to provide services otherwise required by Federal law; and

"(C) a provider of video programming or a program owner may petition the Commission for an exemption from the requirements of this section, and the Commission may grant such a petition upon a showing that the requirements contained in this section would not be readily achievable.

"(g) REGULATIONS.—The Commission shall, not later than 24 months after the date of enactment of the Telecommunications Act of 1995, prescribe regulations to implement this section. The regulations shall be consistent with the guidelines developed by the Architectural and Transportation Barriers Compliance Board in accordance with subsection (e).

"(h) ENFORCEMENT.—The Commission shall enforce this section. The Commission shall resolve, by final order, a complaint alleging a violation of this section within 180 days after the date on which the complaint is filed with the Commission.".

(b) VIDEO DESCRIPTION.—Within 18 months after the date of enactment of this Act, the Commission shall commence a study of the feasibility of requiring the use of video descriptions on video programming in order to ensure the accessibility of video programming to individuals with visual impairments. For purposes of this subsection, the term "video description" means the insertion of audio narrative descriptions of a television program's key visual elements into natural pauses between the program's dialogue.

SEC. 309. RURAL MARKETS.

Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 262 the following new section:

"SEC. 263. RURAL MARKETS.

"(a) STATE AUTHORITY IN RURAL MARKETS.—Except as provided in section 251(1)(3), a State may not waive or modify any requirements of section 251, but may adopt statutes or regulations that are no more restrictive than—

"(1) to require an enforceable commitment by each competing provider of telecommunications service to offer universal service comparable to that offered by the rural telephone company currently providing service in that service area, and to make such service available within 24 months of the approval date to all consumers throughout that service area on a common carrier basis, either using the applicant's facilities or through its own facilities and resale of services using another carrier's facilities (including the facilities of the rural telephone company), and subject to the same terms, conditions, and rate structure requirements as those applicable to the rural telephone company currently providing universal service;

"(2) to require that the State must approve an application by a competing telecommunications carrier to provide services in a market served by a rural telephone company and that approval be based on sufficient written public findings and conclusions to demonstrate that such approval is in the public interest and that there will not be a significant adverse impact on users of telecommunications services or on the provision of universal service;

"(3) to encourage the development and deployment of advanced telecommunications and information infrastructure and services in rural areas; or

"(4) to protect the public safety and welfare, ensure the continued quality of telecommunications and information services, or safeguard the rights of consumers.

"(b) PREEMPTION.—Upon a proper showing, the Commission may preempt any State statute or regulation that the Commission finds to be inconsistent with the Commission's regulations implementing this section, or an arbitrary or unreasonably discriminatory application of such statute or regulation. The Commission shall act upon any bona fide petition filed under this subsection within 180 days of receiving such petition. Pending such action, the Commission may, in the public interest, suspend or modify application of any statute or regulation to which the petition applies.".

SEC. 310. TELECOMMUNICATIONS SERVICES FOR HEALTH CARE PROVIDERS FOR RURAL AREAS, EDUCATIONAL PROVIDERS, AND LIBRARIES.

Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 263 the following:

"SEC. 264. TELECOMMUNICATIONS SERVICES FOR CERTAIN PROVIDERS.

"(a) IN GENERAL.—

"(1) HEALTH CARE PROVIDERS FOR RURAL AREAS.—A telecommunications carrier shall, upon receiving a bona fide request, provide telecommunications services which are necessary for the provision of health care services, including instruction relating to such services, at rates that are reasonably comparable to rates charged for similar services in urban areas to any public or nonprofit health care provider that serves persons who reside in rural areas. A telecommunications carrier providing service pursuant to this paragraph shall be entitled to have an amount equal to the difference, if any, between the price for services provided to health care providers for rural areas and the price for similar services provided to other customers in comparable urban areas treated as a service obligation as a part of its obligation to participate in the mechanisms to preserve and advance universal service under section 253(c).

"(2) EDUCATIONAL PROVIDERS AND LIBRARIES.—All telecommunications carriers serving a geographic area shall, upon a bona fide request, provide to elementary schools, secondary schools, and libraries universal services (as defined in section 253) that permit such schools and libraries to provide or receive telecommunications services for educational purposes at rates less than the amounts charged for similar services to other parties. The discount shall be an amount that the Commission and the States determine is appropriate and necessary to ensure affordable access to and use of such telecommunications by such entities. A telecommunications carrier providing service pursuant to this paragraph shall be entitled to have an amount equal to the amount of the discount treated as a service obligation as part of its obligation to participate in the mechanisms to preserve and advance universal service under section 253(c).

"(b) UNIVERSAL SERVICE MECHANISMS.—The Commission shall include consideration of the universal service provided to public institutional telecommunications users in any universal service mechanism it may establish under section 253.

"(c) ADVANCED SERVICES.—The Commission shall establish rules—

"(1) to enhance, to the extent technically feasible and economically reasonable, the availability of advanced telecommunications and information services to all public and nonprofit elementary and secondary school classrooms, health care providers, and libraries;

"(2) to ensure that appropriate functional requirements or performance standards, or both, including interconnection standards, are established for telecommunications carriers that connect such public institutional telecommunications users with the public switched network;

"(3) to define the circumstances under which a telecommunications carrier may be required to connect its network to such public institutional telecommunications users; and

"(4) to address other matters as the Commission may determine.

"(d) DEFINITIONS.—

"(1) ELEMENTARY AND SECONDARY SCHOOLS.—The term 'elementary and secondary schools' means elementary schools and secondary schools, as defined in paragraphs (14) and (25), respectively, of section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

"(2) UNIVERSAL SERVICE.—The Commission may in the public interest provide a separate definition of universal service under section 253(b) for application only to public institutional telecommunications users.

"(3) HEALTH CARE PROVIDER.—The term 'health care provider' means—

"(A) Post-secondary educational institutions, teaching hospitals, and medical schools.

"(B) Community health centers or health centers providing health care to migrants.

"(C) Local health departments or agencies.

"(D) Community mental health centers.

"(E) Not-for-profit hospitals.

"(F) Rural health clinics.

"(G) Consortia of health care providers consisting of one or more entities described in subparagraphs (A) through (F).

"(4) PUBLIC INSTITUTIONAL TELECOMMUNICATIONS USER.—The term 'public institutional telecommunications user' means an elementary or secondary school, a library, or a health care provider as those terms are defined in this subsection.

"(e) TERMS AND CONDITIONS.—Telecommunications services and network capacity provided under this section may not be sold, resold, or otherwise transferred in consideration for money or any other thing of value.

"(f) ELIGIBILITY OF COMMUNITY USERS.—No entity listed in this section shall be entitled for preferential rates or treatment as required by this section, if such entity operates as a for-profit business, is a school as defined in section 264(d)(1) with an endowment of more than $50,000,000, or is a library not eligible for participation in State-based plans for Library Services and Construction Act Title III funds.".

SEC. 311. PROVISION OF PAYPHONE SERVICE AND TELEMESSAGING SERVICE.

Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by adding after section 264 the following new section:

"SEC. 265. PROVISION OF PAYPHONE SERVICE AND TELEMESSAGING SERVICE.

"(a) NONDISCRIMINATION SAFEGUARDS.—Any Bell operating company that provides payphone service or telemessaging service—

"(1) shall not subsidize its payphone service or telemessaging service directly or indirectly with revenue from its telephone exchange service or its exchange access service; and

"(2) shall not prefer or discriminate in favor of its payphone service or telemessaging service.

"(b) DEFINITIONS.—As used in this section—

"(1) The term 'payphone service' means the provision of telecommunications service through public or semi-public pay telephones, and includes the provision of service to inmates in correctional institutions.

"(2) The term 'telemessaging service' means voice mail and voice storage and retrieval services, any live operator services used to record, transcribe, or relay messages (other than telecommunications relay services), and any ancillary services offered in combination with these services.

"(c) REGULATIONS.—Not later than 18 months after the date of enactment of the Telecommunications Act of 1995, the Commission shall complete a rulemaking proceeding to prescribe regulations to carry out this section. In that rulemaking proceeding, the Commission shall determine whether, in order to enforce the requirements of this section, it is appropriate to require the Bell operating companies to provide payphone service or telemessaging service through a separate subsidiary that meets the requirements of section 252.".

SEC. 312. DIRECT BROADCAST SATELLITE.

(a) DBS SIGNAL SECURITY.—Section 705(e)(4) (47 U.S.C. 605(e)(4)) is amended by inserting "satellite delivered video or audio programming intended for direct receipt by subscribers in their residences or in their commercial or business premises," after "programming,".

(b) FCC JURISDICTION OVER DIRECT-TO-HOME SATELLITE SERVICES.—Section 303 (47 U.S.C. 303) is amended by adding at the end thereof the following new subsection:

"(v) Have exclusive jurisdiction to regulate the provision of direct-to-home satellite services. For purposes of this subsection, the term 'direct-to-home satellite services' means the distribution or broadcasting of programming or services by satellite directly to the subscriber's premises without the use of ground receiving or distribution equipment, except at the subscriber's premises, or used in the initial uplink process to the direct-to-home satellite.".

TITLE IV—OBSCENE, HARRASSING, AND WRONGFUL UTILIZATION OF TELECOMMUNICATIONS FACILITIES

SEC. 401. SHORT TITLE.

This title may be cited as the "Communications Decency Act of 1995".

SEC. 402. OBSCENE OR HARASSING USE OF TELECOMMUNICATIONS FACILITIES UNDER THE COMMUNICATIONS ACT OF 1934.

(a) OFFENSES.—Section 223 (47 U.S.C. 223) is amended—

"(1) by striking subsection (a) and inserting in lieu thereof:

"(a) Whoever—

"(1) in the District of Columbia or in interstate or foreign communications—

"(A) by means of telecommunications device knowingly—

"(i) makes, creates, or solicits, and

"(ii) initiates the transmission of,

any comment, request, suggestion, proposal, image, or other communication which is obscene, lewd, lascivious, filthy, or indecent, with intent to annoy, abuse, threaten, or harass another person;

"(B) makes a telephone call or utilizes a telecommunications device, whether or not conversation or communication ensues, without disclosing his identity and with intent to annoy, abuse, threaten, or harass any person at the called number or who receives the communications;

"(C) makes or causes the telephone of another repeatedly or continuously to ring, with intent to harass any person at the called number; or

"(D) makes repeated telephone calls or repeatedly initiates communication with a telecommunications device, during which conversation or communication ensues, solely to harass any person at the called number or who receives the communication;

"(2) knowingly permits any telecommunications facility under his control to be used for any activity prohibited by paragraph (1) with the intent that it be used for such activity,

shall be fined not more than $100,000 or imprisoned not more than two years, or both."; and

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

"(d) Whoever—

"(1) knowingly within the United States or in foreign communications with the United States by means of telecommunications device makes or makes available any obscene communication in any form including any comment, request, suggestion, proposal, or image regardless of whether the maker of such communication placed the call or initiated the communications; or

"(2) knowingly permits any telecommunications facility under such person's control to be used for an activity prohibited by subsection (d)(1) with the intent that it be used for such activity;

shall be fined not more than $100,000 or imprisoned not more than two years, or both.

"(e) Whoever—

"(1) knowingly within the United States or in foreign communications with the United States by means of telecommunications device makes or makes available any indecent communication in any form including any comment, request, suggestion, proposal, image, to any person under 18 years of age regardless of whether the maker of such communication placed the call or initiated the communication; or

"(2) knowingly permits any telecommunications facility under such person's control to be used for an activity prohibited by paragraph (1) with the intent that it be used for such activity,

shall be fined not more than $100,000 or imprisoned not more than two years, or both.

"(f) Defenses to the subsections (a), (d), and (e), restrictions on access, judicial remedies respecting restrictions for persons providing information services and access to information services—

"(1) No person shall be held to have violated subsections (a), (d), or (e) solely for providing access or connection to or from a facility, system, or network over which that person has no control, including related capabilities which are incidental to providing access or connection. This subsection shall not be applicable to a person who is owned or controlled by, or a conspirator with, an entity actively involved in the creation, editing or knowing distribution of communications which violate this section.

"(2) No employer shall be held liable under this section for the actions of an employee or agent unless the employee's or agent's conduct is within the scope of his employment or agency and the employer has knowledge of, authorizes, or ratifies the employee's or agent's conduct.

"(3) It is a defense to prosecution under subsection (a), (d)(2), or (e) that a person has taken reasonable, effective and appropriate actions in good faith to restrict or prevent the transmission of, or access to a communication specified in such subsections, or complied with procedures as the Commission may prescribe in furtherance of this section. Until such regulations become effective, it is a defense to prosecution that the person has complied with the procedures prescribed by regulation pursuant to subsection (b)(3). Nothing in this subsection shall be construed to treat enhanced information services as common carriage.

"(4) No cause of action may be brought in any court or administrative agency against any person on account of any activity which is not in violation of any law punishable by criminal or civil penalty, which activity the person has taken in good faith to implement a defense authorized under this section or otherwise to restrict or prevent the transmission of, or access to, a communication specified in this section.

"(g) No State or local government may impose any liability for commercial activities or actions by commercial entities in connection with an activity or action which constitutes a violation described in subsection (a)(2), (d)(2), or (e)(2) that is inconsistent with the treatment of those activities or actions under this section: *Provided, however,* That nothing herein shall preclude any State or local government from enacting and enforcing complementary oversight, liability, and regulatory systems, procedures, and requirements, so long as such systems, procedures, and requirements govern only intrastate services and do not result in the imposition of inconsistent rights, duties or obligations on the provision of interstate services. Nothing in this subsection shall preclude any State or local government from governing conduct not covered by this section.

"(h) Nothing in subsection (a), (d), (e), or (f) or in the defenses to prosecution under (a), (d), or (e) shall be construed to affect or limit the application or enforcement of any other Federal law.

"(i) The use of the term 'telecommunications device' in this section shall not impose new obligations on (one-way) broadcast radio or (one-way) broadcast television operators licensed by the Commission or (one-way) cable service registered with the Federal Communications Commission and covered by obscenity and indecency provisions elsewhere in this Act.

"(j) Within two years from the date of enactment and every two years thereafter, the Commission shall report on the effectiveness of this section.".

SEC. 403. OBSCENE PROGRAMMING ON CABLE TELEVISION.

Section 639 (47 U.S.C. 559) is amended by striking "$10,000" and inserting "$100,000".

SEC. 404. BROADCASTING OBSCENE LANGUAGE ON RADIO.

Section 1464 of title 18, United States Code, is amended by striking out "$10,000" and inserting "$100,000".

SEC. 405. SEPARABILITY.

(a) If any provision of this title, including amendments to this title or the application thereof to any person or circumstance is held invalid, the remainder of this title and the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 406. ADDITIONAL PROHIBITION ON BILLING FOR TOLL-FREE TELEPHONE CALLS.

Section 228(c)(7) (47 U.S.C. 228(c)(7)) is amended—

(1) by striking "or" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting a semicolon and "or"; and

(3) by adding at the end thereof the following:

"(E) the calling party being assessed, by virtue of being asked to connect or otherwise transfer to a pay-per-call service, a charge for the call.".

SEC. 407. SCRAMBLING OF CABLE CHANNELS FOR NONSUBSCRIBERS.

Part IV of title VI (47 U.S. C. 551 et seq.) is amended by adding at the end the following:

"SEC. 640. SCRAMBLING OF CABLE CHANNELS FOR NONSUBSCRIBERS.

"(a) REQUIREMENT.—In providing video programming unsuitable for children to any subscriber through a cable system, a cable operator shall fully scramble or otherwise fully block the video and audio portion of each channel carrying such programming upon subscriber request and without any charge so that one not a subscriber does not receive it.

"(b) DEFINITION.—As used in this section, the term 'scramble' means to rearrange the content of the signal of the programming so that the programming cannot be received by persons unauthorized to receive the programming.".

SEC. 408. SCRAMBLING OF SEXUALLY EXPLICIT ADULT VIDEO SERVICE PROGRAMMING.

(a) REQUIREMENT.—Part IV of title VI (47 U.S.C. 551 et seq.), as amended by this Act, is further amended by adding at the end the following:

"SEC. 641. SCRAMBLING OF SEXUALLY EXPLICIT ADULT VIDEO SERVICE PROGRAMMING.

"(a) REQUIREMENT.—In providing sexually explicit adult programming or other programming that is indecent and harmful to children on any channel of its service primarily dedicated to sexually-oriented programming, a multichannel video programming distributor shall fully scramble or otherwise fully block the video and audio portion of such channel so that one not a subscriber to such channel or programming does not receive it.

"(b) IMPLEMENTATION.—Until a multichannel video programming distributor complies with the requirement set forth in subsection (a), the distributor shall limit the access of children to the programming referred to in that subsection by not providing such programming during the hours of the day (as determined by the Commission) when a significant number of children are likely to view it.

"(c) DEFINITION.—As used in this section, the term 'scramble' means to rearrange the content of the signal of the programming so that audio and video portions of the programming cannot be received by persons unauthorized to receive the programming.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 30 days after the date of the enactment of this Act.

SEC. 409. CABLE OPERATOR REFUSAL TO CARRY CERTAIN PROGRAMS.

(a) PUBLIC, EDUCATIONAL, AND GOVERNMENTAL CHANNELS.—Section 611(e) (47 U.S.C. 531(e)) is amended by inserting before the period the following: ", except a cable operator may refuse to transmit any public access program or portion of a public access program which contains obscenity, indecency, or nudity".

(b) CABLE CHANNELS FOR COMMERCIAL USE.—Section 612(c)(2) (47 U.S.C. 532(c)(2)) is amended by striking "an operator" and inserting "a cable operator may refuse to transmit any leased access program or portion of a leased access program which contains obscenity, indecency, or nudity".

SEC. 410. RESTRICTIONS ON ACCESS BY CHILDREN TO OBSCENE AND INDECENT MATERIAL ON ELECTRONIC INFORMATION NETWORKS OPEN TO THE PUBLIC.

(a) AVAILABILITY OF TAG INFORMATION.—In order—

(1) to encourage the voluntary use of tags in the names, addresses, or text of electronic files containing obscene, indecent, or mature text or graphics that are made available to the public through public information networks in order to ensure the ready identification of files containing such text or graphics;

(2) to encourage developers of computer software that provides access to or interface with a public information network to develop software that permits users of such software to block access to or interface with text or graphics identified by such tags; and

(3) to encourage the telecommunications industry and the providers and users of public information networks to take practical actions (including the establishment of a board consisting of appropriate members of such industry, providers, and users) to develop a highly effective means of preventing the access of children through public information networks to electronic files that contain such text or graphics,

the Secretary of Commerce shall take appropriate steps to make information on the tags established and utilized in voluntary compliance with this subsection available to the public through public information networks.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the tags established and utilized in voluntary compliance with this section. The report shall—

(1) describe the tags so established and utilized;

(2) assess the effectiveness of such tags in preventing the access of children to electronic files that contain obscene, indecent, or mature text or graphics through public information networks; and

(3) provide recommendations for additional means of preventing such access.

(c) DEFINITIONS.—In this section:

(1) The term "public information network" means the Internet, electronic bulletin boards, and other electronic information networks that are open to the public.

(2) The term "tag" means a part or segment of the name, address, or text of an electronic file.

TITLE V—PARENTAL CHOICE IN TELEVISION

SEC. 501. SHORT TITLE.

This title may be cited as the "Parental Choice in Television Act of 1995".

SEC. 502. FINDINGS.

Congress makes the following findings:

(1) On average, a child in the United States is exposed to 27 hours of television each week and some children are exposed to as much as 11 hours of television each day.

(2) The average American child watches 8,000 murders and 100,000 acts of other violence on television by the time the child completes elementary school.

(3) By the age of 18 years, the average American teenager has watched 200,000 acts of violence on television, including 40,000 murders.

(4) On several occasions since 1975, The Journal of the American Medical Association has alerted the medical community to the adverse effects of televised violence on child development, including an increase in the level of aggressive behavior and violent behavior among children who view it.

(5) The National Commission on Children recommended in 1991 that producers of television programs exercise greater restraint in the content of programming for children.

(6) A report of the Harry Frank Guggenheim Foundation, dated May 1993, indicates that there is an irrefutable connection between the amount of violence depicted in the television programs watched by children and increased aggressive behavior among children.

(7) It is a compelling National interest that parents be empowered with the technology to block the viewing by their children of television programs whose content is overly violent or objectionable for other reasons.

(8) Technology currently exists to permit the manufacture of television receivers that are capable of permitting parents to block television programs having violent or otherwise objectionable content.

SEC. 503. RATING CODE FOR VIOLENCE AND OTHER OBJECTIONABLE CONTENT ON TELEVISION.

(a) SENSE OF CONGRESS ON VOLUNTARY ESTABLISHMENT OF RATING CODE.—It is the sense of Congress—

(1) to encourage appropriate representatives of the broadcast television industry and the cable television industry to establish in a voluntary manner rules for rating the level of violence or other objectionable content in television programming, including rules for the transmission by television broadcast stations and cable systems of—

(A) signals containing ratings of the level of violence or objectionable content in such programming; and

(B) signals containing specifications for blocking such programming;

(2) to encourage such representatives to establish such rules in consultation with appropriate public interest groups and interested individuals from the private sector; and

(3) to encourage television broadcasters and cable operators to comply voluntarily with such rules upon the establishment of such rules.

(b) REQUIREMENT FOR ESTABLISHMENT OF RATING CODE.—

(1) IN GENERAL.—If the representatives of the broadcast television industry and the cable television industry do not establish the rules referred to in subsection (a)(1) by the end of the 1-year period beginning on the date of the enactment of this Act, there shall be established on the day following the end of that period a commission to be known as the Television Rating Commission (hereafter in this section referred to as the "Television Commission"). The Television Commission shall be an independent establishment in the executive branch as defined under section 104 of title 5, United States Code.

(2) MEMBERS.—

(A) IN GENERAL.—The Television Commission shall be composed of 5 members appointed by the President, by and with the advice and consent of the Senate, of whom—

(i) three shall be individuals who are members of appropriate public interest groups or are interested individuals from the private sector; and

(ii) two shall be representatives of the broadcast television industry and the cable television industry.

(B) NOMINATION.—Individuals shall be nominated for appointment under subparagraph (A) not later than 60 days after the date of the establishment of the Television Commission.

(D) TERMS.—Each member of the Television Commission shall serve until the termination of the commission.

(E) VACANCIES.—A vacancy on the Television Commission shall be filled in the same manner as the original appointment.

(2) DUTIES OF TELEVISION COMMISSION.—The Television Commission shall establish rules for rating the level of violence or other objectionable content in television programming, including rules for the transmission by television broadcast stations and cable systems of—

(A) signals containing ratings of the level of violence or objectionable content in such programming; and

(B) signals containing specifications for blocking such programming.

(3) COMPENSATION OF MEMBERS.—

(A) CHAIRMAN.—The Chairman of the Television Commission shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5314 of title 5, United States Code, for each day (including traveltime) during which the Chairman is engaged in the performance of duties vested in the commission.

(B) OTHER MEMBERS.—Except for the Chairman who shall be paid as provided under subparagraph (A), each member of the Television Commission shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level V of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including traveltime) during which the member is engaged in the performance of duties vested in the commission.

(4) STAFF.—

(A) IN GENERAL.—The Chairman of the Television Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the commission to perform its duties. The employment of an executive director shall be subject to confirmation by the commission.

(B) COMPENSATION.—The Chairman of the Television Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(5) CONSULTANTS.—The Television Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants under section 3109 of title 5, United States Code. The commission shall give public notice of any such contract before entering into such contract.

(6) FUNDING.—There is authorized to be appropriated to the Commission such sums as are necessary to enable the Commission to carry out its duties under this Act.

SEC. 504. REQUIREMENT FOR MANUFACTURE OF TELEVISIONS THAT BLOCK PROGRAMS.

(a) REQUIREMENT.—Section 303 (47 U.S.C. 303), as amended by this Act, is further amended by adding at the end the following:

"(w) Require, in the case of apparatus designed to receive television signals that are manufactured in the United States or imported for use in the United States and that have a picture screen 13 inches or greater in size (measured diagonally), that such apparatus—

"(1) be equipped with circuitry designed to enable viewers to block the display of channels during particular time slots; and

"(2) enable viewers to block display of all programs with a common rating.".

(b) IMPLEMENTATION.—In adopting the requirement set forth in section 303(w) of the Communications Act of 1934, as added by subsection (a), the Federal Communications Commission, in consultation with the television receiver manufacturing industry, shall determine a date for the applicability of the requirement to the apparatus covered by that section.

SEC. 505. SHIPPING OR IMPORTING OF TELEVISIONS THAT BLOCK PROGRAMS.

(a) REGULATIONS.—Section 330 (47 U.S.C. 330) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by adding after subsection (b) the following new subsection (c):

"(c)(1) Except as provided in paragraph (2), no person shall ship in interstate commerce, manufacture, assemble, or import from any foreign country into the United States any apparatus described in section 303(w) of this Act except in accordance with rules prescribed by the Commission pursuant to the authority granted by that section.

"(2) This subsection shall not apply to carriers transporting apparatus referred to in paragraph (1) without trading it.

"(3) The rules prescribed by the Commission under this subsection shall provide performance standards for blocking technology. Such rules shall require that all such apparatus be able to receive transmitted rating signals which conform to the signal and blocking specifications established by the Commission.

"(4) As new video technology is developed, the Commission shall take such action as the Commission determines appropriate to ensure that blocking service continues to be available to consumers.".

(b) CONFORMING AMENDMENT.—Section 330(d), as redesignated by subsection (a)(1), is amended by striking "section 303(s), and section 303(u)" and inserting in lieu thereof "and sections 303(s), 303(u), and 303(w)".

TITLE VI—NATIONAL EDUCATION TECHNOLOGY FUNDING CORPORATION

SEC. 601. SHORT TITLE.

This title may be cited as the "National Education Technology Funding Corporation Act of 1995".

SEC. 602. FINDINGS; PURPOSE.

(a) FINDINGS.—The Congress finds as follows:

(1) CORPORATION.—There has been established in the District of Columbia a private, nonprofit corporation known as the National Education Technology Funding Corporation which is not an agency or independent establishment of the Federal Government.

(2) BOARD OF DIRECTORS.—The Corporation is governed by a Board of Directors, as prescribed in the Corporation's articles of incorporation, consisting of 15 members, of which—

(A) five members are representative of public agencies representative of schools and public libraries;

(B) five members are representative of State government, including persons knowledgeable about State finance, technology and education; and

(C) five members are representative of the private sector, with expertise in network technology, finance and management.

(3) CORPORATE PURPOSES.—The purposes of the Corporation, as set forth in its articles of incorporation, are—

(A) to leverage resources and stimulate private investment in education technology infrastructure;

(B) to designate State education technology agencies to receive loans, grants or other forms of assistance from the Corporation;

(C) to establish criteria for encouraging States to—

(i) create, maintain, utilize and upgrade interactive high capacity networks capable of providing audio, visual and data communications for elementary schools, secondary schools and public libraries;

(ii) distribute resources to assure equitable aid to all elementary schools and secondary schools in the State and achieve universal access to network technology; and

(iii) upgrade the delivery and development of learning through innovative technology-based instructional tools and applications;

(D) to provide loans, grants and other forms of assistance to State education technology agencies, with due regard for providing a fair balance among types of school districts and public libraries assisted and the disparate needs of such districts and libraries;

(E) to leverage resources to provide maximum aid to elementary schools, secondary schools and public libraries; and

(F) to encourage the development of education telecommunications and information technologies through public-private ventures, by serving as a clearinghouse for information on new education technologies, and by providing technical assistance, including assistance to States, if needed, to establish State education technology agencies.

(b) PURPOSE.—The purpose of this title is to recognize the Corporation as a nonprofit corporation operating under the laws of the District of Columbia, and to provide authority for Federal departments and agencies to provide assistance to the Corporation.

SEC. 603. DEFINITIONS.

For the purpose of this title—

(1) the term "Corporation" means the National Education Technology Funding Corporation described in section 602(a)(1);

(2) the terms "elementary school" and "secondary school" have the same meanings given such terms in section 14101 of the Elementary and Secondary Education Act of 1965; and

(3) the term "public library" has the same meaning given such term in section 3 of the Library Services and Construction Act.

SEC. 604. ASSISTANCE FOR EDUCATION TECHNOLOGY PURPOSES.

(a) RECEIPT BY CORPORATION.—Notwithstanding any other provision of law, in order to carry out the corporate purposes described in section 602(a)(3), the Corporation shall be eligible to receive discretionary grants, contracts, gifts, contributions, or technical assistance from any Federal department or agency, to the extent otherwise permitted by law.

(b) AGREEMENT.—In order to receive any assistance described in subsection (a) the Corporation shall enter into an agreement with the Federal department or agency providing such assistance, under which the Corporation agrees—

(1) to use such assistance to provide funding and technical assistance only for activities which the Board of Directors of the Corporation determines are consistent with the corporate purposes described in section 602(a)(3);

(2) to review the activities of State education technology agencies and other entities receiving assistance from the Corporation to assure that the corporate purposes described in section 602(a)(3) are carried out;

(3) that no part of the assets of the Corporation shall accrue to the benefit of any member of the Board of Directors of the Corporation, any officer or employee of the Corporation, or any other individual, except as salary or reasonable compensation for services;

(4) that the Board of Directors of the Corporation will adopt policies and procedures to prevent conflicts of interest;

(5) to maintain a Board of Directors of the Corporation consistent with section 602(a)(2);

(6) that the Corporation, and any entity receiving the assistance from the Corporation, are subject to the appropriate oversight procedures of the Congress; and

(7) to comply with—

(A) the audit requirements described in section 605; and

(B) the reporting and testimony requirements described in section 606.

(c) CONSTRUCTION.—Nothing in this title shall be construed to establish the Corporation as an agency or independent establishment of the Federal Government, or to establish the members of the Board of Directors of the Corporation, or the officers and employees of the Corporation, as officers or employees of the Federal Government.

SEC. 605. AUDITS

(a) AUDITS BY INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS.—

(1) IN GENERAL.—The Corporation's financial statements shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants who are members of a nationally recognized accounting firm and who are certified by a regulatory authority of a State or other political subdivision of the United States. The audits shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audit shall be made available to the person or persons conducting the audits, and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

(2) REPORTING REQUIREMENTS.—The report of each annual audit described in paragraph (1) shall be included in the annual report required by section 606(a).

(b) RECORDKEEPING REQUIREMENTS; AUDIT AND EXAMINATION OF BOOKS.—

(1) RECORDKEEPING REQUIREMENTS.—The Corporation shall ensure that each recipient of assistance from the Corporation keeps—

(A) separate accounts with respect to such assistance;

(B) such records as may be reasonably necessary to fully disclose—

(i) the amount and the disposition by such recipient of the proceeds of such assistance;

(ii) the total cost of the project or undertaking in connection with which such assistance is given or used; and

(iii) the amount and nature of that portion of the cost of the project or undertaking supplied by other sources; and

(C) such other records as will facilitate an effective audit.

(2) AUDIT AND EXAMINATION OF BOOKS.—The Corporation shall ensure that the Corporation, or any of the Corporation's duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of

any recipient of assistance from the Corporation that are pertinent to such assistance. Representatives of the Comptroller General shall also have such access for such purpose.

SEC. 606. ANNUAL REPORT; TESTIMONY TO THE CONGRESS.

(a) ANNUAL REPORT.—Not later than April 30 of each year, the Corporation shall publish an annual report for the preceding fiscal year and submit that report to the President and the Congress. The report shall include a comprehensive and detailed evaluation of the Corporation's operations, activities, financial condition, and accomplishments under this title and may include such recommendations as the Corporation deems appropriate.

(b) TESTIMONY BEFORE CONGRESS.—The members of the Board of Directors, and officers, of the Corporation shall be available to testify before appropriate committees of the Congress with respect to the report described in subsection (a), the report of any audit made by the Comptroller General pursuant to this title, or any other matter which any such committee may determine appropriate.

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. SPECTRUM AUCTIONS.

(a) FINDINGS.—The Congress finds that—

(1) the National Telecommunications and Information Administration of the Department of Commerce recently submitted to the Congress a report entitled "U.S. National Spectrum Requirements" as required by section 113 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923);

(2) based on the best available information the report concludes that an additional 179 megahertz of spectrum will be needed within the next ten years to meet the expected demand for land mobile and mobile satellite radio services such as cellular telephone service, paging services, personal communication services, and low earth orbiting satellite communications systems;

(3) a further 85 megahertz of additional spectrum, for a total of 264 megahertz, is needed if the United States is to fully implement the Intelligent Transportation System currently under development by the Department of Transportation;

(4) as required by part B of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 921 et seq.) the Federal Government will transfer 235 megahertz of spectrum from exclusive government use to non-governmental or mixed governmental and non-governmental use between 1994 and 2004;

(5) the Spectrum Reallocation Final Report submitted to Congress under section 113 of the National Telecommunications and Information Administration Organization Act by the National Telecommunications and Information Administration states that, of the 235 megahertz of spectrum identified for reallocation from governmental to non-governmental or mixed use—

(A) 50 megahertz has already been reallocated for exclusive non-governmental use,

(B) 45 megahertz will be reallocated in 1995 for both exclusive non-governmental and mixed governmental and non-governmental use,

(C) 25 megahertz will be reallocated in 1997 for exclusive non-governmental use,

(D) 70 megahertz will be reallocated in 1999 for both exclusive non-governmental and mixed governmental and non-governmental use, and

(E) the final 45 megahertz will be reallocated for mixed governmental and non-governmental use by 2004;

(6) the 165 megahertz of spectrum that are not yet reallocated, combined with 80 megahertz that the Federal Communications Commission is currently holding in reserve for emerging technologies, are less than the best estimates of projected spectrum needs in the United States;

(7) the authority of the Federal Communications Commission to assign radio spectrum frequencies using an auction process expires on September 30, 1998;

(8) a significant portion of the reallocated spectrum will not yet be assigned to non-governmental users before that authority expires;

(9) the transfer of Federal governmental users from certain valuable radio frequencies to other reserved frequencies could be expedited if Federal governmental users are permitted to accept reimbursement for relocation costs from non-governmental users; and

(10) non-governmental reimbursement of Federal governmental users relocation costs would allow the market to determine the most efficient use of the available spectrum.

(b) EXTENSION AND EXPANSION OF AUCTION AUTHORITY.—Section 309(j) (47 U.S.C. 309(j)) is amended—

(1) by striking paragraph (1) and inserting in lieu thereof the following:

"(1) GENERAL AUTHORITY.—If mutually exclusive applications or requests are accepted for any initial license or construction permit which will involve a use of the electromagnetic spectrum, then the Commission shall grant such license or permit to a qualified applicant through a system of competitive bidding that meets the requirements of this subsection. The competitive bidding authority granted by this subsection shall not apply to licenses or construction permits issued by the Commission for public safety radio services or for licenses or construction permits for new terrestrial digital television services assigned by the Commission to existing terrestrial broadcast licensees to replace their current television licenses.";

(2) by striking paragraph (2) and renumbering paragraphs (3) through (13) as (2) through (12), respectively; and

(3) by striking "1998" in paragraph (10), as renumbered, and inserting in lieu thereof "2000".

(c) REIMBURSEMENT OF FEDERAL RELOCATION COSTS.—Section 113 of the National Telecommunications and Information Administration Act (47 U.S.C. 923) is amended by adding at the end the following new subsections:

"(f) RELOCATION OF FEDERAL GOVERNMENT STATIONS.—

"(1) IN GENERAL.—In order to expedite the efficient use of the electromagnetic spectrum and notwithstanding section 3302(b) of title 31, United States Code, any Federal entity which operates a Federal Government station may accept reimbursement from any person for the costs incurred by such Federal entity for any modification, replacement, or reissuance of equipment, facilities, operating manuals, regulations, or other expenses incurred by that entity in relocating the operations of its Federal Government station or stations from one or more radio spectrum frequencies to any other frequency or frequencies. Any such reimbursement shall be deposited in the account of such Federal entity in the Treasury of the United States. Funds deposited according to this section shall be available, without appropriation or fiscal year limitation, only for the operations of the Federal entity for which such funds were deposited under this section.

"(2) PROCESS FOR RELOCATION.—Any person seeking to relocate a Federal Government station that has been assigned a frequency within a band allocated for mixed Federal and non-Federal use may submit a petition for such relocation to NTIA. The NTIA shall limit the Federal Government station's operating license to secondary status when the following requirements are met—

"(A) the person seeking relocation of the Federal Government station has guaranteed reimbursement through money or in-kind payment of all relocation costs incurred by the Federal entity, including all engineering, equipment, site acquisition and construction, and regulatory fee costs;

"(B) the person seeking relocation completes all activities necessary for implementing the relocation, including construction of replacement facilities (if necessary and appropriate) and identifying and obtaining on the Federal entity's behalf new frequencies for use by the relocated Federal Government station (where such station is not relocating to spectrum reserved exclusively for Federal use); and

"(C) any necessary replacement facilities, equipment modifications, or other changes have been implemented and tested to ensure that the Federal Government station is able to successfully accomplish its purposes.

"(3) RIGHT TO RECLAIM.—If within one year after the relocation the Federal Government station demonstrates to the Commission that the new facilities or spectrum are not comparable to the facilities or spectrum from which the Federal Government station was relocated, the person seeking such relocation must take reasonable steps to remedy any defects or reimburse the Federal entity for the costs of returning the Federal Government station to the spectrum from which such station was relocated.

"(g) FEDERAL ACTION TO EXPEDITE SPECTRUM TRANSFER.—Any Federal Government station which operates on electromagnetic spectrum that has been identified for reallocation for mixed Federal and non-Federal use in the Spectrum Reallocation Final Report shall, to the maximum extent practicable through the use of the authority granted under subsection (f) and any other applicable provision of law, take action to relocate its spectrum use to other frequencies that are reserved for Federal use or to consolidate its spectrum use with other Federal Government stations in a manner that maximizes the spectrum available for non-Federal use. Notwithstanding the timetable contained in the Spectrum Reallocation Final Report, the President shall seek to implement the reallocation of the 1710 to 1755 megahertz frequency band by January 1, 2000. Subsection (c)(4) of this section shall not apply to the extent that a non-Federal user seeks to relocate or relocates a Federal power agency under subsection (f).

"(h) DEFINITIONS.—For purposes of this section—

"(1) FEDERAL ENTITY.—The term 'Federal entity' means any Department, agency, or other element of the Federal Government that utilizes radio frequency spectrum in the conduct of its authorized activities, including a Federal power agency.

"(2) SPECTRUM REALLOCATION FINAL REPORT.—The term 'Spectrum Reallocation Final Report' means the report submitted by the Secretary to the President and Congress in compliance with the requirements of subsection (a).".

(d) REALLOCATION OF ADDITIONAL SPECTRUM.—The Secretary of Commerce shall, within 9 months after the date of enactment of this Act, prepare and submit to the President and the Congress a report and timetable

recommending the reallocation of the two frequency bands (3625–3650 megahertz and 5850–5925 megahertz) that were discussed but not recommended for reallocation in the Spectrum Reallocation Final Report under section 113(a) of the National Telecommunications and Information Administration Organization Act. The Secretary shall consult with the Federal Communications Commission and other Federal agencies in the preparation of the report, and shall provide notice and an opportunity for public comment before submitting the report and timetable required by this section.

(e) BROADCAST AUXILIARY SPECTRUM RELOCATION.—

(1) ALLOCATION OF SPECTRUM FOR BROADCAST AUXILIARY USES.—Within one year after the date of enactment of this Act, the Commission shall allocate the 4635–4685 megahertz band transferred to the Commission under section 113(b) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(b)) for broadcast auxiliary uses.

(2) MANDATORY RELOCATION OF BROADCAST AUXILIARY USES.—Within 7 years after the date of enactment of this Act, all licensees of broadcast auxiliary spectrum in the 2025–2075 megahertz band shall relocate into spectrum allocated by the Commission under paragraph (1). The Commission shall assign and grant licenses for use of the spectrum allocated under paragraph (1)—

(A) in a manner sufficient to permit timely completion of relocation; and

(B) without using a competitive bidding process.

(3) ASSIGNING RECOVERED SPECTRUM.—Within 5 years after the date of enactment of this Act, the Commission shall allocate the spectrum recovered in the 2025–2075 megahertz band under paragraph (2) for use by new licensees for commercial mobile services or other similar services after the relocation of broadcast auxiliary licensees, and shall assign such licenses by competitive bidding.

SEC. 702. RENEWED EFFORTS TO REGULATE VIOLENT PROGRAMMING.

(a) FINDINGS.—The Senate finds that:

(1) Violence is a pervasive and persistent feature of the entertainment industry. According to the Carnegie Council on Adolescent Development, by the age of 18, children will have been exposed to nearly 18,000 televised murders and 800 suicides.

(2) Violence on television is likely to have a serious and harmful effect on the emotional development of young children. The American Psychological Association has reported that children who watch "a large number of aggressive programs tend to hold attitudes and values that favor the use of aggression to solve conflicts". The National Institute of Mental Health has stated similarly that "violence on television does lead to aggressive behavior by children and teenagers".

(3) The Senate recognizes that television violence is not the sole cause of violence in society.

(4) There is a broad recognition in the United States Congress that the television industry has an obligation to police the content of its own broadcasts to children. That understanding was reflected in the Television Violence Act of 1990, which was specifically designed to permit industry participants to work together to create a self-monitoring system.

(5) After years of denying that television violence has any detrimental effect, the entertainment industry has begun to address the problem of television violence. In the spring of 1994, for example, the network and cable industries announced the appointment of an independent monitoring group to assess the amount of violence on television. These reports are due out in the fall of 1995 and winter of 1996, respectively.

(6) The Senate recognizes that self-regulation by the private sector is generally preferable to direct regulation by the Federal Government.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the entertainment industry should do everything possible to limit the amount of violent and aggressive entertainment programming, particularly during the hours when children are most likely to be watching.

SEC. 703. PREVENTION OF UNFAIR BILLING PRACTICES FOR INFORMATION OR SERVICES PROVIDED OVER TOLL-FREE TELEPHONE CALLS.

(a) FINDINGS.—Congress makes the following findings:

(1) Reforms required by the Telephone Disclosure and Dispute Resolution Act of 1992 have improved the reputation of the pay-per-call industry and resulted in regulations that have reduced the incidence of misleading practices that are harmful to the public interest.

(2) Among the successful reforms is a restriction on charges being assessed for calls to 800 telephone numbers or other telephone numbers advertised or widely understood to be toll free.

(3) Nevertheless, certain interstate pay-per-call businesses are taking advantage of an exception in the restriction on charging for information conveyed during a call to a "toll-free" number to continue to engage in misleading practices. These practices are not in compliance with the intent of Congress in passing the Telephone Disclosure and Dispute Resolution Act.

(4) It is necessary for Congress to clarify that its intent is that charges for information provided during a call to an 800 number or other number widely advertised and understood to be toll free shall not be assessed to the calling party unless the calling party agrees to be billed according to the terms of a written subscription agreement or by other appropriate means.

(b) PREVENTION OF UNFAIR BILLING PRACTICES.—

(1) IN GENERAL.—Section 228(c) (47 U.S.C. 228(c)) is amended—

(A) by striking out subparagraph (C) of paragraph (7) and inserting in lieu thereof the following:

"(C) the calling party being charged for information conveyed during the call unless—

"(i) the calling party has a written agreement (including an agreement transmitted through electronic medium) that meets the requirements of paragraph (8); or

"(ii) the calling party is charged for the information in accordance with paragraph (9); or"; and

(B) by adding at the end the following new paragraphs:

"(8) SUBSCRIPTION AGREEMENTS FOR BILLING FOR INFORMATION PROVIDED VIA TOLL-FREE CALLS.—

"(A) IN GENERAL.—For purposes of paragraph (7)(C), a written subscription does not meet the requirements of this paragraph unless the agreement specifies the material terms and conditions under which the information is offered and includes—

"(i) the rate at which charges are assessed for the information;

"(ii) the information provider's name;

"(iii) the information provider's business address;

"(iv) the information provider's regular business telephone number;

"(v) the information provider's agreement to notify the subscriber of all future changes in the rates charged for the information; and

"(vi) the subscriber's choice of payment method, which may be by direct remit, debit, prepaid account, phone bill or credit or calling card.

"(B) BILLING ARRANGEMENTS.—If a subscriber elects, pursuant to subparagraph (A)(vi), to pay by means of a phone bill—

"(i) the agreement shall clearly explain that charges for the service will appear on the subscriber's phone bill;

"(ii) the phone bill shall include, in prominent type, the following disclaimer:

'Common carriers may not disconnect local or long distance telephone service for failure to pay disputed charges for information services.'; and

"(iii) the phone bill shall clearly list the 800 number dialed.

"(C) USE OF PINS TO PREVENT UNAUTHORIZED USE.—A written agreement does not meet the requirements of this paragraph unless it requires the subscriber to use a personal identification number to obtain access to the information provided, and includes instructions on its use.

"(D) EXCEPTIONS.—Notwithstanding paragraph (7)(C), a written agreement that meets the requirements of this paragraph is not required—

"(i) for calls utilizing telecommunications devices for the deaf;

"(ii) for services provided pursuant to a tariff that has been approved or permitted to take effect by the Commission or a State commission; or

"(iii) for any purchase of goods or of services that are not information services.

"(E) TERMINATION OF SERVICE.—On receipt by a common carrier of a complaint by any person that an information provider is in violation of the provisions of this section, a carrier shall—

"(i) promptly investigate the complaint; and

"(ii) if the carrier reasonably determines that the complaint is valid, it may terminate the provision of service to an information provider unless the provider supplies evidence of a written agreement that meets the requirements of this section.

"(F) TREATMENT OF REMEDIES.—The remedies provided in this paragraph are in addition to any other remedies that are available under title V of this Act.

"(9) CHARGES IN ABSENCE OF AGREEMENT.—A calling party is charged for a call in accordance with this paragraph if the provider of the information conveyed during the call—

"(A) clearly states to the calling party the total cost per minute of the information provided during the call and for any other information or service provided by the provider to which the calling party requests connection during the call; and

"(B) receives from the calling party—

"(i) an agreement to accept the charges for any information or services provided by the provider during the call; and

"(ii) a credit, calling, or charge card number or verification of a prepaid account to which such charges are to be billed.

"(10) DEFINITION.—As used in paragraphs (8) and (9), the term 'calling card' means an identifying number or code unique to the individual, that is issued to the individual by a common carrier and enables the individual to be charged by means of a phone bill for charges incurred independent of where the call originates."

(2) REGULATIONS.—The Federal Communications Commission shall revise its regulations to comply with the amendment made by paragraph (1) not later than 180 days after the date of the enactment of this Act.

(3) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date of the enactment of this Act.

(c) CLARIFICATION OF "PAY-PER-CALL SERVICES" UNDER TELEPHONE DISCLOSURE AND DISPUTE RESOLUTION ACT.—Section 204(1) of the Telephone Disclosure and Dispute Resolution Act (15 U.S.C. 5714(1)) is amended to read as follows:

"(1) The term 'pay-per-call services' has the meaning provided in section 228(j)(1) of the Communications Act of 1934, except that the Commission by rule may, notwithstanding subparagraphs (B) and (C) of such section, extend such definition to other similar services providing audio information or audio entertainment if the Commission determines that such services are susceptible to the unfair and deceptive practices that are prohibited by the rules prescribed pursuant to section 201(a).".

SEC. 704. DISCLOSURE OF CERTAIN RECORDS FOR INVESTIGATIONS OF TELEMARKETING FRAUD.

Section 2703(c)(1)(B) of title 18, United States Code, is amended—

(1) by striking out "or" at the end of clause (ii);

(2) by striking out the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following:

"(iv) submits a formal written request for information relevant to a legitimate law enforcement investigation of the governmental entity for the name, address, and place of business of a subscriber or customer of such provider, which subscriber or customer is engaged in telemarketing (as such term is in section 2325 of this title).".

SEC. 705. TELECOMMUTING PUBLIC INFORMATION PROGRAM.

(a) FINDINGS.—Congress makes the following findings—

(1) Telecommuting is the practice of allowing people to work either at home or in nearby centers located closer to home during their normal working hours, substituting telecommunications services, either partially or completely, for transportation to a more traditional workplace;

(2) Telecommuting is now practiced by an estimated two to seven million Americans, including individuals with impaired mobility, who are taking advantage of computer and telecommunications advances in recent years;

(3) Telecommuting has the potential to dramatically reduce fuel consumption, mobile source air pollution, vehicle miles traveled, and time spent commuting, thus contributing to an improvement in the quality of life for millions of Americans; and

(4) It is in the public interest for the Federal Government to collect and disseminate information encouraging the increased use of telecommuting and identifying the potential benefits and costs of telecommuting.

(b) TELECOMMUTING RESEARCH PROGRAMS AND PUBLIC INFORMATION DISSEMINATION.—The Secretary of Transportation, in consultation with the Secretary of Labor and the Administrator of the Environmental Protection Agency, shall, within three months of the date of enactment of this Act, carry out research to identify successful telecommuting programs in the public and private sectors and provide for the dissemination to the public of information regarding—

(1) the establishment of successful telecommuting programs; and

(2) the benefits and costs of telecommuting.

(c) REPORT.—Within one year of the date of enactment of this Act, the Secretary of Transportation shall report to Congress its findings, conclusions, and recommendations regarding telecommuting developed under this section.

SEC. 706. AUTHORITY TO ACQUIRE CABLE SYSTEMS.

(a) IN GENERAL.—Notwithstanding the provisions of section 613(b)(6) of the Communications Act of 1934, as added by section 203(a) of this Act, a local exchange carrier (or any affiliate of such carrier owned by, operated by, controlled by, or under common control with such carrier) may purchase or otherwise acquire more than a 10 percent financial interest, or any management interest, or enter into a joint venture or partnership with any cable system described in subsection (b) within the local exchange carrier's telephone service area.

(b) COVERED CABLE SYSTEMS.—Subsection (a) applies to any cable system serving no more than 20,000 cable subscribers of which no more than 12,000 of those subscribers live within an urbanized area, as defined by the Bureau of the Census.

(c) DEFINITION.—For purposes of this section, the term "local exchange carrier" has the meaning given such term in section 3 (kk) of the Communications Act of 1934, as added by section 8(b) of this Act.

MOTION OFFERED BY MR. BLILEY

Mr. BLILEY. Mr. Speaker, pursuant to section 2 of House Resolution 207, I offer a motion.

The Clerk read as follows:

Mr. BLILEY moves to strike out all after the enacting clause of the Senate bill, S. 652, and insert in lieu thereof the provisions of H.R. 1555 as passed by the House, as follows:

S. 652

SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Communications Act of 1995".

(b) REFERENCES.—References in this Act to "the Act" are references to the Communications Act of 1934.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; references; table of contents.

TITLE I—DEVELOPMENT OF COMPETITIVE TELECOMMUNICATIONS MARKETS

Sec. 101. Establishment of part II of title II.

"PART II—DEVELOPMENT OF COMPETITIVE MARKETS

"Sec. 241. Interconnection.
"Sec. 242. Equal access and interconnection to the local loop for competing providers.
"Sec. 243. Removal of barriers to entry.
"Sec. 244. Statements of terms and conditions for access and interconnection.
"Sec. 245. Bell operating company entry into interLATA services.
"Sec. 246. Competitive safeguards.
"Sec. 247. Universal service.
"Sec. 248. Pricing flexibility and abolition of rate-of-return regulation.
"Sec. 249. Network functionality and accessibility.
"Sec. 250. Market entry barriers.
"Sec. 251. Illegal changes in subscriber carrier selections.
"Sec. 252. Study.".

Sec. 102. Competition in manufacturing, information services, alarm services, and pay phone services.

"PART III—SPECIAL AND TEMPORARY PROVISIONS

"Sec. 271. Manufacturing by Bell operating companies.
"Sec. 272. Electronic publishing by Bell operating companies.
"Sec. 273. Alarm monitoring and telemessaging services by Bell operating companies.
"Sec. 274. Provision of payphone service.".

Sec. 103. Forbearance from regulation.
"Sec. 230. Protection for private blocking and screening of offensive material; FCC regulation of computer services prohibited.".

Sec. 104. Online family empowerment.
Sec. 105. Privacy of customer information.
"Sec. 222. Privacy of customer proprietary network information.".
Sec. 106. Pole attachments.
Sec. 107. Preemption of franchising authority regulation of telecommunications services.
Sec. 108. Facilities siting; radio frequency emission standards.
Sec. 109. Mobile service access to long distance carriers.
Sec. 110. Freedom from toll fraud.
Sec. 111. Report on means of restricting access to unwanted material in interactive telecommunications systems.
Sec. 112. Telecommunications development fund.
"Sec. 10. Telecommunication development fund.".
Sec. 113. Report on the use of advanced telecommunications services for medical purposes.
Sec. 114. Telecommuting public information program.
Sec. 115. Authorization of appropriations.

TITLE II—CABLE COMMUNICATIONS COMPETITIVENESS

Sec. 201. Cable service provided by telephone companies.

"PART V—VIDEO PROGRAMMING SERVICES PROVIDED BY TELEPHONE COMPANIES

"Sec. 651. Definitions.
"Sec. 652. Separate video programming affiliate.
"Sec. 653. Establishment of video platform.
"Sec. 654. Authority to prohibit cross-subsidization.
"Sec. 655. Prohibition on buy outs.
"Sec. 656. Applicability of parts I through IV.
"Sec. 657. Rural area exemption.".

Sec. 202. Competition from cable systems.
Sec. 203. Competitive availability of navigation devices.
"Sec. 713. Competitive availability of navigation devices.".
Sec. 204. Video programming accessibility.
Sec. 205. Technical amendments.

TITLE III—BROADCAST COMMUNICATIONS COMPETITIVENESS

Sec. 301. Broadcaster spectrum flexibility.
"Sec. 336. Broadcast spectrum flexibility.".
Sec. 302. Broadcast ownership.
"Sec. 337. Broadcast ownership.".
Sec. 303. Foreign investment and ownership.
Sec. 304. Family viewing empowerment.
Sec. 305. Parental choice in television programming.
Sec. 306. Term of licenses.
Sec. 307. Broadcast license renewal procedures.
Sec. 308. Exclusive Federal jurisdiction over direct broadcast satellite service.

Sec. 309. Automated ship distress and safety systems.
Sec. 310. Restrictions on over-the-air reception devices.
Sec. 311. DBS signal security.
Sec. 312. Delegation of equipment testing and certification to private laboratories.

TITLE IV—EFFECT ON OTHER LAWS

Sec. 401. Relationship to other laws.
Sec. 402. Preemption of local taxation with respect to DBS services.
Sec. 403. Protection of minors and clarification of current laws regarding communication of obscene and indecent materials through the use of computers.

TITLE V—DEFINITIONS

Sec. 501. Definitions.

TITLE VI—SMALL BUSINESS COMPLAINT PROCEDURE

Sec. 601. Complaint procedure.

TITLE I—DEVELOPMENT OF COMPETITIVE TELECOMMUNICATIONS MARKETS

SEC. 101. ESTABLISHMENT OF PART II OF TITLE II.

(a) AMENDMENT.—Title II of the Act is amended by inserting after section 229 (47 U.S.C. 229) the following new part:

"PART II—DEVELOPMENT OF COMPETITIVE MARKETS

"SEC. 241. INTERCONNECTION.

"The duty of a common carrier under section 201(a) includes the duty to interconnect with the facilities and equipment of other providers of telecommunications services and information services.

"SEC. 242. EQUAL ACCESS AND INTERCONNECTION TO THE LOCAL LOOP FOR COMPETING PROVIDERS.

"(a) OPENNESS AND ACCESSIBILITY OBLIGATIONS.—The duty under section 201(a) of a local exchange carrier includes the following duties:

"(1) INTERCONNECTION.—The duty to provide, in accordance with subsection (b), equal access to and interconnection with the facilities of the carrier's networks to any other carrier or person offering (or seeking to offer) 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. For purposes of this paragraph, a request is not reasonable unless it contains a proposed plan, including a reasonable schedule, for the implementation of the requested access or interconnection.

"(2) UNBUNDLING OF NETWORK ELEMENTS.—The duty to offer unbundled services, elements, features, functions, and capabilities whenever technically feasible, at just, reasonable, and nondiscriminatory prices and in accordance with subsection (b)(4).

"(3) RESALE.—The duty—

(A) to offer services, elements, features, functions, and capabilities for resale at wholesale rates, and

(B) not to prohibit, and not to impose unreasonable or discriminatory conditions or limitations on, the resale of such services, elements, features, functions, and capabilities, on a bundled or unbundled basis, except that a carrier may prohibit a reseller that obtains at wholesale rates a service, element, feature, function, or capability that is available at retail only to a category of subscribers from offering such service, element, feature, function, or capability to a different category of subscribers.

For the purposes of this paragraph, wholesale rates shall be determined on the basis of retail rates for the service, element, feature, function, or capability provided, excluding the portion thereof attributable to any marketing, billing, collection, and other costs that are avoided by the local exchange carrier.

"(4) NUMBER PORTABILITY.—The duty to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission.

"(5) DIALING PARITY.—The duty to provide, in accordance with subsection (c), dialing parity to competing providers of telephone exchange service and telephone toll service.

"(6) ACCESS TO RIGHTS-OF-WAY.—The duty to afford access to the poles, ducts, conduits, and rights-of-way of such carrier to competing providers of telecommunications services in accordance with section 224(d).

"(7) NETWORK FUNCTIONALITY AND ACCESSIBILITY.—The duty not to install network features, functions, or capabilities that do not comply with any standards established pursuant to section 249.

"(8) GOOD FAITH NEGOTIATION.—The duty to negotiate in good faith, under the supervision of State commissions, the particular terms and conditions of agreements to fulfill the duties described in paragraphs (1) through (7). The other carrier or person requesting interconnection shall also be obligated to negotiate in good faith the particular terms and conditions of agreements to fulfill the duties described in paragraphs (1) through (7).

"(b) INTERCONNECTION, COMPENSATION, AND EQUAL ACCESS.—

"(1) INTERCONNECTION.—A local exchange carrier shall provide access to and interconnection with the facilities of the carrier's network at any technically feasible point within the carrier's network on just and reasonable terms and conditions, to any other carrier or person offering (or seeking to offer) telecommunications services or information services requesting such access.

"(2) INTERCARRIER COMPENSATION BETWEEN FACILITIES-BASED CARRIERS.—

"(A) IN GENERAL.—For the purposes of paragraph (1), the terms and conditions for interconnection of the network facilities of a competing provider of telephone exchange service shall not be considered to be just and reasonable unless—

"(i) such terms and conditions provide for the mutual and reciprocal recovery by each carrier of costs associated with the termination on such carrier's network facilities of calls that originate on the network facilities of the other carrier;

"(ii) such terms and conditions determine such costs on the basis of a reasonable approximation of the additional costs of terminating such calls; and

"(iii) the recovery of costs permitted by such terms and conditions are reasonable in relation to the prices for termination of calls that would prevail in a competitive market.

"(B) RULES OF CONSTRUCTION.—This paragraph shall not be construed—

"(i) to preclude arrangements that afford such mutual recovery of costs through the offsetting of reciprocal obligations, including arrangements that waive mutual recovery (such as bill-and-keep arrangements); or

"(ii) to authorize the Commission or any State commission to engage in any rate regulation proceeding to establish with particularity the additional costs of terminating calls, or to require carriers to maintain records with respect to the additional costs of terminating calls.

"(3) EQUAL ACCESS.—A local exchange carrier shall afford, to any other carrier or person offering (or seeking to offer) a telecommunications service or an information service, reasonable and nondiscriminatory access on an unbundled basis—

"(A) to databases, signaling systems, billing and collection services, 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 exchange access;

"(B) that is equal in type and quality to the access which the carrier affords to itself or to any other person, and is available at nondiscriminatory prices; and

"(C) that is sufficient to ensure the full interoperability of the equipment and facilities of the carrier and of the person seeking such access.

"(4) COMMISSION ACTION REQUIRED.—

"(A) IN GENERAL.—Within 6 months after the date of enactment of this part, the Commission shall complete all actions necessary (including any reconsideration) to establish regulations to implement the requirements of this section. The Commission shall establish such regulations after consultation with the Joint Board established pursuant to section 247.

"(B) ACCOMMODATION OF STATE ACCESS REGULATIONS.—In prescribing and enforcing regulations to implement the requirements of this section, the Commission shall not preclude the enforcement of any regulation, order, or policy of a State commission that—

"(i) establishes access and interconnection obligations of local exchange carriers;

"(ii) is consistent with the requirements of this section; and

"(iii) does not substantially prevent the Commission from fulfilling the requirements of this section and the purposes of this part.

"(C) COLLOCATION.—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.

"(D) USER PAYMENT OF COSTS.—Such regulations shall require that the costs that a carrier incurs in offering access, interconnection, number portability, or unbundled services, elements, features, functions, and capabilities shall be borne by the users of such access, interconnection, number portability, or services, elements, features, functions, and capabilities.

"(E) IMPUTED CHARGES TO CARRIER.—Such regulations shall require the carrier, to the extent it provides a telecommunications service or an information service that requires access or interconnection to its network facilities, to impute such access and interconnection charges to itself.

"(c) NUMBER PORTABILITY AND DIALING PARITY.—

"(1) AVAILABILITY.—A local exchange carrier shall ensure that—

"(A) number portability shall be available on request in accordance with subsection (a)(4); and

"(B) dialing parity shall be available upon request, except that, in the case of a Bell operating company, such company shall ensure that dialing parity for intraLATA telephone toll service shall be available not later than the date such company is authorized to provide interLATA services.

"(2) NUMBER ADMINISTRATION.—The Commission shall designate one or more impartial entities to administer telecommunications numbering and to 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. Nothing in this paragraph shall preclude the Commission from delegating to State commissions or other entities any portion of such jurisdiction.

"(d) JOINT MARKETING OF RESOLD ELEMENTS.—

"(1) RESTRICTION.—Except as provided in paragraph (2), no service, element, feature, function, or capability that is made available for resale in any State by a Bell operating company may be jointly marketed directly or indirectly with any interLATA telephone toll service until such Bell operating company is authorized pursuant to section 245(c) to provide interLATA services in such State.

"(2) COMPETING PROVIDERS.—Paragraph (1) shall not prohibit joint marketing of services, elements, features, functions, or capabilities acquired from a Bell operating company by an unaffiliated provider that, together with its affiliates, has in the aggregate less than 2 percent of the access lines installed nationwide.

"(e) MODIFICATIONS AND WAIVERS.—The Commission may modify or waive the requirements of this section for any local exchange carrier (or class or category of such carriers) 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 or technologically infeasible.

"(f) EXEMPTION FOR CERTAIN RURAL TELEPHONE COMPANIES.—Subsections (a) through (d) of this section shall not apply to a rural telephone company, until such company has received a bona fide request for services, elements, features or capabilities described in subsections (a) through (d). Following a bona fide request to the carrier and notice of the request to the State commission, the State commission shall determine within 120 days whether the request would be unduly economically burdensome, be technologically infeasible, and be consistent with subsections (b)(1) through (b)(5), (c)(1), and (c)(3) of section 247. The exemption provided by this subsection shall not apply if such carrier provides video programming services over its telephone exchange facilities in its telephone service area.

"(g) TIME AND MANNER OF COMPLIANCE.—The State shall establish, after determining pursuant to subsection (f) that a bona fide request is not economically burdensome, is technologically feasible, and is consistent with subsections (b)(1) through (b)(5), (c)(1), and (c)(3) of section 247, an implementation schedule for compliance with such approved bona fide request that is consistent in time and manner with Commission rules.

"(h) AVOIDANCE OF REDUNDANT REGULATIONS.—

"(1) COMMISSION REGULATIONS.—Nothing in this section shall be construed to prohibit the Commission from enforcing regulations prescribed prior to the date of enactment of this part in fulfilling the requirements of this section, to the extent that such regulations are consistent with the provisions of this section.

"(2) STATE REGULATIONS.—Nothing in this section shall be construed to prohibit any State commission from enforcing regulations prescribed prior to the date of enactment of this part, or from prescribing regulations after such date of enactment, in fulfilling the requirements of this section, if (A) such regulations are consistent with the provisions of this section, and (B) the enforcement of such regulations has not been precluded under subsection (b)(4)(B).

"SEC. 243. REMOVAL OF BARRIERS TO ENTRY.

(a) IN GENERAL.—No State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide interstate or intrastate telecommunications services.

(b) STATE AND LOCAL AUTHORITY.—Nothing in this section shall affect the ability of a State or local government to impose, on a competitively neutral basis and consistent with section 247 (relating to universal service), requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers.

(c) LOCAL GOVERNMENT AUTHORITY.—Nothing in this Act affects the authority of a local government to manage the public rights-of-way or to require fair and reasonable compensation from telecommunications providers, on a competitively neutral and nondiscriminatory basis, for use of the rights-of-way on a nondiscriminatory basis, if the compensation required is publicly disclosed by such government.

(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 section.

"SEC. 244. STATEMENTS OF TERMS AND CONDITIONS FOR ACCESS AND INTERCONNECTION.

"(a) IN GENERAL.—Within 18 months after the date of enactment of this part, and from time to time thereafter, a local exchange carrier shall prepare and file with a State commission statements of the terms and conditions that such carrier generally offers within that State with respect to the services, elements, features, functions, or capabilities provided to comply with the requirements of section 242 and the regulations thereunder. Any such statement pertaining to the charges for interstate services, elements, features, functions, or capabilities shall be filed with the Commission.

"(b) REVIEW.—

"(1) STATE COMMISSION REVIEW.—A State commission to which a statement is submitted under subsection (a) shall review such statement in accordance with State law. A State commission may not approve such statement unless such statement complies with section 242 and the regulations thereunder. Except as provided in section 243, nothing in this section shall prohibit a State commission from establishing or enforcing other requirements of State law in its review of such statement, including requiring compliance with intrastate telecommunications service quality standards or requirements.

"(2) FCC REVIEW.—The Commission shall review such statements to ensure that—

"(A) the charges for interstate services, elements, features, functions, or capabilities are just, reasonable, and nondiscriminatory; and

"(B) the terms and conditions for such interstate services or elements unbundle any separable services, elements, features, functions, or capabilities in accordance with section 242(a)(2) and any regulations thereunder.

"(c) TIME FOR REVIEW.—

"(1) SCHEDULE FOR REVIEW.—The Commission and the State commission to which a statement is submitted shall, not later than 60 days after the date of such submission—

"(A) complete the review of such statement under subsection (b) (including any reconsideration thereof), unless the submitting carrier agrees to an extension of the period for such review; or

"(B) permit such statement to take effect.

"(2) AUTHORITY TO CONTINUE REVIEW.—Paragraph (1) shall not preclude the Commission or a State commission from continuing to review a statement that has been permitted to take effect under subparagraph (B) of such paragraph.

"(d) EFFECT OF AGREEMENTS.—Nothing in this section shall prohibit a carrier from filing an agreement to provide services, elements, features, functions, or capabilities affording access and interconnection as a statement of terms and conditions that the carrier generally offers for purposes of this section. An agreement affording access and interconnection shall not be approved under this section unless the agreement contains a plan, including a reasonable schedule, for the implementation of the requested access or interconnection. The approval of a statement under this section shall not operate to prohibit a carrier from entering into subsequent agreements that contain terms and conditions that differ from those contained in a statement that has been reviewed and approved under this section, but—

"(1) each such subsequent agreement shall be filed under this section; and

"(2) such carrier shall be obligated to offer access to such services, elements, features, functions, or capabilities to other carriers and persons (including carriers and persons covered by previously approved statements) requesting such access on terms and conditions that, in relation to the terms and conditions in such subsequent agreements, are not discriminatory.

"(e) SUNSET.—The provisions of this section shall cease to apply in any local exchange market, defined by geographic area and class or category of service, that the Commission and the State determines has become subject to full and open competition.

"SEC. 245. BELL OPERATING COMPANY ENTRY INTO INTERLATA SERVICES.

"(a) VERIFICATION OF ACCESS AND INTERCONNECTION COMPLIANCE.—At any time after 6 months after the date of enactment of this part, a Bell operating company may provide to the Commission verification by such company with respect to one or more States that such company is in compliance with the requirements of this part. Such verification shall contain the following:

"(1) CERTIFICATION.—A certification by each State commission of such State or States that such carrier has fully implemented the conditions described in subsection (b), except as provided in subsection (c)(2).

"(2) AGREEMENT OR STATEMENT.—For each such State, either of the following:

"(A) PRESENCE OF A FACILITIES-BASED COMPETITOR.—An agreement that has been approved under section 244 specifying the terms and conditions under which the Bell operating company is providing access and interconnection to its network facilities in accordance with section 242 for the network facilities of an unaffiliated competing provider of telephone exchange service (as defined in section 3(44)(A), but excluding exchange access service) to residential and business subscribers. For the purpose of this subparagraph, such telephone exchange service may be offered by such competing provider either exclusively over its own telephone exchange service facilities or predominantly over its own telephone exchange service facilities in combination with the resale of the services of another carrier. For the purpose of this subparagraph, services provided pursuant to subpart K of part 22 of the Commission's regulations (47 C.F.R. 22.901 et seq.) shall not be considered to be telephone exchange services.

"(B) FAILURE TO REQUEST ACCESS.—If no such provider has requested such access and interconnection before the date which is 3 months before the date the company makes its submission under this subsection, a statement of the terms and conditions that the carrier generally offers to provide such access and interconnection that has been approved or permitted to take effect by the State commission under section 244.

For purposes of subparagraph (B), a Bell operating company shall be considered not to have received any request for access or interconnection if the State commission of such State or States certifies that the only provider or providers making such request have (i) failed to bargain in good faith under the supervision of such State commission pursuant to section 242(a)(8), or (ii) have violated the terms of their agreement by failure to comply, within a reasonable period

of time, with the implementation schedule contained in such agreement.

"(b) CERTIFICATION OF COMPLIANCE WITH PART II.—For the purposes of subsection (a)(1), a Bell operating company shall submit to the Commission a certification by a State commission of compliance with each of the following conditions in any area where such company provides local exchange service or exchange access in such State:

"(1) INTERCONNECTION.—The Bell operating company provides access and interconnection in accordance with subsections (a)(1) and (b) of section 242 to any other carrier or person offering telecommunications services requesting such access and interconnection, and complies with the Commission regulations pursuant to such section concerning such access and interconnection.

"(2) UNBUNDLING OF NETWORK ELEMENTS.—The Bell operating company provides unbundled services, elements, features, functions, and capabilities in accordance with subsection (a)(2) of section 242 and the regulations prescribed by the Commission pursuant to such section.

"(3) RESALE.—The Bell operating company offers services, elements, features, functions, and capabilities for resale in accordance with section 242(a)(3), and neither the Bell operating company, nor any unit of State or local government within the State, imposes any restrictions on resale or sharing of telephone exchange service (or unbundled services, elements, features, or functions of telephone exchange service) in violation of section 242(a)(3).

"(4) NUMBER PORTABILITY.—The Bell operating company provides number portability in compliance with the Commission's regulations pursuant to subsections (a)(4) and (c) of section 242.

"(5) DIALING PARITY.—The Bell operating company provides dialing parity in accordance with subsections (a)(5) and (c) of section 242, and will, not later than the effective date of its authority to commence providing interLATA services, take such actions as are necessary to provide dialing parity for intraLATA telephone toll service in accordance with such subsections.

"(6) ACCESS TO CONDUITS AND RIGHTS OF WAY.—The poles, ducts, conduits, and rights of way of such Bell operating company are available to competing providers of telecommunications services in accordance with the requirements of sections 242(a)(6) and 224(d).

"(7) ELIMINATION OF FRANCHISE LIMITATIONS.—No unit of the State or local government in such State or States enforces any prohibition or limitation in violation of section 243.

"(8) NETWORK FUNCTIONALITY AND ACCESSIBILITY.—The Bell operating company will not install network features, functions, or capabilities that do not comply with the standards established pursuant to section 249.

"(9) NEGOTIATION OF TERMS AND CONDITIONS.—The Bell operating company has negotiated in good faith, under the supervision of the State commission, in accordance with the requirements of section 242(a)(8) with any other carrier or person requesting access or interconnection.

"(c) COMMISSION REVIEW.—

"(1) REVIEW OF STATE DECISIONS AND CERTIFICATIONS.—The Commission shall review any verification submitted by a Bell operating company pursuant to subsection (a). The Commission may require such company to submit such additional information as is necessary to validate any of the items of such verification.

"(2) DE NOVO REVIEW.—If—

"(A) a State commission does not have the jurisdiction or authority to make the certification required by subsection (b);

"(B) the State commission has failed to act within 90 days after the date a request for such certification is filed with such State commission; or

"(C) the State commission has sought to impose a term or condition in violation of section 243;

the local exchange carrier may request the Commission to certify the carrier's compliance with the conditions specified in subsection (b).

"(3) CONSULTATION WITH THE ATTORNEY GENERAL.—The Commission shall notify the Attorney General promptly of any verification submitted for approval under this subsection, and shall identify any verification that, if approved, would relieve the Bell operating company and its affiliates of the prohibition concerning manufacturing contained in section 271(a). Before making any determination under this subsection, the Commission shall consult with the Attorney General, and if the Attorney General submits any comments in writing, such comments shall be included in the record of the Commission's decision. In consulting with and submitting comments to the Commission under this paragraph, the Attorney General shall provide to the Commission an evaluation of whether there is a dangerous probability that the Bell operating company or its affiliates would successfully use market power to substantially impede competition in the market such company seeks to enter. In consulting with and submitting comments to the Commission under this paragraph with respect to a verification that, if approved, would relieve the Bell operating company and its affiliates of the prohibition concerning manufacturing contained in section 271(a), the Attorney General shall also provide to the Commission an evaluation of whether there is a dangerous probability that the Bell operating company or its affiliates would successfully use market power to substantially impede competition in manufacturing.

"(4) TIME FOR DECISION; PUBLIC COMMENT.—Unless such Bell operating company consents to a longer period of time, the Commission shall approve, disapprove, or approve with conditions such verification within 90 days after the date of its submission. During such 90 days, the Commission shall afford interested persons an opportunity to present information and evidence concerning such verification.

"(5) STANDARD FOR DECISION.—The Commission shall not approve such verification unless the Commission determines that—

"(A) the Bell operating company meets each of the conditions required to be certified under subsection (b); and

"(B) the agreement or statement submitted under subsection (a)(2) complies with the requirements of section 242 and the regulations thereunder.

"(d) ENFORCEMENT OF CONDITIONS.—

"(1) COMMISSION AUTHORITY.—If at any time after the approval of a verification under subsection (c), the Commission determines that a Bell operating company has ceased to meet any of the conditions required to be certified under subsection (b), the Commission may, after notice and opportunity for a hearing—

"(A) issue an order to such company to correct the deficiency;

"(B) impose a penalty on such company pursuant to title V; or

"(C) suspend or revoke such approval.

"(2) RECEIPT AND REVIEW OF COMPLAINTS.—The Commission shall establish procedures for the review of complaints concerning failures by Bell operating companies to meet conditions required to be certified under subsection (b). Unless the parties otherwise agree, the Commission shall act on such complaint within 90 days.

"(3) STATE AUTHORITY.—The authority of the Commission under this subsection shall not be construed to preempt any State commission from taking actions to enforce the conditions required to be certified under subsection (b).

"(e) AUTHORITY TO PROVIDE INTERLATA SERVICES.—

"(1) PROHIBITION.—Except as provided in paragraph (2) and subsections (f), (g), and (h), a Bell operating company or affiliate thereof may not provide interLATA services.

"(2) AUTHORITY SUBJECT TO CERTIFICATION.—A Bell operating company or affiliate thereof may, in any States to which its verification under subsection (a) applies, provide interLATA services—

"(A) during any period after the effective date of the Commission's approval of such verification pursuant to subsection (c), and

"(B) until the approval of such verification is suspended or revoked by the Commission pursuant to subsection (c).

"(f) EXCEPTION FOR PREVIOUSLY AUTHORIZED ACTIVITIES.—Subsection (e) shall not prohibit a Bell operating company or affiliate from engaging, at any time after the date of the enactment of this part, 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 part, or

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

"(g) EXCEPTIONS FOR INCIDENTAL SERVICES.—Subsection (e) shall not prohibit a Bell operating company or affiliate thereof, at any time after the date of the enactment of this part, from providing interLATA 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 or 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, and that is located within a State in which such company is not, on the date of the enactment of this part, a provider of wireline telephone exchange service;

"(3) providing commercial mobile services in accordance with section 332(c) of this Act and with the regulations prescribed by the Commission pursuant to paragraph (8) of such section;

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

"(5) providing signaling information used in connection with the provision of telephone 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, common carriers offering interLATA services at any location within the area in which such Bell operating company provides telephone exchange services or exchange access.

"(h) OUT-OF-REGION SERVICES.—When a Bell operating company and its affiliates have obtained Commission approval under subsection (c) for each State in which such Bell operating

company and its affiliates provide telephone exchange service on the date of enactment of this part, such Bell operating company and any affiliate thereof may, notwithstanding subsection (e), provide interLATA services—

"(1) for calls originating in, and billed to a customer in, a State in which neither such company nor any affiliate provided telephone exchange service on such date of enactment; or

"(2) for calls originating outside the United States.

"(i) INTRALATA TOLL DIALING PARITY.—Neither the Commission nor any State may order any Bell operating company to provide dialing parity for intraLATA telephone toll service in any State before the date such company is authorized to provide interLATA services in such State pursuant to this section.

"(j) FORBEARANCE.—The Commission may not, pursuant to section 230, forbear from applying any provision of this section or any regulation thereunder until at least 5 years after the date of enactment of this part.

"(k) SUNSET.—The provisions of this section shall cease to apply in any local exchange market, defined by geographic area and class or category of service, that the Commission and the State determines has become subject to full and open competition.

"(l) DEFINITIONS.—As used in this section—

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

"(2) VIDEO PROGRAMMING.—The term 'video programming' has the meaning provided in section 602.

"(3) 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 this Act.

"SEC. 246. COMPETITIVE SAFEGUARDS.

"(a) IN GENERAL.—In accordance with the requirements of this section and the regulations adopted thereunder, a Bell operating company or any affiliate thereof providing any interLATA telecommunications or interLATA information service, shall do so through a subsidiary that is separate from the Bell operating company or any affiliate thereof that provides telephone exchange service. The requirements of this section shall not apply with respect to (1) activities in which a Bell operating company or affiliate may engage pursuant to section 245(f), or (2) incidental services in which a Bell operating company or affiliate may engage pursuant to section 245(g), other than services described in paragraph (4) of such section.

"(b) TRANSACTION REQUIREMENTS.—Any transaction between such a subsidiary and a Bell operating company and any other affiliate of such company shall be conducted on an arm's-length basis, in the same manner as the Bell operating company conducts business with unaffiliated persons, and shall not be based upon any preference or discrimination in favor of the subsidiary arising out of the subsidiary's affiliation with such company.

"(c) SEPARATE OPERATION AND PROPERTY.—A subsidiary required by this section shall—

"(1) operate independently from the Bell operating company or any affiliate thereof,

"(2) have separate officers, directors, and employees who may not also serve as officers, directors, or employees of the Bell operating company or any affiliate thereof,

"(3) not enter into any joint venture activities or partnership with a Bell operating company or any affiliate thereof,

"(4) not own any telecommunications transmission or switching facilities in common with the Bell operating company or any affiliate thereof, and

"(5) not jointly own or share the use of any other property with the Bell operating company or any affiliate thereof.

"(d) BOOKS, RECORDS, AND ACCOUNTS.—Any subsidiary required by this section shall maintain books, records, and accounts in a manner prescribed by the Commission which shall be separate from the books, records, and accounts maintained by a Bell operating company or any affiliate thereof.

"(e) PROVISION OF SERVICES AND INFORMATION.—A Bell operating company or any affiliate thereof may not discriminate between a subsidiary required by this section and any other person in the provision or procurement of goods, services, facilities, or information, or in the establishment of standards, and shall not provide any goods, services, facilities or information to a subsidiary required by this section unless such goods, services, facilities or information are made available to others on reasonable, nondiscriminatory terms and conditions.

"(f) PREVENTION OF CROSS-SUBSIDIES.—A Bell operating company or any affiliate thereof required to maintain a subsidiary under this section shall establish and administer, in accordance with the requirements of this section and the regulations prescribed thereunder, a cost allocation system that prohibits any cost of providing interLATA telecommunications or interLATA information services from being subsidized by revenue from telephone exchange services and telephone exchange access services. The cost allocation system shall employ a formula that ensures that—

"(1) the rates for telephone exchange services and exchange access are no greater than they would have been in the absence of such investment in interLATA telecommunications or interLATA information services (taking into account any decline in the real costs of providing such telephone exchange services and exchange access); and

"(2) such interLATA telecommunications or interLATA information services bear a reasonable share of the joint and common costs of facilities used to provide telephone exchange, exchange access, and competitive services.

"(g) ASSETS.—The Commission shall, by regulation, ensure that the economic risks associated with the provision of interLATA telecommunications or interLATA information services by a Bell operating company or any affiliate thereof (including any increases in such company's cost of capital that occur as a result of the provision of such services) are not borne by customers of telephone exchange services and exchange access in the event of a business loss or failure. Investments or other expenditures assigned to interLATA telecommunications or interLATA information services shall not be reassigned to telephone exchange service or exchange access.

"(h) DEBT.—A subsidiary required by this section shall not obtain credit under any arrangement that would—

"(1) permit a creditor, upon default, to have resource to the assets of a Bell operating company; or

"(2) induce a creditor to rely on the tangible or intangible assets of a Bell operating company in extending credit.

"(i) FULFILLMENT OF CERTAIN REQUESTS.—A Bell operating company or an affiliate thereof shall—

"(1) fulfill any requests from an unaffiliated entity for telephone exchange service and exchange access within a period no longer than the period in which it provides such telephone exchange service and exchange access to itself or to its affiliates;

"(2) fulfill any such requests with telephone exchange service and exchange access of a quality that meets or exceeds the quality of telephone exchange services and exchange access provided by the Bell operating company or its affiliates to itself or its affiliates; and

"(3) provide telephone exchange service and exchange access to all providers of intraLATA or interLATA telephone toll services and interLATA information services at cost-based rates that are not unreasonably discriminatory.

"(j) CHARGES FOR ACCESS SERVICES.—A Bell operating company or an affiliate thereof shall charge the subsidiary required by this section an amount for telephone exchange services, exchange access, and other necessary associated inputs no less than the rate charged to any unaffiliated entity for such access and inputs.

"(k) SUNSET.—The provisions of this section shall cease to apply to any Bell operating company in any State 18 months after the date such Bell operating company is authorized pursuant to section 245(c) to provide interLATA telecommunications services in such State.

"SEC. 247. UNIVERSAL SERVICE.

"(a) JOINT BOARD TO PRESERVE UNIVERSAL SERVICE.—Within 30 days after the date of enactment of this part, 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 in furtherance of the purposes set forth in section 1 of this Act. In addition to the members required under section 410(c), one member of the Joint Board shall be a State-appointed utility consumer advocate nominated by a national organization of State utility consumer advocates.

"(b) PRINCIPLES.—The Joint Board shall base policies for the preservation of universal service on the following principles:

"(1) JUST AND REASONABLE RATES.—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.

"(2) DEFINITIONS OF INCLUDED SERVICES; COMPARABILITY IN URBAN AND RURAL AREAS.—Such plan should recommend a definition of 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, and to promote reasonably comparable services for the general public in urban and rural areas, while maintaining just and reasonable rates.

"(3) ADEQUATE AND SUSTAINABLE SUPPORT MECHANISMS.—Such plan should recommend specific and predictable mechanisms to provide adequate and sustainable support for universal service.

"(4) EQUITABLE AND NONDISCRIMINATORY CONTRIBUTIONS.—All providers of telecommunications services should make an equitable and nondiscriminatory contribution to the preservation of universal service.

"(5) EDUCATIONAL ACCESS TO ADVANCED TELECOMMUNICATIONS SERVICES.—To the extent that a common carrier establishes advanced telecommunications services, such plan should include recommendations to ensure access to advanced telecommunications services for students in elementary and secondary schools.

"(6) ADDITIONAL PRINCIPLES.—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.—In recommending a definition of the nature and extent of the services encompassed within carriers' universal service obligations under subsection (b)(2), the Joint Board shall consider the extent to which—

"(1) a telecommunications service has, through the operation of market choices by customers, been subscribed to by a substantial majority of residential customers;

"(2) such service or capability is essential to public health, public safety, or the public interest;

"(3) such service has been deployed in the public switched telecommunications network; and

"(4) 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 subsection (b).

"(d) REPORT; COMMISSION RESPONSE.—The Joint Board convened pursuant to subsection (a) shall report its recommendations within 6 months after the date of enactment of this part. The Commission shall complete any proceeding to act upon such recommendations and to comply with the principles set forth in subsection (b) within one year after such date of enactment.

"(e) STATE AUTHORITY.—Nothing in this section shall be construed to restrict the authority of any State to adopt regulations imposing universal service obligations on the provision of intrastate telecommunications services.

"(f) SUNSET.—The Joint Board established by this section shall cease to exist 5 years after the date of enactment of this part.

"SEC. 248. PRICING FLEXIBILITY AND ABOLITION OF RATE-OF-RETURN REGULATION.

"(a) PRICING FLEXIBILITY.—

"(1) COMMISSION CRITERIA.—Within 270 days after the date of enactment of this part, the Commission shall complete all actions necessary (including any reconsideration) to establish—

"(A) criteria for determining 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; and

"(B) appropriate flexible pricing procedures that afford a regulated provider of a service described in subparagraph (A) the opportunity to respond fairly to such competition and that are consistent with the protection of subscribers and the public interest, convenience, and necessity.

In establishing criteria and procedures pursuant to this paragraph, the Commission shall take into account and accommodate, to the extent reasonable and consistent with the purposes of this section, the criteria and procedures established for such purposes by State commissions prior to the effective date of the Commission's criteria and procedures under this section.

"(2) STATE SELECTION.—A State commission may utilize the flexible pricing procedures or procedures (established under paragraph (1)(B)) that are appropriate in light of the criteria established under paragraph (1)(A).

"(3) 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—

"(A) render determinations in accordance with the criteria established under paragraph (1)(A) concerning the services or providers that are the subject of such application; and

"(B) upon a proper showing, implement appropriate flexible pricing procedures consistent with paragraphs (1)(B) and (2) with respect to such services or providers.

The Commission and such State commission shall approve or reject any such application within 180 days after the date of its submission.

"(4) RESPONSE TO COMPETITION.—Pricing flexibility implemented pursuant to this subsection shall permit regulated telecommunications providers to respond fairly to competition by repricing services subject to competition, but shall not have the effect of changing prices for noncompetitive services or using noncompetitive services to subsidize competitive services.

"(b) ABOLITION OF RATE-OF-RETURN REGULATION.—Notwithstanding any other provision of law, to the extent that a carrier has complied with sections 242 and 244 of this part, the Commission, with respect to rates for interstate or foreign communications, and State commissions, with respect to rates for intrastate communications, shall not require rate-of-return regulation.

"(c) TERMINATION OF PRICE AND OTHER REGULATION.—Notwithstanding any other provision of law, to the extent that a carrier has complied with sections 242 and 244 of this part, the Commission, with respect to interstate or foreign communications, and State commissions, with respect to intrastate communications, shall not, for any service that is determined, in accordance with the criteria established under subsection (a)(1)(A), to be subject to competition that effectively prevents prices for such service that are unjust or unreasonable or unjustly or unreasonably discriminatory—

"(1) regulate the prices for such service;

"(2) require the filing of a schedule of charges for such service;

"(3) require the filing of any cost or revenue projections for such service;

"(4) regulate the depreciation charges for facilities used to provide such service; or

"(5) require prior approval for the construction or extension of lines or other equipment for the provision of such service.

"(d) ABILITY TO CONTINUE AFFORDABLE VOICE-GRADE SERVICE.—Notwithstanding subsections (a), (b), and (c), each State commission shall, for a period of not more than 3 years, permit residential subscribers to continue to receive only basic voice-grade local telephone service equivalent to the service generally available to residential subscribers on the date of enactment of this part, 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. Any increases in the rates for such services for residential subscribers that are not attributable to changes in consumer prices generally shall be permitted in any proceeding commenced after the date of enactment of this section upon a showing that such increase is necessary to ensure the continued availability of universal service, prevent economic disadvantages for one or more service providers, and is in the public interest. Such increase in rates shall be minimized to the greatest extent practical and shall be implemented over a time period of not more than 3 years after the the date of enactment of this section. The requirements of this subsection shall not apply to any rural telephone company if the rates for basic voice-grade local telephone service of that company are not subject to regulation by a State commission on the date of enactment of this part.

"(e) INTEREXCHANGE SERVICE.—The rates charged by providers of interexchange telecommunications service to customers in rural and high cost areas shall be maintained at levels no higher than those charged by each such provider to its customers in urban areas.

"(f) EXCEPTION.—In the case of commercial mobile services, the provisions of section 332(c)(1) shall apply in lieu of the provisions of this section.

"(g) AVOIDANCE OF REDUNDANT REGULATIONS.—

"(1) COMMISSION REGULATIONS.—Nothing in this section shall be construed to prohibit the Commission from enforcing regulations prescribed prior to the date of enactment of this part in fulfilling the requirements of this section, to the extent that such regulations are consistent with the provisions of this section.

"(2) STATE REGULATIONS.—Nothing in this section shall be construed to prohibit any State commission from enforcing regulations prescribed prior to the effective date of the Commission's criteria and procedures under this section in fulfilling the requirements of this section, or from prescribing regulations after such date, to the extent such regulations are consistent—

"(A) with the provisions of this section; and

"(B) after such effective date, with such criteria and procedures.

"SEC. 249. NETWORK FUNCTIONALITY AND ACCESSIBILITY.

"(a) FUNCTIONALITY AND ACCESSIBILITY.—The duty of a common carrier under section 201(a) to furnish communications service includes the duty to furnish that service in accordance with any standards established pursuant to this section.

"(b) COORDINATION FOR INTERCONNECTIVITY.—The Commission—

"(1) shall establish procedures for Commission oversight of coordinated network planning by common carriers and other providers of telecommunications services for the effective and efficient interconnection of public switched networks; and

"(2) may participate, in a manner consistent with its authority and practice prior to the date of enactment of this section, in the development by appropriate industry standards-setting organizations of interconnection standards that promote access to—

"(A) network capabilities and services by individuals with disabilities; and

"(B) information services by subscribers to telephone exchange service furnished by a rural telephone company.

"(c) ACCESSIBILITY FOR INDIVIDUALS WITH DISABILITIES.—

"(1) ACCESSIBILITY.—Within 1 year after the date of enactment of this section, the Commission shall prescribe such regulations as are necessary to ensure that, if readily achievable, advances in network services deployed by common carriers, and telecommunications equipment and customer premises equipment manufactured for use in conjunction with network services, shall be accessible and usable by individuals with disabilities, including individuals with functional limitations of hearing, vision, movement, manipulation, speech, and interpretation of information. Such regulations shall 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.

"(2) COMPATIBILITY.—Such regulations shall require that whenever the requirements of paragraph (1) are not readily achievable, 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 is not readily achievable.

"(3) READILY ACHIEVEABLE.—The term 'readily achievable' has the meaning given it by section 301(g) of the Americans with Disabilities Act 1990 (42 U.S.C. 12102(g)).

"(4) EFFECTIVE DATE.—The regulations required by this subsection shall become effective

18 months after the date of enactment of this part.

"(d) PRIVATE RIGHTS OF ACTIONS PROHIBITED.—Nothing in this section shall be construed to authorize any private right of action to enforce any requirement of this section or any regulation thereunder. The Commission shall have exclusive jurisdiction with respect to any complaint under this section.

"SEC. 250. MARKET ENTRY BARRIERS.

"(a) ELIMINATION OF BARRIERS.—Within 15 months after the date of enactment of this part, the Commission shall complete a proceeding for the purpose of identifying and eliminating, by regulations pursuant to its authority under this Act (other than this section), market entry barriers for entrepreneurs and other small businesses in the provision and ownership of telecommunications services and information services, or in the provision of parts or services to providers of telecommunications services and information services.

"(b) NATIONAL POLICY.—In carrying out subsection (a), the Commission shall seek to promote the policies and purposes of this Act favoring diversity of media voices, vigorous economic competition, technological advancement, and promotion of the public interest, convenience, and necessity.

"(c) PERIODIC REVIEW.—Every 3 years following the completion of the proceeding required by subsection (a), the Commission shall review and report to Congress on—

"(1) any regulations prescribed to eliminate barriers within its jurisdiction that are identified under subsection (a) and that can be prescribed consistent with the public interest, convenience, and necessity; and

"(2) the statutory barriers identified under subsection (a) that the Commission recommends be eliminated, consistent with the public interest, convenience, and necessity.

"SEC. 251. ILLEGAL CHANGES IN SUBSCRIBER CARRIER SELECTIONS.

"(a) PROHIBITION .—No common carrier shall submit or execute a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service except in accordance with such verification procedures as the Commission shall prescribe. Nothing in this section shall preclude any State commission from enforcing such procedures with respect to intrastate services.

"(b) LIABILITY FOR CHARGES.—Any common carrier that violates the verification procedures described in subsection (a) and that collects charges for telephone exchange service or telephone toll service from a subscriber shall be liable to the carrier previously selected by the subscriber in an amount equal to all charges paid by such subscriber after such violation, in accordance with such procedures as the Commission may prescribe. The remedies provided by this subsection are in addition to any other remedies available by law.

"SEC. 252. STUDY.

"Within 3 years after the date of enactment of this part, the Commission shall conduct a study that—

"(1) reviews the definition of, and the adequacy of support for, universal service, and evaluates the extent to which universal service has been protected and access to advanced services has been facilitated pursuant to this part and the plans and regulations thereunder;

"(2) evaluates the extent to which access to advanced telecommunications services for students in elementary and secondary school classrooms has been attained pursuant to section 247(b)(5); and

"(3) determines whether the regulations established under section 249(c) have ensured that advances in network services by providers of telecommunications services and information services are accessible and usable by individuals with disabilities.".

(b) CONSOLIDATED RULEMAKING PROCEEDING.—The Commission shall conduct a single consolidated rulemaking proceeding to prescribe or amend regulations necessary to implement the requirements of—

(1) part II of title II of the Act as added by subsection (a) of this section;

(2) section 222 as amended by section 104 of this Act; and

(3) section 224 as amended by section 105 of this Act.

(c) DESIGNATION OF PART I.—Title II of the Act is further amended by inserting before the heading of section 201 the following new heading:

"PART I—REGULATION OF DOMINANT COMMON CARRIERS".

(d) SYLISTIC CONSISTENCY.—The Act is amended so that—

(1) the designation and heading of each title of the Act shall be in the form and typeface of the designation and heading of this title of this Act; and

(2) the designation and heading of each part of each title of the Act shall be in the form and typeface of the designation and heading of part I of title II of the Act, as amended by subsection (c).

(e) CONFORMING AMENDMENTS.—

(1) FEDERAL-STATE JURISDICTION.—Section 2(b) of the Act (47 U.S.C. 152(b)) is amended by inserting "part II of title II," after "227, inclusive,".

(2) FORFEITURES.—Sections 503(b)(1) and 504(b) of such Act (47 U.S.C. 503(b)) are each amended by inserting "part I of" before "title II".

SEC. 102. COMPETITION IN MANUFACTURING, INFORMATION SERVICES, ALARM SERVICES, AND PAY-PHONE SERVICES.

(a) COMPETITION IN MANUFACTURING, INFORMATION SERVICES, AND ALARM SERVICES.—Title II of the Act is amended by adding at the end of part II (as added by section 101) the following new part:

"PART III—SPECIAL AND TEMPORARY PROVISIONS

"SEC. 271. MANUFACTURING BY BELL OPERATING COMPANIES.

"(a) LIMITATIONS ON MANUFACTURING.—

"(1) ACCESS AND INTERCONNECTION REQUIRED.—It shall be unlawful for a Bell operating company, directly or through an affiliate, to manufacture telecommunications equipment or customer premises equipment, until the Commission has approved under section 245(c) verifications that such Bell operating company, and each Bell operating company with which it is affiliated, are in compliance with the access and interconnection requirements of part II of this title.

"(2) SEPARATE SUBSIDIARY REQUIRED.—During the first 18 months after the expiration of the limitation contained in paragraph (1), a Bell operating company may engage in manufacturing telecommunications equipment or customer premises equipment only through a separate subsidiary established and operated in accordance with section 246.

"(b) COLLABORATION; RESEARCH AND ROYALTY AGREEMENTS.—

"(1) COLLABORATION.—Subsection (a) shall not prohibit a Bell operating company from engaging 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.

"(2) RESEARCH; ROYALTY AGREEMENTS.—Subsection (a) shall not prohibit a Bell operating company, directly or through an subsidiary, from—

"(A) engaging in any research activities related to manufacturing, and

"(B) entering into royalty agreements with manufacturers of telecommunications equipment.

"(c) INFORMATION REQUIREMENTS.—

"(1) 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) DISCLOSURE OF INFORMATION.—A Bell operating company shall not disclose any information required to be filed under paragraph (1) unless that information has been 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 have access to the information with respect to the protocols and technical requirements for connection with and use of telephone exchange service facilities that a Bell operating company makes available to any manufacturing affiliate or any unaffiliated manufacturer.

"(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.

"(d) MANUFACTURING LIMITATIONS FOR STANDARD-SETTING ORGANIZATIONS.—

"(1) APPLICATION TO BELL COMMUNICATIONS RESEARCH OR MANUFACTURERS.—Bell Communications Research, Inc., or any successor entity or affiliate—

"(A) shall not be considered a Bell operating company or a successor or assign of a Bell operating company at such time as it is no longer an affiliate of any Bell operating company; and

"(B) notwithstanding paragraph (3), shall not engage in manufacturing telecommunications equipment or customer premises equipment as long as it is an affiliate of more than 1 otherwise unaffiliated Bell operating company or successor or assign of any such company.

Nothing in this subsection prohibits Bell Communications Research, Inc., or any successor entity, from engaging in any activity in which it is lawfully engaged on the date of enactment of this subsection. Nothing provided in this subsection shall render Bell Communications Research, Inc., or any successor entity, a common carrier under title II of this Act. Nothing in this section restricts any manufacturer from engaging in any activity in which it is lawfully engaged on the date of enactment of this section.

"(2) PROPRIETARY INFORMATION.—Any entity which establishes standards for telecommunications equipment or customer premises equipment, or generic network requirements for such equipment, or certifies telecommunications equipment, or customer premises equipment, shall be prohibited from releasing or otherwise using any proprietary information, designated as such by its owner, in its possession as a result of such activity, for any purpose other than purposes authorized in writing by the owner of such information, even after such entity ceases to be so engaged.

"(3) MANUFACTURING SAFEGUARDS.—(A) Except as prohibited in paragraph (1), and subject to paragraph (6), any entity which certifies telecommunications equipment or customer premises equipment manufactured by an unaffiliated entity shall only manufacture a particular class of

telecommunications equipment or customer premises equipment for which it is undertaking or has undertaken, during the previous 18 months, certification activity for such class of equipment through a separate affiliate.

"(B) Such separate affiliate shall—

"(i) maintain books, records, and accounts separate from those of the entity that certifies such equipment, consistent with generally acceptable accounting principles;

"(ii) not engage in any joint manufacturing activities with such entity; and

"(iii) have segregated facilities and separate employees with such entity.

"(C) Such entity that certifies such equipment shall—

"(i) not discriminate in favor of its manufacturing affiliate in the establishment of standards, generic requirements, or product certification;

"(ii) not disclose to the manufacturing affiliate any proprietary information that has been received at any time from an unaffiliated manufacturer, unless authorized in writing by the owner of the information; and

"(iii) not permit any employee engaged in product certification for telecommunications equipment or customer premises equipment to engage jointly in sales or marketing of any such equipment with the affiliated manufacturer.

"(4) STANDARD-SETTING ENTITIES.—Any entity which is not an accredited standards development organization and which establishes industry-wide standards for telecommunications equipment or customer premises equipment, or industry-wide generic network requirements for such equipment, or which certifies telecommunications equipment or customer premises equipment manufactured by an unaffiliated entity, shall—

"(A) establish and publish any industry-wide standard for, industry-wide generic requirement for, or any substantial modification of an existing industry-wide standard or industry-wide generic requirement for, telecommunications equipment or customer premises equipment only in compliance with the following procedure:

"(i) such entity shall issue a public notice of its consideration of a proposed industry-wide standard or industry-wide generic requirement;

"(ii) such entity shall issue a public invitation to interested industry parties to fund and participate in such efforts on a reasonable and nondiscriminatory basis, administered in such a manner as not to unreasonably exclude any interested industry party;

"(iii) such entity shall publish a text for comment by such parties as have agreed to participate in the process pursuant to clause (ii), provide such parties a full opportunity to submit comments, and respond to comments from such parties;

"(iv) such entity shall publish a final text of the industry-wide standard or industry-wide generic requirement, including the comments in their entirety, of any funding party which requests to have its comments so published; and

"(v) such entity shall attempt, prior to publishing a text for comment, to agree with the funding parties as a group on a mutually satisfactory dispute resolution process which such parties shall utilize as their sole recourse in the event of a dispute on technical issues as to which there is disagreement between any funding party and the entity conducting such activities, except that if no dispute resolution process is agreed to by all the parties, a funding party may utilize the dispute resolution procedures established pursuant to paragraph (5) of this subsection;

"(B) engage in product certification for telecommunications equipment or customer premises equipment manufactured by unaffiliated entities only if—

"(i) such activity is performed pursuant to published criteria;

"(ii) such activity is performed pursuant to auditable criteria; and

"(iii) such activity is performed pursuant to available industry-accepted testing methods and standards, where applicable, unless otherwise agreed upon by the parties funding and performing such activity;

"(C) not undertake any actions to monopolize or attempt to monopolize the market for such services; and

"(D) not preferentially treat its own telecommunications equipment or customer premises equipment, or that of its affiliate, over that of any other entity in establishing and publishing industry-wide standards or industry-wide generic requirements for, and in certification of, telecommunications equipment and customer premises equipment.

"(5) ALTERNATE DISPUTE RESOLUTION.—Within 90 days after the date of enactment of this section, the Commission shall prescribe a dispute resolution process to be utilized in the event that a dispute resolution process is not agreed upon by all the parties when establishing and publishing any industry-wide standard or industry-wide generic requirement for telecommunications equipment or customer premises equipment, pursuant to paragraph (4)(A)(v). The Commission shall not establish itself as a party to the dispute resolution process. Such dispute resolution process shall permit any funding party to resolve a dispute with the entity conducting the activity that significantly affects such funding party's interests, in an open, nondiscriminatory, and unbiased fashion, within 30 days after the filing of such dispute. Such disputes may be filed within 15 days after the date the funding party receives a response to its comments from the entity conducting the activity. The Commission shall establish penalties to be assessed for delays caused by referral of frivolous disputes to the dispute resolution process. The overall intent of establishing this dispute resolution provision is to enable all interested funding parties an equal opportunity to influence the final resolution of the dispute without significantly impairing the efficiency, timeliness, and technical quality of the activity.

"(6) SUNSET.—The requirements of paragraphs (3) and (4) shall terminate for the particular relevant activity when the Commission determines that there are alternative sources of industry-wide standards, industry-wide generic requirements, or product certification for a particular class of telecommunications equipment or customer premises equipment available in the United States. Alternative sources shall be deemed to exist when such sources provide commercially viable alternatives that are providing such services to customers. The Commission shall act on any application for such a determination within 90 days after receipt of such application, and shall receive public comment on such application.

"(7) ADMINISTRATION AND ENFORCEMENT AUTHORITY.—For the purposes of administering this subsection and the regulations prescribed thereunder, the Commission shall have the same remedial authority as the Commission has in administering and enforcing the provisions of this title with respect to any common carrier subject to this Act.

"(8) DEFINITIONS.—For purposes of this subsection:

"(A) The term 'affiliate' shall have the same meaning as in section 3 of this Act, except that, for purposes of paragraph (1)(B)—

"(i) an aggregate voting equity interest in Bell Communications Research, Inc., of at least 5 percent of its total voting equity, owned directly or indirectly by more than 1 otherwise unaffiliated Bell operating company, shall constitute an affiliate relationship; and

"(ii) a voting equity interest in Bell Communications Research, Inc., by any otherwise unaffiliated Bell operating company of less than 1 percent of Bell Communications Research's total voting equity shall not be considered to be an equity interest under this paragraph.

"(B) The term 'generic requirement' means a description of acceptable product attributes for use by local exchange carriers in establishing product specifications for the purchase of telecommunications equipment, customer premises equipment, and software integral thereto.

"(C) The term 'industry-wide' means activities funded by or performed on behalf of local exchange carriers for use in providing wireline local exchange service whose combined total of deployed access lines in the United States constitutes at least 30 percent of all access lines deployed by telecommunications carriers in the United States as of the date of enactment.

"(D) The term 'certification' means any technical process whereby a party determines whether a product, for use by more than one local exchange carrier, conforms with the specified requirements pertaining to such product.

"(E) The term 'accredited standards development organization' means an entity composed of industry members which has been accredited by an institution vested with the responsibility for standards accreditation by the industry.

"(e) BELL OPERATING COMPANY EQUIPMENT PROCUREMENT AND SALES.—

"(1) OBJECTIVE BASIS.—Each Bell operating company and any entity acting on behalf of a Bell operating company shall make procurement decisions and award all supply contracts for equipment, services, and software on the basis of an objective assessment of price, quality, delivery, and other commercial factors.

"(2) SALES RESTRICTIONS.—A Bell operating company engaged in manufacturing may not restrict sales to any local exchange carrier of telecommunications equipment, including software integral to the operation of such equipment and related upgrades.

"(3) PROTECTION OF PROPRIETARY INFORMATION.—A Bell operating company and any entity it owns or otherwise controls shall protect the proprietary information submitted for procurement decisions from release not specifically authorized by the owner of such information.

"(f) ADMINISTRATION AND ENFORCEMENT 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.

"(g) EXCEPTION FOR PREVIOUSLY AUTHORIZED ACTIVITIES.—Nothing in this section shall prohibit a Bell operating company or affiliate from engaging, at any time after the date of the enactment of this part, 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 part, or

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

"(h) ANTITRUST LAWS.—Nothing in this section shall be construed to modify, impair, or supersede the applicability of any of the antitrust laws.

"(i) DEFINITION.—As used in this section, the term 'manufacturing' has the same meaning as such term has under the Modification of Final Judgment.

"SEC. 272. ELECTRONIC PUBLISHING BY BELL OPERATING COMPANIES.

"(a) LIMITATIONS.—No Bell operating company or any affiliate may 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, except that nothing in this section shall prohibit a separated affiliate or electronic publishing joint venture operated in accordance with this section from engaging in the provision of electronic publishing.

"(b) SEPARATED AFFILIATE OR ELECTRONIC PUBLISHING JOINT VENTURE REQUIREMENTS.—A separated affiliate or electronic publishing joint venture shall be operated independently from the Bell operating company. Such separated affiliate or joint venture and the Bell operating company with which it is affiliated shall—

"(1) maintain separate books, records, and accounts and prepare separate financial statements;

"(2) not incur debt in a manner that would permit a creditor of the separated affiliate or joint venture upon default to have recourse to the assets of the Bell operating company;

"(3) carry out transactions (A) in a manner consistent with such independence, (B) pursuant to written contracts or tariffs that are filed with the Commission and made publicly available, and (C) in a manner that is auditable in accordance with generally accepted auditing standards;

"(4) value any assets that are transferred directly or indirectly from the Bell operating company to a separated affiliate or joint venture, and record any transactions by which such assets are transferred, in accordance with such regulations as may be prescribed by the Commission or a State commission to prevent improper cross subsidies;

"(5) between a separated affiliate and a Bell operating company—

"(A) have no officers, directors, and employees in common after the effective date of this section; and

"(B) own no property in common;

"(6) not use for the marketing of any product or service of the separated affiliate or joint venture, 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;

"(7) not permit the Bell operating company—

"(A) to perform hiring or training of personnel on behalf of a separated affiliate;

"(B) to 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; or

"(C) to perform research and development on behalf of a separated affiliate;

"(8) each have performed annually a compliance review—

"(A) that is conducted by an independent entity for the purpose of determining compliance during the preceding calendar year with any provision of this section; and

"(B) the results of which are maintained by the separated affiliate or joint venture and the Bell operating company for a period of 5 years subject to review by any lawful authority; and

"(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) JOINT MARKETING.—

"(1) IN GENERAL.—Except as provided in paragraph (2)—

"(A) a Bell operating company shall not carry out any promotion, marketing, sales, or advertising for or in conjunction with a separated affiliate; and

"(B) 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.

"(2) PERMISSIBLE JOINT ACTIVITIES.—

"(A) 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.

"(B) 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 if (i) the Bell operating company only provides facilities, services, and basic telephone service information as authorized by this section, and (ii) the Bell operating company does not own such teaming or business arrangement.

"(C) 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, if 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.

"(d) BELL OPERATING COMPANY REQUIREMENT.—A Bell operating company under common ownership or control with a separated affiliate or electronic publishing joint venture shall provide network access and interconnections for basic telephone service to electronic publishers 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.

"(e) 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)(7) 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.

"(f) SEPARATED AFFILIATE REPORTING REQUIREMENT.—Any separated affiliate under this section shall file with the Commission annual reports in a form substantially equivalent to the Form 10-K required by regulations of the Securities and Exchange Commission.

"(g) EFFECTIVE DATES.—

"(1) 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.

"(2) SUNSET.—The provisions of this section shall not apply to conduct occurring after June 30, 2000.

"(h) DEFINITION OF ELECTRONIC PUBLISHING.—

"(1) IN GENERAL.—The term 'electronic publishing' means the dissemination, provision, publication, or sale to an unaffiliated entity or person, of any one or more of the following: news (including sports); entertainment (other than interactive games); business, financial, legal, consumer, or credit materials; editorials, columns, or features; advertising; photos or images; archival or research material; legal notices or public records; scientific, educational, instructional, technical, professional, trade, or other literary materials; or other like or similar information.

"(2) EXCEPTIONS.—The term 'electronic publishing' shall not include the following services:

"(A) Information access, as that term is defined by the Modification of Final Judgment.

"(B) The transmission of information as a common carrier.

"(C) 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.

"(D) Voice storage and retrieval services, including voice messaging and electronic mail services.

"(E) Data processing or transaction processing services that do not involve the generation or alteration of the content of information.

"(F) Electronic billing or advertising of a Bell operating company's regulated telecommunications services.

"(G) Language translation or data format conversion.

"(H) The provision of information necessary for the management, control, or operation of a telephone company telecommunications system.

"(I) The provision of directory assistance that provides names, addresses, and telephone numbers and does not include advertising.

"(J) Caller identification services.

"(K) Repair and provisioning databases and credit card and billing validation for telephone company operations.

"(L) 911-E and other emergency assistance databases.

"(M) 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.

"(N) Any upgrades to these network services that do not involve the generation or alteration of the content of information.

"(O) Video programming or full motion video entertainment on demand.

"(i) ADDITIONAL 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 common 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 service facility, provided by a Bell operating company in a telephone exchange area, except that such term does not include—

"(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.

"(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) 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.

"(6) The term 'entity' means any organization, and includes corporations, partnerships, sole proprietorships, associations, and joint ventures.

"(7) The term 'inbound telemarketing' means the marketing of property, goods, or services by telephone to a customer or potential customer who initiated the call.

"(8) 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.

"(9) 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.

"(10) The term 'Bell operating company' has the meaning provided in section 3, except that such term includes any entity or corporation that is owned or controlled by such a company (as so defined) but does not include an electronic publishing joint venture owned by such an entity or corporation.

"SEC. 273. ALARM MONITORING AND TELEMESSAGING SERVICES BY BELL OPERATING COMPANIES.

"(a) DELAYED ENTRY INTO ALARM MONITORING.—

"(1) PROHIBITION.—No Bell operating company or affiliate thereof shall engage in the provision of alarm monitoring services before the date which is 6 years after the date of enactment of this part.

"(2) EXISTING ACTIVITIES.—Paragraph (1) shall not apply to any provision of alarm monitoring services in which a Bell operating company or affiliate is lawfully engaged as of January 1, 1995.

"(b) NONDISCRIMINATION.—A common carrier engaged in the provision of alarm monitoring services or telemessaging services shall—

"(1) provide nonaffiliated entities, upon reasonable request, with the network services it provides to its own alarm monitoring or telemessaging operations, on nondiscriminatory terms and conditions; and

"(2) not subsidize its alarm monitoring services or its telemessaging services either directly or indirectly from telephone exchange service operations.

"(c) EXPEDITED CONSIDERATION OF COMPLAINTS.—The Commission shall establish procedures for the receipt and review of complaints concerning violations of subsection (b) or the regulations thereunder that result in material financial harm to a provider of alarm monitoring service or 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.

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

"(1) 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.

"(2) TELEMESSAGING SERVICES.—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. 274. PROVISION OF PAYPHONE SERVICE.

"(a) NONDISCRIMINATION SAFEGUARDS.—After the effective date of the rules prescribed pursuant to subsection (b), any Bell operating company that provides payphone service—

"(1) shall not subsidize its payphone service directly or indirectly with revenue from its telephone exchange service or its exchange access service; and

"(2) shall not prefer or discriminate in favor of it payphone service.

"(b) REGULATIONS.—

"(1) CONTENTS OF REGULATIONS.—In order to promote competition among payphone service providers and promote the widespread deployment of payphone services to the benefit of the general public, within 9 months after the date of enactment of this section, the Commission shall take all actions necessary (including any reconsideration) to prescribe regulations that—

"(A) establish a per call compensation plan to ensure that all payphone services providers are fairly compensated for each and every completed intrastate and interstate call using their payphone, except that emergency calls and telecommunications relay service calls for hearing disabled individuals shall not be subject to such compensation;

"(B) discontinue the intrastate and interstate carrier access charge payphone service elements and payments in effect on the date of enactment of this section, and all intrastate and interstate payphone subsidies from basic exchange and exchange access revenues, in favor of a compensation plan as specified in subparagraph (A);

"(C) prescribe a set of nonstructural safeguards for Bell operating company payphone service to implement the provisions of paragraphs (1) and (2) of subsection (a), which safeguards shall, at a minimum, include the nonstructural safeguards equal to those adopted in the Computer Inquiry-III CC Docket No. 90–623 proceeding; and

"(D) provide for Bell operating company payphone service providers to have the same right that independent payphone providers have to negotiate with the location provider on selecting and contracting with, and, subject to the terms of any agreement with the location provider, to select and contract with the carriers that carry interLATA calls from their payphones, and provide for all payphone service providers to have the right to negotiate with the location provider on selecting and contracting with, and, subject to the terms of any agreement with the location provider, to select and contract with the carriers that carry intraLATA calls from their payphones.

"(2) PUBLIC INTEREST TELEPHONES.—In the rulemaking conducted pursuant to paragraph (1), the Commission shall determine whether public interest payphones, which are provided in the interest of public health, safety, and welfare, in locations where there would otherwise not be a payphone, should be maintained, and if so, ensure that such public interest payphones are supported fairly and equitably.

"(3) EXISTING CONTRACTS.—Nothing in this section shall affect any existing contracts between location providers and payphone service providers or interLATA or intraLATA carriers that are in force and effect as of the date of the enactment of this Act.

"(c) STATE PREEMPTION.—To the extent that any State requirements are inconsistent with the Commission's regulations, the Commission's regulations on such matters shall preempt State requirements.

"(d) DEFINITION.—As used in this section, the term 'payphone service' means the provision of public or semi-public pay telephones, the provision of inmate telephone service in correctional institutions, and any ancillary services.".

SEC. 103. FORBEARANCE FROM REGULATION.

Part I of title II of the Act (as redesignated by section 101(c) of this Act) is amended by inserting after section 229 (47 U.S.C. 229) the following new section:

"SEC. 230. FORBEARANCE FROM REGULATION.

"(a) AUTHORITY TO FORBEAR.—The Commission shall forbear from applying any provision of this part or part II (other than sections 201, 202, 208, 243, and 248), or any regulation of the Commission thereunder, to a common carrier or service, or class of carriers or services, in any or some of its or their geographic markets, unless the Commission determines that—

"(1) enforcement of such provision or regulation is necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that carrier or service are just and reasonable and are not unjustly or unreasonably discriminatory;

"(2) enforcement of such regulation or provision is not necessary for the protection of consumers; or

"(3) forbearance from applying such provision or regulation is inconsistent with the public interest.

"(b) COMPETITIVE EFFECT TO BE WEIGHED.—In making the determination under subsection (a)(3), the Commission shall consider whether forbearance from enforcing the provision or regulation will promote competitive market conditions, including the extent to which such forbearance will enhance competition among providers of telecommunications services. If the Commission determines that such forbearance will promote competition among providers of telecommunications services, that determination may be the basis for a Commission finding that forbearance is in the public interest.

"(c) COMMERCIAL MOBILE SERVICE JOINT MARKETING.—Notwithstanding section 22.903 of the Commission's regulations (47 CFR 22.903) or any other Commission regulation, or any judicial decree or proposed judicial decree, a Bell operating company or any other company may, except as provided in sections 242(d) and 246 as they relate to wireline service, jointly market and sell commercial mobile services in conjunction with telephone exchange service, exchange access, intraLATA telecommunications service, interLATA telecommunications service, and information services.".

SEC. 104. ONLINE FAMILY EMPOWERMENT.

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. 230. PROTECTION FOR PRIVATE BLOCKING AND SCREENING OF OFFENSIVE MATERIAL; FCC REGULATION OF COMPUTER SERVICES PROHIBITED.

"(a) FINDINGS.—The Congress finds the following:

"(1) The rapidly developing array of Internet and other interactive computer services available to individual Americans represent an extraordinary advance in the availability of educational and informational resources to our citizens.

"(2) These services offer users a great degree of control over the information that they receive, as well as the potential for even greater control in the future as technology develops.

"(3) The Internet and other interactive computer services offer a forum for a true diversity of political discourse, unique opportunities for cultural development, and myriad avenues for intellectual activity.

"(4) The Internet and other interactive computer services have flourished, to the benefit of all Americans, with a minimum of government regulation.

"(5) Increasingly Americans are relying on interactive media for a variety of political, educational, cultural, and entertainment services.

"(b) POLICY.—It is the policy of the United States to—

"(1) promote the continued development of the Internet and other interactive computer services and other interactive media;

"(2) preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by State or Federal regulation;

"(3) encourage the development of technologies which maximize user control over the information received by individuals, families, and schools who use the Internet and other interactive computer services;

"(4) remove disincentives for the development and utilization of blocking and filtering technologies that empower parents to restrict their children's access to objectionable or inappropriate online material; and

"(5) ensure vigorous enforcement of criminal laws to deter and punish trafficking in obscenity, stalking, and harassment by means of computer.

"(c) PROTECTION FOR 'GOOD SAMARITAN' BLOCKING AND SCREENING OF OFFENSIVE MATERIAL.—No provider or user of interactive computer services shall be treated as the publisher or speaker of any information provided by an information content provider. No provider or user of interactive computer services shall be held liable on account of—

"(1) any action voluntarily taken in good faith to restrict access to material that the provider or user considers to be obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, whether or not such material is constitutionally protected; or

"(2) any action taken to make available to information content providers or others the technical means to restrict access to material described in paragraph (1).

"(d) FCC REGULATION OF THE INTERNET AND OTHER INTERACTIVE COMPUTER SERVICES PROHIBITED.—Nothing in this Act shall be construed to grant any jurisdiction or authority to the Commission with respect to content or any other regulation of the Internet or other interactive computer services.

"(e) EFFECT ON OTHER LAWS.—

"(1) NO EFFECT ON CRIMINAL LAW.—Nothing in this section shall be construed to impair the enforcement of section 223 of this Act, chapter 71 (relating to obscenity) or 110 (relating to sexual exploitation of children) of title 18, United States Code, or any other Federal criminal statute.

"(2) NO EFFECT ON INTELLECTUAL PROPERTY LAW.—Nothing in this section shall be construed to limit or expand any law pertaining to intellectual property.

"(3) IN GENERAL.—Nothing in this section shall be construed to prevent any State from enforcing any State law that is consistent with this section.

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

"(1) INTERNET.—The term 'Internet' means the international computer network of both Federal and non-Federal interoperable packet switched data networks.

"(2) INTERACTIVE COMPUTER SERVICE.—The term 'interactive computer service' means any information service that provides computer access to multiple users via modem to a remote computer server, including specifically a service that provides access to the Internet.

"(3) INFORMATION CONTENT PROVIDER.—The term 'information content provider' means any person or entity that is responsible, in whole or in part, for the creation or development of information provided by the Internet or any other interactive computer service, including any person or entity that creates or develops blocking or screening software or other techniques to permit user control over offensive material.

"(4) INFORMATION SERVICE.—The term '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.".

SEC. 105. PRIVACY OF CUSTOMER INFORMATION.

(a) PRIVACY OF CUSTOMER PROPRIETARY NETWORK INFORMATION.—Title II of the Act is amended by inserting after section 221 (47 U.S.C. 221) the following new section:

"SEC. 222. PRIVACY OF CUSTOMER PROPRIETARY NETWORK INFORMATION.

"(a) SUBSCRIBER LIST INFORMATION.—Notwithstanding subsections (b), (c), and (d), a carrier that provides local exchange service shall provide subscriber list information gathered in its capacity as a provider of such service on a timely and unbundled basis, under nondiscriminatory and reasonable rates, terms, and conditions, to any person upon request for the purpose of publishing directories in any format.

"(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 services, (ii) in the provision of a service necessary to or used in the provision of common carrier services, including the publishing of directories, or (iii) to continue to provide a particular information service that the carrier provided as of May 1, 1995, 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 telephone exchange service or telephone toll 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 subsection (b)(1)(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 determines that such exemption is in the public interest or if compliance with the requirements would impose an undue economic burden on the carrier.

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

"(1) CUSTOMER PROPRIETARY NETWORK INFORMATION.—The term 'customer proprietary network information' means—

"(A) 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;

"(B) information contained in the bills pertaining to telephone exchange service or telephone toll service received by a customer of a carrier; and

"(C) 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 telephone toll 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.

"(2) SUBSCRIBER LIST INFORMATION.—The term 'subscriber list information' means any information—

"(A) identifying the listed names of subscribers of a carrier and such subscribers' telephone numbers, addresses, or primary advertising classifications (as such classifications are assigned at the time of the establishment of such service), or any combination of such listed names, numbers, addresses, or classifications; and

"(B) that the carrier or an affiliate has published, caused to be published, or accepted for publication in any directory format.

"(3) AGGREGATE INFORMATION.—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.".

(b) CONVERGING COMMUNICATIONS TECHNOLOGIES AND CONSUMER PRIVACY.—

(1) COMMISSION EXAMINATION.—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. 106. POLE ATTACHMENTS.

Section 224 of the Act (47 U.S.C. 224) is amended—

(1) in subsection (a)(4)—

(A) by inserting after "system" the following: "or a provider of telecommunications service"; and

(B) by inserting after "utility" the following: ", which attachment may be used by such entities to provide cable service or any 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 Communications Act of 1995, prescribe regulations for ensuring that, when the parties fail to negotiate a mutually agreeable rate, utilities charge just and reasonable and nondiscriminatory 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 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 entities attaching to the pole and therefore apportion the cost of the space other than the usable space equally among all such attaching entities;

"(B) recognize that the usable space is of proportional benefit to all entities attaching 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;

"(C) recognize that the pole, duct, conduit, or right-of-way has a value that exceeds costs and that value shall be reflected in any rate; and

"(D) 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 paragraph (1) shall not apply to a cable television system that solely provides cable service as defined in section 602(6) of this Act; instead, the pole attachment rate for such systems 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 or conduit 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) Whenever the owner of a conduit or right-of-way intends to modify or alter such conduit or right-of-way, the owner shall provide written notification of such action to any entity that has obtained an attachment to such conduit or right-of-way so that such entity may have a reasonable opportunity to add to or modify its existing attachment. Any entity that adds to or modifies its existing attachment after receiving such notification shall bear a proportionate share of the costs incurred by the owner in making such conduit or right-of-way accessible.".

SEC. 107. PREEMPTION OF FRANCHISING AUTHORITY REGULATION OF TELECOMMUNICATIONS SERVICES.

(a) TELECOMMUNICATIONS SERVICES.—Section 621(b) of the Act (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) Except as otherwise permitted by sections 611 and 612, a franchising authority may not require a cable operator to provide any telecommunications service or facilities, other than intragovernmental telecommunications services, as a condition of the initial grant of a franchise or a franchise renewal.".

(b) FRANCHISE FEES.—Section 622(b) of the Act (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.

SEC. 108. FACILITIES SITING; RADIO FREQUENCY EMISSION STANDARDS.

(a) NATIONAL WIRELESS TELECOMMUNICATIONS SITING POLICY.—Section 332(c) of the Act (47 U.S.C. 332(c)) is amended by adding at the end the following new paragraph:

"(7) FACILITIES SITING POLICIES.—(A) Within 180 days after enactment of this paragraph, the Commission shall prescribe and make effective a policy to reconcile State and local regulation of the siting of facilities for the provision of commercial mobile services or unlicensed services with the public interest in fostering competition through the rapid, efficient, and nationwide deployment of commercial mobile services or unlicensed services.

"(B) Pursuant to subchapter III of chapter 5, title 5, United States Code, the Commission shall establish a negotiated rulemaking committee to negotiate and develop a proposed policy to comply with the requirements of this paragraph. Such committee shall include representatives from State and local governments, affected industries, and public safety agencies.

"(C) The policy prescribed pursuant to this subparagraph shall take into account—

"(i) the need to enhance the coverage and quality of commercial mobile services and unlicensed services and foster competition in the provision of commercial mobile services and unlicensed services on a timely basis;

"(ii) the legitimate interests of State and local governments in matters of exclusively local concern, and the need to provide State and local government with maximum flexibility to address such local concerns, while ensuring that such interests do not prohibit or have the effect of precluding any commercial mobile service or unlicensed service;

"(iii) the effect of State and local regulation of facilities siting on interstate commerce;

"(iv) the administrative costs to State and local governments of reviewing requests for authorization to locate facilities for the provision of commercial mobile services or unlicensed services; and

"(v) the need to provide due process in making any decision by a State or local government or instrumentality thereof to grant or deny a request for authorization to locate, construct, modify, or operate facilities for the provision of commercial mobile services or unlicensed services.

"(D) The policy prescribed pursuant to this paragraph shall provide that no State or local government or any instrumentality thereof may regulate the placement, construction, modification, or operation of such facilities on the basis of the environmental effects of radio frequency emissions, to the extent that such facilities comply with the Commission's regulations concerning such emissions.

"(E) The proceeding to prescribe such policy pursuant to this paragraph shall supercede any proceeding pending on the date of enactment of this paragraph relating to preemption of State and local regulation of tower siting for commercial mobile services, unlicensed services, and providers thereof. In accordance with subchapter III of chapter 5, title 5, United States Code, the Commission shall periodically establish a negotiated rulemaking committee to review the policy prescribed by the Commission under this paragraph and to recommend revisions to such policy.

"(F) For purposes of this paragraph, the term 'unlicensed service' means the offering of telecommunications using duly authorized devices which do not require individual licenses.".

(b) RADIO FREQUENCY EMISSIONS.—Within 180 days after the enactment of this Act, the Commission shall complete action in ET Docket 93-62 to prescribe and make effective rules regarding the environmental effects of radio frequency emissions.

(c) AVAILABILITY OF PROPERTY.—Within 180 days of the enactment of this Act, the Commission shall prescribe procedures by which Federal departments and agencies may make available on a fair, reasonable, and nondiscriminatory basis, property, rights-of-way, and easements under their control for the placement of new telecommunications facilities by duly licensed providers of telecommunications services that are dependent, in whole or in part, upon the utilization of Federal spectrum rights for the transmission or reception of such services. These procedures may establish a presumption that requests for the use of property, rights-of-way, and easements by duly authorized providers should be granted absent unavoidable direct conflict with the department or agency's mission, or the current or planned use of the property, rights-of-way, and easements in question. Reasonable fees may be charged to providers of such telecommunications services for use of property, rights-of-way, and easements. The Commission shall provide technical support to States to encourage them to make property, rights-of-way, and easements under their jurisdiction available for such purposes.

SEC. 109. MOBILE SERVICE ACCESS TO LONG DISTANCE CARRIERS.

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

"(8) MOBILE SERVICES ACCESS.—(A) The Commission shall prescribe regulations to afford subscribers of two-way switched voice commercial mobile radio services access to a provider of telephone toll service of the subscriber's choice, except to the extent that the commercial mobile radio service is provided by satellite. The Commission may exempt carriers or classes of carriers from the requirements of such regulations to the extent the Commission determines such exemption is consistent with the public interest, convenience, and necessity. For purposes of this paragraph, 'access' shall mean access to a provider of telephone toll service through the use of carrier identification codes assigned to each such provider.

"(B) The regulations prescribed by the Commission pursuant to subparagraph (A) shall supersede any inconsistent requirements imposed by the Modification of Final Judgment or any order in United States v. AT&T Corp. and McCaw Cellular Communications, Inc., Civil Action No. 94-01555 (United States District Court, District of Columbia).".

(b) 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 (8) of section 332(c)".

SEC. 110. FREEDOM FROM TOLL FRAUD.

(a) AMENDMENT.—Section 228(c) of the Act (47 U.S.C. 228(c)) is amended—

(1) by striking subparagraph (C) of paragraph (7) and inserting the following:

"(C) the calling party being charged for information conveyed during the call unless—

"(i) the calling party has a written subscription agreement with the information provider that meets the requirements of paragraph (8); or

"(ii) the calling party is charged in accordance with paragraph (9); or"; and

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

"(8) SUBSCRIPTION AGREEMENTS FOR BILLING FOR INFORMATION PROVIDED VIA TOLL-FREE CALLS.—

"(A) IN GENERAL.—For purposes of paragraph (7)(C)(i), a written subscription agreement shall specify the terms and conditions under which the information is offered and include—

"(i) the rate at which charges are assessed for the information;

"(ii) the information provider's name;

"(iii) the information provider's business address;

"(iv) the information provider's regular business telephone number;

"(v) the information provider's agreement to notify the subscriber at least 30 days in advance of all future changes in the rates charged for the information;

"(vi) the signature of a legally competent subscriber agreeing to the terms of the agreement; and

"(vii) the subscriber's choice of payment method, which may be by phone bill or credit, prepaid, or calling card.

"(B) BILLING ARRANGEMENTS.—If a subscriber elects, pursuant to subparagraph (A)(vii), to pay by means of a phone bill—

"(i) the agreement shall clearly explain that the subscriber will be assessed for calls made to the information service from the subscriber's phone line;

"(ii) the phone bill shall include, in prominent type, the following disclaimer:

'Common carriers may not disconnect local or long distance telephone service for failure to pay disputed charges for information services.'; and

"(iii) the phone bill shall clearly list the 800 number dialed.

"(C) USE OF PIN'S TO PREVENT UNAUTHORIZED USE.—A written agreement does not meet the requirements of this paragraph unless it provides the subscriber a personal identification number to obtain access to the information provided, and includes instructions on its use.

"(D) EXCEPTIONS.—Notwithstanding paragraph (7)(C), a written agreement that meets the requirements of this paragraph is not required—

"(i) for services provided pursuant to a tariff that has been approved or permitted to take effect by the Commission or a State commission; or

"(ii) for any purchase of goods or of services that are not information services.

"(E) TERMINATION OF SERVICE.—On complaint by any person, a carrier may terminate the provision of service to an information provider unless the provider supplies evidence of a written agreement that meets the requirements of this section. The remedies provided in this paragraph are in addition to any other remedies that are available under title V of this Act.

"(9) CHARGES BY CREDIT, PREPAID, OR CALLING CARD IN ABSENCE OF AGREEMENT.—For purposes of paragraph (7)(C)(ii), a calling party is not charged in accordance with this paragraph unless the calling party is charged by means of a credit, prepaid, or calling card and the information service provider includes in response to each call an introductory disclosure message that—

"(A) clearly states that there is a charge for the call;

"(B) clearly states the service's total cost per minute and any other fees for the service or for any service to which the caller may be transferred;

"(C) explains that the charges must be billed on either a credit, prepaid, or calling card;

"(D) asks the caller for the credit or calling card number;

"(E) clearly states that charges for the call begin at the end of the introductory message; and

"(F) clearly states that the caller can hang up at or before the end of the introductory message without incurring any charge whatsoever.

"(10) DEFINITION OF CALLING CARD.—As used in this subsection, the term 'calling card' means an identifying number or code unique to the individual, that is issued to the individual by a common carrier and enables the individual to be charged by means of a phone bill for charges incurred independent of where the call originates.".

(b) REGULATIONS.—The Federal Communications Commission shall revise its regulations to comply with the amendment made by subsection (a) of this section within 180 days after the date of enactment of this Act.

SEC. 111. REPORT ON MEANS OF RESTRICTING ACCESS TO UNWANTED MATERIAL IN INTERACTIVE TELECOMMUNICATIONS SYSTEMS.

(a) REPORT.—Not later than 150 days after the date of the enactment of this Act, the Attorney General shall submit to the Committees on the Judiciary and Commerce, Science, and Transportation of the Senate and the Committees on the Judiciary and Commerce of the House of Representatives a report containing—

(1) an evaluation of the enforceability with respect to interactive media of current criminal laws governing the distribution of obscenity over computer networks and the creation and distribution of child pornography by means of computers;

(2) an assessment of the Federal, State, and local law enforcement resources that are currently available to enforce such laws;

(3) an evaluation of the technical means available—

(A) to enable parents to exercise control over the information that their children receive by interactive telecommunications systems so that children may avoid violent, sexually explicit, harassing, offensive, and other unwanted material on such systems;

(B) to enable other users of such systems to exercise control over the commercial and noncommercial information that they receive by such systems so that such users may avoid violent, sexually explicit, harassing, offensive, and other unwanted material on such systems; and

(C) to promote the free flow of information, consistent with the values expressed in the Constitution, in interactive media; and

(4) recommendations on means of encouraging the development and deployment of technology, including computer hardware and software, to enable parents and other users of interactive telecommunications systems to exercise the control described in subparagraphs (A) and (B) of paragraph (3).

(b) CONSULTATION.—In preparing the report under subsection (a), the Attorney General shall consult with the Assistant Secretary of Commerce for Communications and Information.

SEC. 112. TELECOMMUNICATIONS DEVELOPMENT FUND.

(a) DEPOSIT AND USE OF AUCTION ESCROW ACCOUNTS.—Section 309(j)(8) of the Act (47 U.S.C. 309(j)(8)) is amended by adding at the end the following new subparagraph:

"(C) DEPOSIT AND USE OF AUCTION ESCROW ACCOUNTS.—Any deposits the Commission may require for the qualification of any person to bid in a system of competitive bidding pursuant to this subsection shall be deposited in an interest bearing account at a financial institution designated for purposes of this subsection by the Commission (after consultation with the Secretary of the Treasury). Within 45 days following the conclusion of the competitive bidding—

"(i) the deposits of successful bidders shall be paid to the Treasury;

"(ii) the deposits of unsuccessful bidders shall be returned to such bidders; and

"(iii) the interest accrued to the account shall be transferred to the Telecommunications Development Fund established pursuant to section 10 of this Act.".

(b) ESTABLISHMENT AND OPERATION OF FUND.—Title I of the Act is amended by adding at the end the following new section:

"SEC. 10. TELECOMMUNICATIONS DEVELOPMENT FUND.

"(a) PURPOSE OF SECTION.—It is the purpose of this section—

"(1) to promote access to capital for small businesses in order to enhance competition in the telecommunications industry;

"(2) to stimulate new technology development, and promote employment and training; and

"(3) to support universal service and promote delivery of telecommunications services to underserved rural and urban areas.

"(b) ESTABLISHMENT OF FUND.—There is hereby established a body corporate to be known as the Telecommunications Development Fund, which shall have succession until dissolved. The Fund shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue and jurisdiction in civil actions, to be a resident and citizen thereof.

"(c) BOARD OF DIRECTORS.—

"(1) COMPOSITION OF BOARD; CHAIRMAN.—The Fund shall have a Board of Directors which shall consist of 7 persons appointed by the Chairman of the Commission. Four of such directors shall be representative of the private sector and three of such directors shall be representative of the Commission, the Small Business Administration, and the Department of the Treasury, respectively. The Chairman of the Commission shall appoint one of the representatives of the private sector to serve as chairman of the Fund within 30 days after the date of enactment of this section, in order to facilitate rapid creation and implementation of the Fund. The directors shall include members with experience in a number of the following areas: finance, investment banking, government banking, communications law and administrative practice, and public policy.

"(2) TERMS OF APPOINTED AND ELECTED MEMBERS.—The directors shall be eligible to serve for terms of 5 years, except of the initial members, as designated at the time of their appointment—

"(A) 1 shall be eligible to service for a term of 1 year;

"(B) 1 shall be eligible to service for a term of 2 years;

"(C) 1 shall be eligible to service for a term of 3 years;

"(D) 2 shall be eligible to service for a term of 4 years; and

"(E) 2 shall be eligible to service for a term of 5 years (1 of whom shall be the Chairman).

Directors may continue to serve until their successors have been appointed and have qualified.

"(3) MEETINGS AND FUNCTIONS OF THE BOARD.—The Board of Directors shall meet at the call of its Chairman, but at least quarterly. The Board shall determine the general policies which shall govern the operations of the Fund. The Chairman of the Board shall, with the approval of the Board, select, appoint, and compensate qualified persons to fill the offices as may be provided for in the bylaws, with such functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the officers of the Fund and shall discharge all such functions, powers, and duties.

"(d) ACCOUNTS OF THE FUND.—The Fund shall maintain its accounts at a financial institution designated for purposes of this section by the Chairman of the Board (after consultation with the Commission and the Secretary of the Treasury). The accounts of the Fund shall consist of—

"(1) interest transferred pursuant to section 309(j)(8)(C) of this Act;

"(2) such sums as may be appropriated to the Commission for advances to the Fund;

"(3) any contributions or donations to the Fund that are accepted by the Fund; and

"(4) any repayment of, or other payment made with respect to, loans, equity, or other extensions of credit made from the Fund.

"(e) USE OF THE FUND.—All moneys deposited into the accounts of the Fund shall be used solely for—

"(1) the making of loans, investments, or other extensions of credits to eligible small businesses in accordance with subsection (f);

"(2) the provision of financial advise to eligible small businesses;

"(3) expenses for the administration and management of the Fund;

"(4) preparation of research, studies, or financial analyses; and

"(5) other services consistent with the purposes of this section.

"(f) LENDING AND CREDIT OPERATIONS.—Loans or other extensions of credit from the Fund shall be made available to eligible small business on the basis of—

"(1) the analysis of the business plan of the eligible small business;

"(2) the reasonable availability of collateral to secure the loan or credit extension;

"(3) the extent to which the loan or credit extension promotes the purposes of this section; and

"(4) other lending policies as defined by the Board.

"(g) RETURN OF ADVANCES.—Any advances appropriated pursuant to subsection (b)(2) shall be upon such terms and conditions (including conditions relating to the time or times of repayment) as the Board determines will best carry out the purposes of this section, in light of the maturity and solvency of the Fund.

"(h) GENERAL CORPORATE POWERS.—The Fund shall have power—

"(1) to sue and be sued, complain and defend, in its corporate name and through its own counsel;

"(2) to adopt, alter, and use the corporate seal, which shall be judicially noticed;

"(3) to adopt, amend, and repeal by its Board of Directors, bylaws, rules, and regulations as may be necessary for the conduct of its business;

"(4) to conduct its business, carry on its operations, and have officers and exercise the power granted by this section in any State without regard to any qualification or similar statute in any State;

"(5) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

"(6) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Fund;

"(7) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

"(8) to appoint such officers, attorneys, employees, and agents as may be required, to determine their qualifications, to define their duties, to fix their salaries, require bonds for them, and fix the penalty thereof; and

"(9) to enter into contracts, to execute instruments, to incur liabilities, to make loans and equity investment, and to do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

"(i) ACCOUNTING, AUDITING, AND REPORTING.—The accounts of the Fund shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants. A report of each such audit shall be furnished to the Secretary of the Treasury and the Commission. The representatives of the Secretary and the Commission shall have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Fund and necessary to facilitate the audit.

"(j) REPORT ON AUDITS BY TREASURY.—A report of each such audit for a fiscal year shall be made by the Secretary of the Treasury to the President and to the Congress not later than 6 months following the close of such fiscal year. The report shall set forth the scope of the audit and shall include a statement of assets and liabilities, capital and surplus or deficit; a statement of surplus or deficit analysis; a statement of income and expense; a statement of sources and application of funds; and such comments and information as may be deemed necessary to keep the President and the Congress informed of the operations and financial condition of the Fund, together with such recommendations with respect thereto as the Secretary may deem advisable.

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

"(1) ELIGIBLE SMALL BUSINESS.—The term 'eligible small business' means business enterprises engaged in the telecommunications industry that have $50,000,000 or less in annual revenues, on average over the past 3 years prior to submitting the application under this section.

"(2) FUND.—The term 'Fund' means the Telecommunications Development Fund established pursuant to this section.

"(3) TELECOMMUNICATIONS INDUSTRY.—The term 'telecommunications industry' means communications businesses using regulated or unregulated facilities or services and includes the broadcasting, telephony, cable, computer, data transmission, software, programming, advanced messaging, and electronics businesses.".

SEC. 113. REPORT ON THE USE OF ADVANCED TELECOMMUNICATIONS SERVICES FOR MEDICAL PURPOSES.

The Assistant Secretary of Commerce for Communications and Information, in consultation with the Secretary of Health and Human Services and other appropriate departments and agencies, shall submit a report to the Committee on Commerce of the House of Representatives and the Committee on Commerce, Science and

Transportation of the Senate concerning the activities of the Joint Working Group on Telemedicine, together with any findings reached in the studies and demonstrations on telemedicine funded by the Public Health Service or other Federal agencies. The report shall examine questions related to patient safety, the efficacy and quality of the services provided, and other legal, medical, and economic issues related to the utilization of advanced telecommunications services for medical purposes. The report shall be submitted to the respective Committees annually, by January 31, beginning in 1996.

SEC. 114. TELECOMMUTING PUBLIC INFORMATION PROGRAM.

(a) TELECOMMUTING RESEARCH PROGRAMS AND PUBLIC INFORMATION DISSEMINATION.—The Assistant Secretary of Commerce for Communications and Information, in consultation with the Secretary of Transportation, the Secretary of Labor, and the Administrator of the Environmental Protection Agency, shall, within three months of the date of enactment of this Act, carry out research to identify successful telecommuting programs in the public and private sectors and provide for the dissemination to the public of information regarding—

(1) the establishment of successful telecommuting programs; and

(2) the benefits and costs of telecommuting.

(b) REPORT.—Within one year of the date of enactment of this Act, the Assistant Secretary of Commerce for Communications and Information shall report to Congress the findings, conclusions, and recommendations regarding telecommuting developed under this section.

SEC. 115. 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 the purposes of section 9(b)(2) of the Act (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.

TITLE II—CABLE COMMUNICATIONS COMPETITIVENESS

SEC. 201. CABLE SERVICE PROVIDED BY TELEPHONE COMPANIES.

(a) GENERAL REQUIREMENT.—

(1) AMENDMENT.—Section 613(b) of the Act (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, 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)(A) Notwithstanding paragraphs (1) and (2), an affiliate described in subparagraph (B) shall not be subject to the requirements of part V (other than section 652), but—

"(i) if providing video programming as a cable service using a cable system, shall be subject to the requirements of this part and parts III and IV; and

"(ii) if providing such video programming by means of radio communication, shall be subject to the requirements of title III.

"(B) For purposes of subparagraph (A), an affiliate is described in this subparagraph if such affiliate—

"(i) is, consistently with section 655, 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;

"(ii) provides video programming to subscribers in the telephone service area of such carrier; and

"(iii) has not established a video platform in accordance with section 653.".

(2) CONFORMING AMENDMENT.—Section 602 of the Act (47 U.S.C. 531) is amended—

(A) by redesignating paragraphs (18) and (19) as paragraphs (19) and (20) respectively; and

(B) 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 January 1, 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 Act (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, as defined by the Bureau of the Census.

"SEC. 652. SEPARATE VIDEO PROGRAMMING AFFILIATE.

"(a) IN GENERAL.—Except as provided in subsection (d) of this section and section 613(b)(3), 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.

"(3) JOINT MARKETING.—Notwithstanding paragraph (1)(B) or section 613(b)(3), a common carrier may market video programming directly upon a showing to the Commission 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 showing. The Commission shall approve or disapprove such showing within 60 days after the date of its submission.

"(c) BUSINESS TRANSACTIONS WITH CARRIER.—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 on a fully compensatory and auditable basis, shall be without cost to the telephone service ratepayers of the carrier, and shall be in compliance with regulations 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 656.—In the case of a common carrier that obtains a waiver under this subsection, any requirement that section 656 applies to a video programming affiliate shall instead apply to such carrier.

"(e) SUNSET OF REQUIREMENTS.—The provisions of this section shall cease to be effective on July 1, 2000.

"SEC. 653. ESTABLISHMENT OF VIDEO PLATFORM.

"(a) VIDEO PLATFORM.—

"(1) IN GENERAL.—Except as provided in section 613(b)(3), any common carrier subject to

title II of this Act, and that provides video programming directly to subscribers in its telephone service area, may establish a video platform. This paragraph shall not apply to any carrier to the extent that it provides video programming directly to subscribers in its telephone service area solely through a cable system acquired in accordance with section 655(b).

"(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 information concerning the geographic area intended to be served and 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 requests 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 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 656, 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 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 ACTIONS.—

"(1) IN GENERAL.—Within 6 months after the date of the enactment of this section, the Commission shall complete all actions necessary (including any reconsideration) to prescribe regulations that—

"(A) consistent with the requirements of section 656, 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) permit a common carrier to carry on only one channel any video programming service that is offered by more than one video programming provider (including the common carrier's video programming affiliate), provided that subscribers have ready and immediate access to any such video programming service;

"(D) extend to the distribution of video programming over video platforms the Commission's regulations concerning sports exclusivity (47 C.F.R. 76.67), 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, and interconnection for unaffiliated or independent video programming providers that is equivalent to that provided to the common carrier's video programming affiliate, except that the video platform shall not discriminate between analog and digital video programming offered by such unaffiliated or independent video programming providers;

"(F)(i) prohibit a common carrier from unreasonably discriminating in favor of its video programming affiliate 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.

Nothing in this section prohibits a common carrier or its affiliate from negotiating mutually agreeable terms and conditions with over-the-air broadcast stations and other unaffiliated video programming providers to allow consumer access to their signals on any level or screen of any gateway, menu, or other program guide, whether provided by the carrier or its affiliate.

"(2) REGULATORY STREAMLINING.—With respect to the establishment and operation of a video platform, the requirements of this section shall apply in lieu of, and not in addition to, the requirements of title II.

"SEC. 654. AUTHORITY TO PROHIBIT CROSS-SUBSIDIZATION.

"Nothing in this part shall prohibit a State commission that regulates the rates for telephone exchange service or exchange access based on the cost of providing such service or access from—

"(1) prescribing regulations to prohibit a common carrier from engaging in any practice that results in the inclusion in rates for telephone exchange service or exchange access 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; or

"(2) ensuring such competing video programming services bear a reasonable share of the joint and common costs of facilities used to provide telephone exchange service or exchange access and competing video programming services.

"SEC. 655. PROHIBITION ON BUY OUTS.

"(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 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 May 1, 1995, 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 May 1, 1995; 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 May 1, 1995.

"(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. 656. APPLICABILITY OF PARTS I THROUGH IV.

"(a) IN GENERAL.—Any provision that applies to a cable operator under—

"(1) sections 613 (other than subsection (a)(2) thereof), 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.—

"(1) COMMISSION ACTION.—The Commission shall prescribe regulations to ensure that a common carrier in the operation of its video platform shall provide (A) capacity, services, facilities, and equipment for public, educational, and governmental use, (B) capacity for commercial 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.

"(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. 657. RURAL AREA EXEMPTION.

"The provisions of sections 652, 653, and 655 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. COMPETITION FROM CABLE SYSTEMS.

(a) DEFINITION OF CABLE SERVICE.—Section 602(6)(B) of the Act (47 U.S.C. 522(6)(B)) is amended by inserting "or use" after "the selection".

(b) CLUSTERING.—Section 613 of the Act (47 U.S.C. 533) is amended by adding at the end the following new subsection:

"(i) ACQUISITION OF CABLE SYSTEMS.—Except as provided in section 655, the Commission may not require divestiture of, or restrict or prevent the acquisition of, an ownership interest in a cable system by any person based in whole or in part on the geographic location of such cable system.".

(c) EQUIPMENT.—Section 623(a) of the Act (47 U.S.C. 543(a)) is amended—

(1) in paragraph (6)—

(A) by striking "paragraph (4)" and inserting "paragraph (5)";

(B) by striking "paragraph (5)" and inserting "paragraph (6)"; and

(C) by striking "paragraph (3)" and inserting "paragraph (4)";

(2) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively; and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) EQUIPMENT.—If the Commission finds that a cable system is subject to effective competition under subparagraph (D) of subsection (l)(1), the rates for equipment, installations, and connections for additional television receivers (other than equipment, installations, and connections furnished by such system to subscribers who receive only a rate regulated basic service tier) shall not be subject to regulation by the Commission or by a State or franchising authority. If the Commission finds that a cable system is subject to effective competition under subparagraph (A), (B), or (C) of subsection (l)(1), the rates for any equipment, installations, and connections furnished by such system to any subscriber shall not be subject to regulation by the Commission, or by a State or franchising authority. No Federal agency, State, or franchising authority may establish the price or rate for the installation, sale, or lease of any equipment furnished to any subscriber by a cable system solely in connection with video programming offered on a per channel or per program basis.".

(d) LIMITATION ON BASIC TIER RATE INCREASES; SCOPE OF REVIEW.—Section 623(a) of the Act (47 U.S.C. 543(a)) is further amended by adding at the end the following new paragraph:

"(8) LIMITATION ON BASIC TIER RATE INCREASES; SCOPE OF REVIEW.—A cable operator may not increase its basic service tier rate more than once every 6 months. Such increase may be implemented, using any reasonable billing or proration method, 30 days after providing notice to subscribers and the appropriate regulatory authority. The rate resulting from such increase shall be deemed reasonable and shall not be subject to reduction or refund if the franchising authority or the Commission, as appropriate, does not complete its review and issue a final order within 90 days after implementation of such increase. The review by the franchising authority or the Commission of any future increase in such rate shall be limited to the incremental change in such rate effected by such increase.".

(e) NATIONAL INFORMATION INFRASTRUCTURE DEVELOPMENT.—Section 623(a) of the Act (47 U.S.C. 543) is further amended by adding at the end the following new paragraph:

"(9) NATIONAL INFORMATION INFRASTRUCTURE.—

"(A) PURPOSE.—It is the purpose of this paragraph to—

"(i) promote the development of the National Information Infrastructure;

"(ii) enhance the competitiveness of the National Information Infrastructure by ensuring that cable operators have incentives comparable to other industries to develop such infrastructure; and

"(iii) encourage the rapid deployment of digital technology necessary to the development of the National Information Infrastructure.

"(B) AGGREGATION OF EQUIPMENT COSTS.—The Commission shall allow cable operators, pursuant to any rules promulgated under subsection (b)(3), to aggregate, on a franchise, system, regional, or company level, their equipment costs into broad categories, such as converter boxes, regardless of the varying levels of functionality of the equipment within each such broad category. Such aggregation shall not be permitted with respect to equipment used by subscribers who receive only a rate regulated basic service tier.

"(C) REVISION TO COMMISSION RULES; FORMS.—Within 120 days of the date of enactment of this paragraph, the Commission shall issue revisions to the appropriate rules and forms necessary to implement subparagraph (B).".

(f) COMPLAINT THRESHOLD; SCOPE OF COMMISSION REVIEW.—Section 623(c) of the Act (47 U.S.C. 543(c)) is amended—

(1) by striking paragraph (3) and inserting the following:

"(3) REVIEW OF COMPLAINTS.—

"(A) COMPLAINT THRESHOLD.—The Commission shall have the authority to review any increase in the rates for cable programming services implemented after the date of enactment of the Communications Act of 1995 only if, within 90 days after such increase becomes effective, at least 10 subscribers to such services or 3 percent of the subscribers to such services, whichever is greater, file separate, individual complaints against such increase with the Commission in accordance with the requirements established under paragraph (1)(B).

"(B) TIME PERIOD FOR COMMISSION REVIEW.—The Commission shall complete its review of any such increase and issue a final order within 90 days after it receives the number of complaints required by subparagraph (A).

"(4) TREATMENT OF PENDING CABLE PROGRAMMING SERVICES COMPLAINTS.—Upon enactment of the Communications Act of 1995, the Commission shall suspend the processing of all pending cable programming services rate complaints. These pending complaints shall be counted by the Commission toward the complaint threshold specified in paragraph (3)(A). Parties shall have an additional 90 days from the date of enactment of such Act to file complaints about prior increases in cable programming services rates if such rate increases were already subject to a valid, pending complaint on such date of enactment. At the expiration of such 90-day period, the Commission shall dismiss all pending cable programming services rate cases for which the complaint threshold has not been met, and may resume its review of those pending cable programming services rate cases for which the complaint threshold has been met, which review shall be completed within 180 days after the date of enactment of the Communications Act of 1995.

"(5) SCOPE OF COMMISSION REVIEW.—A cable programming services rate shall be deemed not unreasonable and shall not be subject to reduction or refund if—

"(A) such rate was not the subject of a pending complaint at the time of enactment of the Communications Act of 1995;

"(B) such rate was the subject of a complaint that was dismissed pursuant to paragraph (4);

"(C) such rate resulted from an increase for which the complaint threshold specified in paragraph (3)(A) has not been met;

"(D) the Commission does not complete its review and issue a final order in the time period specified in paragraph (3)(B) or (4); or

"(E) the Commission issues an order finding such rate to be not unreasonable.

The review by the Commission of any future increase in such rate shall be limited to the incremental change in such rate effected by such increase.";

(2) in paragraph (1)(B) by striking "obtain Commission consideration and resolution of whether the rate in question is unreasonable" and inserting "be counted toward the complaint threshold specified in paragraph (3)(A)"; and

(3) in paragraph (1)(C) by striking "such complaint" and inserting in lieu thereof "the first complaint".

(g) UNIFORM RATE STRUCTURE.—Section 623(d) of the Act (47 U.S.C. 543(d)) is amended to read as follows:

"(d) UNIFORM RATE STRUCTURE.—A cable operator shall have a uniform rate structure throughout its franchise area for the provision of cable services that are regulated by the Commission or the franchising authority. Bulk discounts to multiple dwelling units shall not be subject to this requirement.".

(h) EFFECTIVE COMPETITION.—Section 623(l)(1) of the Act (47 U.S.C. 543(l)(1)) is amended—

(1) in subparagraph (B)(ii)—

(A) by inserting "all" before "multichannel video programming distributors"; and

(B) by striking "or" at the end thereof;

(2) by striking the period at the end of subparagraph (C) and inserting "; or"; and

(3) by adding at the end the following:

"(D) with respect to cable programming services and subscriber equipment, installations, and connections for additional television receivers (other than equipment, installations, and connections furnished to subscribers who receive only a rate regulated basic service tier)—

"(i) a common carrier has been authorized by the Commission to construct facilities to provide video dialtone service in the cable operator's franchise area;

"(ii) a common carrier has been authorized by the Commission or pursuant to a franchise to provide video programming directly to subscribers in the franchise area; or

"(iii) 270 days have elapsed since the Commission has completed all actions necessary (including any reconsideration) to prescribe regulations pursuant to section 653(b)(1) relating to video platforms.".

(i) RELIEF FOR SMALL CABLE OPERATORS.—Section 623 of the Act (47 U.S.C. 543) is amended by adding at the end the following new subsection:

"(m) SMALL CABLE OPERATORS.—

"(1) SMALL CABLE OPERATOR RELIEF.—A small cable operator shall not be subject to subsections (a), (b), (c), or (d) in any franchise area with respect to the provision of cable programming services, or a basic service tier where such tier was the only tier offered in such area on December 31, 1994.

"(2) DEFINITION OF SMALL CABLE OPERATOR.—For purposes of this subsection, 'small cable operator' means a cable operator that—

"(A) directly or through an affiliate, serves in the aggregate fewer than 1 percent of all cable subscribers in the United States; and

"(B) is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.".

(j) TECHNICAL STANDARDS.—Section 624(e) of the Act (47 U.S.C. 544(e)) is amended by striking the last two sentences and inserting the following: "No State or franchising authority may prohibit, condition, or restrict a cable system's use of any type of subscriber equipment or any transmission technology.".

(k) CABLE SECURITY SYSTEMS.—Section 624A(b)(2) of the Act (47 U.S.C. 544a(b)(2)) is amended to read as follows:

"(2) CABLE SECURITY SYSTEMS.—No Federal agency, State, or franchising authority may prohibit a cable operator's use of any security system (including scrambling, encryption, traps, and interdiction), except that the Commission may prohibit the use of any such system solely with respect to the delivery of a basic service tier that, as of January 1, 1995, contained only the signals and programming specified in section 623(b)(7)(A), unless the use of such system is necessary to prevent the unauthorized reception of such tier.".

(l) CABLE EQUIPMENT COMPATIBILITY.—Section 624A of the Act (47 U.S.C. 544A), is amended—

(1) in subsection (a) by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting "; and"; and by adding at the end the following new paragraph:

"(4) compatibility among televisions, video cassette recorders, and cable systems can be assured with narrow technical standards that mandate a minimum degree of common design and operation, leaving all features, functions, protocols, and other product and service options for selection through open competition in the market.";

(2) in subsection (c)(1)—

(A) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(B) by inserting before such redesignated subparagraph (B) the following new subparagraph:

"(A) the need to maximize open competition in the market for all features, functions, protocols, and other product and service options of converter boxes and other cable converters unrelated to the descrambling or decryption of cable television signals;"; and

(3) in subsection (c)(2)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(B) by inserting after subparagraph (C) the following new subparagraph:

"(D) to ensure that any standards or regulations developed under the authority of this section to ensure compatibility between televisions, video casette recorders, and cable systems do not affect features, functions, protocols, and other product and service options other than those specified in paragraph (1)(B), including telecommunications interface equipment, home automation communications, and computer network services;".

(m) RETIERING OF BASIC TIER SERVICES.—Section 625(d) of the Act (47 U.S.C. 543(d)) is amended by adding at the end the following new sentence: "Any signals or services carried on the basic service tier but not required under section 623(b)(7)(A) may be moved from the basic service tier at the operator's sole discretion, provided that the removal of such a signal or service from the basic service tier is permitted by contract. The movement of such signals or services to an unregulated package of services shall not subject such package to regulation.".

(n) SUBSCRIBER NOTICE.—Section 632 of the Act (47 U.S.C. 552) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) SUBSCRIBER NOTICE.—A cable operator may provide notice of service and rate changes to subscribers using any reasonable written means at its sole discretion. Notwithstanding section 623(b)(6) or any other provision of this Act, a cable operator shall not be required to provide prior notice of any rate change that is the result of a regulatory fee, franchise fee, or any other fee, tax, assessment, or charge of any kind imposed by any Federal agency, State, or franchising authority on the transaction between the operator and the subscriber.".

(o) TREATMENT OF PRIOR YEAR LOSSES.—

(1) AMENDMENT.—Section 623 (48 U.S.C. 543) is amended by adding at the end thereof the following:

"(n) TREATMENT OF PRIOR YEAR LOSSES.—Notwithstanding any other provision of this section or of section 612, losses (including losses associated with the acquisitions of such franchise) that were incurred prior to September 4, 1992, with respect to a cable system that is owned and operated by the original franchisee of such system shall not be disallowed, in whole or in part, in the determination of whether the rates for any tier of service or any type of equipment that is subject to regulation under this section are lawful.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of enactment of this Act and shall be applicable to any rate proposal filed on or after September 4, 1993.

SEC. 203. COMPETITIVE AVAILABILITY OF NAVIGATION DEVICES.

Title VII of the Act is amended by adding at the end the following new section:

"SEC. 713. COMPETITIVE AVAILABILITY OF NAVIGATION DEVICES.

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

"(1) The term 'telecommunications subscription service' means the provision directly to subscribers of video, voice, or data services for which a subscriber charge is made.

"(2) The term 'telecommunications system' or a 'telecommunications system operator' means a provider of telecommunications subscription service.

"(b) COMPETITIVE CONSUMER AVAILABILITY OF CUSTOMER PREMISES EQUIPMENT.—The Commission shall adopt regulations to assure competitive availability, to consumers of telecommunications subscription services, of converter boxes, interactive communications devices, and other customer premises equipment from manufacturers, retailers, and other vendors not affiliated with any telecommunications system operator. Such regulations shall not prohibit any telecommunications system operator from also offering devices and customer premises equipment to consumers, provided that the system operator's charges to consumers for such devices and equipment are separately stated and not subsidized by charges for any telecommunications subscription service.

"(c) PROTECTION OF SYSTEM SECURITY.—The Commission shall not prescribe regulations pursuant to subsection (b) which would jeopardize the security of a telecommunications system or impede the legal rights of a provider of such service to prevent theft of service.

"(d) WAIVER FOR NEW NETWORK SERVICES.—The Commission shall waive a regulation adopted pursuant to subsection (b) for a limited time upon an appropriate showing by a telecommunications system operator that such waiver is necessary to assist the development or introduction of a new or improved telecommunications subscription service or technology.

"(e) AVOIDANCE OF REDUNDANT REGULATIONS.—

"(1) MARKET COMPETITIVENESS DETERMINATIONS.—Determinations made or regulations prescribed by the Commission with respect to market competitiveness of customer premises equipment prior to the date of enactment of this section shall fulfill the requirements of this section.

"(2) REGULATIONS.—Nothing in this section affects the Commission's regulations governing the interconnection and competitive provision of customer premises equipment used in connection with basic telephone service.

"(f) SUNSET.—The regulations adopted pursuant to this section shall cease to apply to any market for the acquisition of converter boxes, interactive communications devices, or other customer premises equipment when the Commission determines that such market is competitive.".

SEC. 204. VIDEO PROGRAMMING ACCESSIBILITY.

(a) COMMISSION INQUIRY.—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) ACCOUNTABILITY CRITERIA.—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) DEADLINES FOR CAPTIONING.—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 closed 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) VIDEO DESCRIPTIONS INQUIRY.—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 accessibility 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) 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.

(h) PRIVATE RIGHTS OF ACTIONS PROHIBITED.—Nothing in this section shall be construed to authorize any private right of action to enforce any requirement of this section or any regulation thereunder. The Commission shall have exclusive jurisdiction with respect to any complaint under this section.

SEC. 205. TECHNICAL AMENDMENTS.

(a) RETRANSMISSION.—Section 325(b)(2)(D) of the Act (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) and the origination station was a superstation on May 1, 1991.".

(b) MARKET DETERMINATIONS.—Section 614(h)(1)(C)(i) of the Act (47 U.S.C. 534(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,".

(c) TIME FOR DECISION.—Section 614(h)(1)(C)(iv) of such Act is amended to read as follows:

"(iv) Within 120 days after the date a request is filed under this subparagraph, the Commission shall grant or deny the request.".

(d) PROCESSING OF PENDING COMPLAINTS.—The Commission shall, unless otherwise informed by the person making the request, assume that any person making a request to include or exclude additional communities under section 614(h)(1)(C) of such Act (as in effect prior to the date of enactment of this Act) continues to request such inclusion or exclusion under such section as amended under subsection (b).

TITLE III—BROADCAST COMMUNICATIONS COMPETITIVENESS

SEC. 301. BROADCASTER SPECTRUM FLEXIBILITY.

Title III of the Act is amended by inserting after section 335 (47 U.S.C. 335) the following new section:

"SEC. 336. BROADCAST SPECTRUM FLEXIBILITY.

"(a) COMMISSION ACTION.—If the Commission determines to issue additional licenses for advanced television services, the Commission shall—

"(1) limit the initial 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); and

"(2) 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 consistent with the technology or method designated by the Commission 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) 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, except that no ancillary or supplementary service shall have any rights to carriage under section 614 or 615 or be deemed a multichannel video programming distributor for purposes of section 628;

"(4) 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, and may adopt regulations that stipulate the minimum number of hours per day that such signal must be transmitted; and

"(5) 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 grants a license for advanced television services to a person that, as of the date of such issuance, is licensed to operate a television broadcast station or holds a permit to construct such a station (or both), 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) CRITERIA.—The Commission shall prescribe criteria for rendering determinations concerning license surrender pursuant to license conditions required by paragraph (1). Such criteria shall—

"(A) require such determinations to be based, on a market-by-market basis, 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 under either the original or additional license 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.

"(3) AUCTION OF RETURNED SPECTRUM.—Any license surrendered under the requirements of this subsection shall be subject to assignment by use of competitive bidding pursuant to section 309(j), notwithstanding any limitations contained in paragraph (2) of such section.

"(d) FEES.—

"(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 a program to assess and collect from the licensee for such designated frequency an annual fee or other schedule or method of payment that promotes the objectives described in subparagraphs (A) and (B) of paragraph (2).

"(2) COLLECTION OF FEES.—The program 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, to the extent feasible, equals but does not exceed (over the term of the license) the amount that would have been recovered had such services been licensed pursuant to the provisions of section 309(j) of this Act 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.—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.

"(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 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. 302. BROADCAST OWNERSHIP.

Title III of the Act is amended by inserting after section 336 (as added by section 301) the following new section:

"SEC. 337. BROADCAST OWNERSHIP.

"(a) LIMITATIONS ON COMMISSION RULEMAKING AUTHORITY.—Except as expressly permitted in this section, and consistent with section 613(a) of the Act, the Commission shall not prescribe or enforce any regulation—

"(1) prohibiting or limiting, either nationally or within any particular area, a person or entity from holding any form of ownership or other interest in two or more broadcasting stations or in a broadcasting station and any other medium of mass communication; or

"(2) prohibiting a person or entity from owning, operating, or controlling two or more networks of broadcasting stations or from owning, operating, or controlling a network of broadcasting stations and any other medium of mass communications.

"(b) TELEVISION OWNERSHIP LIMITATIONS.—

"(1) NATIONAL AUDIENCE REACH LIMITATIONS.—The Commission shall prohibit a person or entity from obtaining any license if such license would result in such person or entity directly or indirectly owning, operating, or controlling, or having a cognizable interest in, television stations which have an aggregate national audience reach exceeding 35 percent. Within 3 years after such date of enactment, the Commission shall conduct a study on the operation of this paragraph and submit a report to the Congress on the development of competition in the television marketplace and the need for any revisions to or elimination of this paragraph.

"(2) MULTIPLE LICENSES IN A MARKET.—

"(A) IN GENERAL.—The Commission shall prohibit a person or entity from obtaining any license if such license would result in such person or entity directly or indirectly owning, operating, or controlling, or having a cognizable interest in, two or more television stations within the same television market.

"(B) EXCEPTION FOR MULTIPLE UHF STATIONS AND FOR UHF-VHF COMBINATIONS.—Notwithstanding subparagraph (A), the Commission shall not prohibit a person or entity from directly or indirectly owning, operating, or controlling, or having a cognizable interest in, two television stations within the same television market if at least one of such stations is a UHF television, unless the Commission determines that permitting such ownership, operation, or control will harm competition or will harm the preservation of a diversity of media voices in the local television market.

"(C) EXCEPTION FOR VHF-VHF COMBINATIONS.—Notwithstanding subparagraph (A), the Commission may permit a person or entity to directly or indirectly own, operate, or control, or have a cognizable interest in, two VHF television stations within the same television market, if the Commission determines that permitting such ownership, operation, or control will not harm competition and will not harm the preservation of a diversity of media voices in the local television market.

"(c) LOCAL CROSS-MEDIA OWNERSHIP LIMITS.—In a proceeding to grant, renew, or authorize the assignment of any station license under this title, the Commission may deny the application if the Commission determines that the combination of such station and more than one other nonbroadcast media of mass communication would result in an undue concentration of media voices in the respective local market. In considering any such combination, the Commission shall not grant the application if all the media of mass communication in such local market would be owned, operated, or controlled by two or fewer persons or entities. This subsection shall not constitute authority for the Commission to prescribe regulations containing local cross-media ownership limitations. The Commission may not, under the authority of this subsection, require any person or entity to divest itself of any portion of any combination of stations and other media of mass communications that such person or entity owns, operates, or controls on the date of enactment of this section unless such person or entity acquires another station or other media of mass communications after such date in such local market.

"(d) TRANSITION PROVISIONS.—Any provision of any regulation prescribed before the date of enactment of this section that is inconsistent with the requirements of this section shall cease to be effective on such date of enactment. The Commission shall complete all actions (including any reconsideration) necessary to amend its regulations to conform to the requirements of this section not later than 6 months after such date of enactment. Nothing in this section shall be construed to prohibit the continuation or renewal of any television local marketing agreement that is in effect on such date of enactment and that is in compliance with Commission regulations on such date.".

SEC. 303. FOREIGN INVESTMENT AND OWNERSHIP.

(a) STATION LICENSES.—Section 310(a) (47 U.S.C. 310(a)) is amended to read as follows:

"(a) GRANT TO OR HOLDING BY FOREIGN GOVERNMENT OR REPRESENTATIVE.—No station license required under title III of this Act shall be granted to or held by any foreign government or any representative thereof. This subsection shall not apply to licenses issued under such terms and conditions as the Commission may prescribe to mobile earth stations engaged in occasional or short-term transmissions via satellite of audio or television program material and auxilliary signals if such transmissions are not intended for direct reception by the general public in the United States.".

(b) TERMINATION OF FOREIGN OWNERSHIP RESTRICTIONS.—Section 310 (47 U.S.C. 310) is amended by adding at the end thereof the following new subsection:

"(f) TERMINATION OF FOREIGN OWNERSHIP RESTRICTIONS.—

"(1) RESTRICTION NOT TO APPLY.—Subsection (b) shall not apply to any common carrier license granted, held, or for which application is made, after the date of enactment of this subsection with respect to any alien (or representative thereof), corporation, or foreign government (or representative thereof) if—

"(A) the President determines—

"(i) that the foreign country of which such alien is a citizen, in which such corporation is organized, or in which the foreign government is in control is party to an international agreement which requires the United States to provide national or most-favored-nation treatment in the grant of common carrier licenses; and

"(ii) that not applying subsection (b) would be consistent with national security and effective law enforcement; or

"(B) the Commission determines that not applying subsection (b) would serve the public interest.

"(2) COMMISSION CONSIDERATIONS.—In making its determination under paragraph (1), the Commission shall abide by any decision of the President whether application of section (b) is in the public interest due to national security, law enforcement, foreign policy or trade (including direct investment as it relates to international trade policy) concerns, or due to the interpretation of international agreements. In the absence of a decision by the President, the Commission may consider, among other public interest factors, whether effective competitive opportunities are available to United States nationals or corporations in the applicant's home market. Upon receipt of an application that requires a determination under this paragraph, the Commission shall cause notice of the application to be given to the President or any agencies designated by the President to receive such notification. The Commission shall not make a determination under paragraph (1)(B) earlier than 30 days after the end of the pleading cycle or later than 180 days after the end of the pleading cycle.

"(3) FURTHER COMMISSION REVIEW.—The Commission may determine that, due to changed circumstances relating to United States national security or law enforcement, a prior determination under paragraph (1) ought to be reversed or altered. In making this determination, the Commission shall accord great deference to any recommendation of the President with respect to United States national security or law enforcement. If a determination under this paragraph is made then—

"(A) subsection (b) shall apply with respect to such aliens, corporation, and government (or

their representatives) on the date that the Commission publishes notice of its determination under this paragraph; and

"(B) any license held, or application filed, which could not be held or granted under subsection (b) shall be reviewed by the Commission under the provisions of paragraphs (1)(B) and (2).

"(4) NOTIFICATION TO CONGRESS.—The President and the Commission shall notify the appropriate committees of the Congress of any determinations made under paragraph (1), (2), or (3).

"(5) MISCELLANEOUS.—Any Presidential decisions made under the provisions of this subsection shall not be subject to judicial review.".

(c) EFFECTIVE DATES.—The amendments made by this section shall not apply to any proceeding commenced before the date of enactment of this Act.

SEC. 304. FAMILY VIEWING EMPOWERMENT.

(a) FINDINGS.—The Congress makes the following findings:

(1) Television is pervasive in daily life and exerts a powerful influence over the perceptions of viewers, especially children, concerning the society in which we live.

(2) Children completing elementary school have been exposed to 25 or more hours of television per week and as many as 11 hours per day.

(3) Children completing elementary school have been exposed to an estimated average of 8,000 murders and 100,000 acts of violence on television.

(4) Studies indicate that the exposure of young children to such levels of violent programming correlates to an increased tendency toward and tolerance of violent and aggressive behavior in later years.

(5) Studies also suggest that the depiction of other material such as sexual conduct in a cavalier and amoral context may undermine the ability of parents to instill in their children responsible attitudes regarding such activities.

(6) Studies also suggest that a significant relationship exists between exposure to television violence and antisocial acts, including serious, violent criminal offenses.

(7) Parents and other viewers are increasingly demanding that they be empowered to make and implement viewing choices for themselves and their families.

(8) The public is becoming increasingly aware of and concerned about objectionable video programming content.

(9) The broadcast television industry and other video programmers have a responsibility to assess the impact of their work and to understand the damage that comes from the incessant, repetitive, mindless violence and irresponsible content.

(10) The broadcast television industry and other video programming distributors should be committed to facilitating viewers' access to the information and capabilities required to prevent the exposure of their children to excessively violent and otherwise objectionable and harmful video programming.

(11) The technology for implementing individual viewing choices is rapidly advancing and numerous options for viewer control are or soon will be available in the marketplace at affordable prices.

(12) There is a compelling national interest in ensuring that parents are provided with the information and capabilities required to prevent the exposure of their children to excessively violent and otherwise objectionable and harmful video programming.

(b) POLICY.—It is the policy of the United States to—

(1) encourage broadcast television, cable, satellite, syndication, other video programming distributors, and relevant related industries (in consultation with appropriate public interest groups and interested individuals from the private sector) to—

(A) establish a technology fund to encourage television and electronics equipment manufacturers to facilitate the development of technology which would empower parents to block programming they deem inappropriate for their children;

(B) report to the viewing public on the status of the development of affordable, easy to use blocking technology; and

(C) establish and promote effective procedures, standards, systems, advisories, or other mechanisms for ensuring that users have easy and complete access to the information necessary to effectively utilize blocking technology; and

(2) evaluate whether, not later than 1 year after the date of enactment of this Act, industry-wide procedures, standards, systems advisories, or other mechanisms established by the broadcast television, cable satellite, syndication, other video programming distribution, and relevant related industries—

(A) are informing viewers regarding their options to utilize blocking technology; and

(B) encouraging the development of blocking technologies.

(c) GAO AUDIT.—

(1) AUDIT REQUIRED.—No later than 18 months after the date of the enactment of this Act, the Comptroller General shall submit to Congress an evaluation of—

(A) the proliferation of new and existing blocking technology;

(B) the accessibility of information to empower viewing choices; and

(C) the consumer satisfaction with information and technological solutions.

(2) CONTENTS OF EVALUATION.—The evaluation shall—

(A) describe the blocking technology available to viewers including the costs thereof; and

(B) assess the extent of consumer knowledge and attitudes toward available blocking technologies;

(3) describe steps taken by broadcast, cable, satellite, syndication, and other video programming distribution services to inform the public and promote the availability of viewer empowerment technologies, devices, and techniques;

(4) evaluate the degree to which viewer empowerment technology is being utilized;

(5) assess consumer satisfaction with technological options; and

(6) evaluate consumer demand for information and technological solutions.

SEC. 305. PARENTAL CHOICE IN TELEVISION PROGRAMMING.

(a) FINDINGS.—The Congress makes the following findings:

(1) Television influences children's perception of the values and behavior that are common and acceptable in society.

(2) Television station operators, cable television system operators, and video programmers should follow practices in connection with video programming that take into consideration that television broadcast and cable programming has established a uniquely pervasive presence in the lives of American children.

(3) The average American child is exposed to 25 hours of television each week and some children are exposed to as much as 11 hours of television a day.

(4) Studies have shown that children exposed to violent video programming at a young age have a higher tendency for violent and aggressive behavior later in life than children not so exposed, and that children exposed to violent video programming are prone to assume that acts of violence are acceptable behavior.

(5) Children in the United States are, on average, exposed to an estimated 8,000 murders and 100,000 acts of violence on television by the time the child completes elementary school.

(6) Studies indicate that children are affected by the pervasiveness and casual treatment of sexual material on television, eroding the ability of parents to develop responsible attitudes and behavior in their children.

(7) Parents express grave concern over violent and sexual video programming and strongly support technology that would give them greater control to block video programming in the home that they consider harmful to their children.

(8) There is a compelling governmental interest in empowering parents to limit the negative influences of video programming that is harmful to children.

(9) Providing parents with timely information about the nature of upcoming video programming and with the technological tools that allow them easily to block violent, sexual, or other programming that they believe harmful to their children is the least restrictive and most narrowly tailored means of achieving that compelling governmental interest.

(b) ESTABLISHMENT OF TELEVISION RATING CODE.—Section 303 of the Act (47 U.S.C. 303) is amended by adding at the end the following:

"(v) Prescribe—

"(1) on the basis of recommendations from an advisory committee established by the Commission that is composed of parents, television broadcasters, television programming producers, cable operators, appropriate public interest groups, and other interested individuals from the private sector and that is fairly balanced in terms of political affiliation, the points of view represented, and the functions to be performed by the committee, guidelines and recommended procedures for the identification and rating of video programming that contains sexual, violent, or other indecent material about which parents should be informed before it is displayed to children, provided that nothing in this paragraph shall be construed to authorize any rating of video programming on the basis of its political or religious content; and

"(2) with respect to any video programming that has been rated (whether or not in accordance with the guidelines and recommendations prescribed under paragraph (1)), rules requiring distributors of such video programming to transmit such rating to permit parents to block the display of video programming that they have determined is inappropriate for their children.".

(c) REQUIREMENT FOR MANUFACTURE OF TELEVISIONS THAT BLOCK PROGRAMS.—Section 303 of the Act, as amended by subsection (a), is further amended by adding at the end the following:

"(w) Require, in the case of apparatus designed to receive television signals that are manufactured in the United States or imported for use in the United States and that have a picture screen 13 inches or greater in size (measured diagonally), that such apparatus be equipped with circuitry designed to enable viewers to block display of all programs with a common rating, except as otherwise permitted by regulations pursuant to section 330(c)(4).".

(d) SHIPPING OR IMPORTING OF TELEVISIONS THAT BLOCK PROGRAMS.—

(1) REGULATIONS.—Section 330 of the Communications Act of 1934 (47 U.S.C. 330) is amended—

(A) by redesignating subsection (c) as subsection (d); and

(B) by adding after subsection (b) the following new subsection (c):

"(c)(1) Except as provided in paragraph (2), no person shall ship in interstate commerce, manufacture, assemble, or import from any foreign country into the United States any apparatus described in section 303(w) of this Act except in accordance with rules prescribed by the Commission pursuant to the authority granted by that section.

"(2) This subsection shall not apply to carriers transporting apparatus referred to in paragraph (1) without trading it.

"(3) The rules prescribed by the Commission under this subsection shall provide for the oversight by the Commission of the adoption of standards by industry for blocking technology. Such rules shall require that all such apparatus be able to receive the rating signals which have been transmitted by way of line 21 of the vertical blanking interval and which conform to the signal and blocking specifications established by industry under the supervision of the Commission.

"(4) As new video technology is developed, the Commission shall take such action as the Commission determines appropriate to ensure that blocking service continues to be available to consumers. If the Commission determines that an alternative blocking technology exists that—

"(A) enables parents to block programming based on identifying programs without ratings,

"(B) is available to consumers at a cost which is comparable to the cost of technology that allows parents to block programming based on common ratings, and

"(C) will allow parents to block a broad range of programs on a multichannel system as effectively and as easily as technology that allows parents to block programming based on common ratings,

the Commission shall amend the rules prescribed pursuant to section 303(w) to require that the apparatus described in such section be equipped with either the blocking technology described in such section or the alternative blocking technology described in this paragraph.".

(2) CONFORMING AMENDMENT.—Section 330(d) of such Act, as redesignated by subsection (a)(1), is amended by striking "section 303(s), and section 303(u)" and inserting in lieu thereof "and sections 303(s), 303(u), and 303(w)".

(e) APPLICABILITY AND EFFECTIVE DATES.—

(1) APPLICABILITY OF RATING PROVISION.—The amendment made by subsection (b) of this section shall take effect 1 year after the date of enactment of this Act, but only if the Commission determines, in consultation with appropriate public interest groups and interested individuals from the private sector, that distributors of video programming have not, by such date—

(A) established voluntary rules for rating video programming that contains sexual, violent, or other indecent material about which parents should be informed before it is displayed to children, and such rules are acceptable to the Commission; and

(B) agreed voluntarily to broadcast signals that contain ratings of such programming.

(2) EFFECTIVE DATE OF MANUFACTURING PROVISION.—In prescribing regulations to implement the amendment made by subsection (c), the Federal Communications Commission shall, after consultation with the television manufacturing industry, specify the effective date for the applicability of the requirement to the apparatus covered by such amendment, which date shall not be less than one year after the date of the enactment of this Act.

SEC. 306. TERM OF LICENSES.

Section 307(c) of the Act (47 U.S.C. 307(c)) is amended to read as follows:

"(c) TERMS OF LICENSES.—

"(1) INITIAL AND RENEWAL LICENSES.—Each license granted for the operation of a broadcasting station shall be for a term of not to exceed seven years. Upon application therefor, a renewal of such license may be granted from time to time for a term of not to exceed seven years from the date of expiration of the preceding license, if the Commission finds that public interest, convenience, and necessity would be served thereby. Consistent with the foregoing provisions of this subsection, the Commission may by rule prescribe the period or periods for which licenses shall be granted and renewed for particular classes of stations, but the Commission may not adopt or follow any rule which would preclude it, in any case involving a station of a particular class, from granting or renewing a license for a shorter period than that prescribed for stations of such class if, in its judgment, public interest, convenience, or necessity would be served by such action.

"(2) MATERIALS IN APPLICATION.—In order to expedite action on applications for renewal of broadcasting station licenses and in order to avoid needless expense to applicants for such renewals, the Commission shall not require any such applicant to file any information which previously has been furnished to the Commission or which is not directly material to the considerations that affect the granting or denial of such application, but the Commission may require any new or additional facts it deems necessary to make its findings.

"(3) CONTINUATION PENDING DECISION.—Pending any hearing and final decision on such an application and the disposition of any petition for rehearing pursuant to section 405, the Commission shall continue such license in effect.".

SEC. 307. BROADCAST LICENSE RENEWAL PROCEDURES.

(a) AMENDMENT.—Section 309 of the Act (47 U.S.C. 309) is amended by adding at the end thereof the following new subsection:

"(k) BROADCAST STATION RENEWAL PROCEDURES.—

"(1) STANDARDS FOR RENEWAL.—If the licensee of a broadcast station submits an application to the Commission for renewal of such license, the Commission shall grant the application if it finds, with respect to that station, during the preceding term of its license—

"(A) the station has served the public interest, convenience, and necessity;

"(B) there have been no serious violations by the licensee of this Act or the rules and regulations of the Commission; and

"(C) there have been no other violations by the licensee of this Act or the rules and regulations of the Commission which, taken together, would constitute a pattern of abuse.

"(2) CONSEQUENCE OF FAILURE TO MEET STANDARD.—If any licensee of a broadcast station fails to meet the requirements of this subsection, the Commission may deny the application for renewal in accordance with paragraph (3), or grant such application on terms and conditions as are appropriate, including renewal for a term less than the maximum otherwise permitted.

"(3) STANDARDS FOR DENIAL.—If the Commission determines, after notice and opportunity for a hearing as provided in subsection (e), that a licensee has failed to meet the requirements specified in paragraph (1) and that no mitigating factors justify the imposition of lesser sanctions, the Commission shall—

"(A) issue an order denying the renewal application filed by such licensee under section 308; and

"(B) only thereafter accept and consider such applications for a construction permit as may be filed under section 308 specifying the channel or broadcasting facilities of the former licensee.

"(4) COMPETITOR CONSIDERATION PROHIBITED.—In making the determinations specified in paragraph (1) or (2), the Commission shall not consider whether the public interest, convenience, and necessity might be served by the grant of a license to a person other than the renewal applicant.".

(b) CONFORMING AMENDMENT.—Section 309(d) of the Act (47 U.S.C. 309(d)) is amended by inserting after "with subsection (a)" each place such term appears the following: "(or subsection (k) in the case of renewal of any broadcast station license)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any application for renewal pending or filed on or after the date of enactment of this Act.

SEC. 308. EXCLUSIVE FEDERAL JURISDICTION OVER DIRECT BROADCAST SATELLITE SERVICE.

Section 303 of the Act (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. 309. AUTOMATED SHIP DISTRESS AND SAFETY SYSTEMS.

Notwithstanding any provision of the Communications Act of 1934 or any other provision of law or regulation, 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 telegraphy station operated by one or more radio officers or operators. This section shall take effect for each vessel upon a determination by the United States Coast Guard that such vessel has the equipment required to implement the Global Maritime Distress and Safety System installed and operating in good working condition.

SEC. 310. RESTRICTIONS ON OVER-THE-AIR RECEPTION DEVICES.

Within 180 days after the enactment of this Act, the Commission shall, pursuant to section 303, promulgate regulations to prohibit restrictions that inhibit a viewer's ability to receive video programming services through signal receiving devices designed for off-the-air reception of television broadcast signals or direct broadcast satellite services.

SEC. 311. DBS SIGNAL SECURITY.

Section 705(e)(4) of the Act (47 U.S.C. 605(e)) is amended by inserting after "satellite cable programming" the following: "or programming of a licensee in the direct broadcast satellite service".

SEC. 312. DELEGATION OF EQUIPMENT TESTING AND CERTIFICATION TO PRIVATE LABORATORIES.

Section 302 of the Act (47 U.S.C. 302) is amended by adding at the end the following:

"(e) USE OF PRIVATE ORGANIZATIONS FOR TESTING AND CERTIFICATION.—The Commission may—

"(1) authorize the use of private organizations for testing and certifying the compliance of devices or home electronic equipment and systems with regulations promulgated under this section;

"(2) accept as prima facie evidence of such compliance the certification by any such organization; and

"(3) establish such qualifications and standards as it deems appropriate for such private organizations, testing, and certification.".

TITLE IV—EFFECT ON OTHER LAWS

SEC. 401. RELATIONSHIP TO OTHER LAWS.

(a) MODIFICATION OF FINAL JUDGMENT.—This Act and the amendments made by title I of this Act shall supersede only the following sections of the Modification of Final Judgment:

(1) Section II(C) of the Modification of Final Judgment, relating to deadline for procedures for equal access compliance.

(2) Section II(D) of the Modification of Final Judgment, relating to line of business restrictions.

(3) Section VIII(A) of the Modification of Final Judgment, relating to manufacturing restrictions.

(4) Section VIII(C) of the Modification of Final Judgment, relating to standard for entry into the interexchange market.

(5) Section VIII(D) of the Modification of Final Judgment, relating to prohibition on entry into electronic publishing.

(6) Section VIII(H) of the Modification of Final Judgment, relating to debt ratios at the time of transfer.

(7) Section VIII(J) of the Modification of Final Judgment, relating to prohibition on implementation of the plan of reorganization before court approval.

(b) ANTITRUST LAWS.—Nothing in this Act or in the amendments made by 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) Parts II and III of title II of the Communications Act of 1934 shall not be construed to modify, impair, or supersede Federal, State, or local law unless expressly so provided in such part.

(2) STATE TAX SAVINGS PROVISION.—Notwithstanding paragraph (1), nothing in this Act or the amendments made by this Act shall be construed to modify, impair, or supersede, or authorize the modification, impairment, or supersession of, any State or local law pertaining to taxation, except as provided in sections 243(e) and 622 of the Communications Act of 1934 and section 402 of this Act.

(d) APPLICATION TO OTHER ACTION.—This Act shall supersede the final judgment entered December 21, 1984 and as restated January 11, 1985, in the action styled United States v. GTE Corp., Civil Action No. 83-1298, in the United States District Court for the District of Columbia, and any judgment or order with respect to such action entered on or after December 21, 1984, and such final judgment shall not be enforced with respect to conduct occurring after the date of the enactment of this Act.

(e) INAPPLICABILITY OF FINAL JUDGMENT TO WIRELESS SUCCESSORS.—No person shall be considered to be an affiliate, a successor, or an assign of a Bell operating company under section III of the Modification of Final Judgment by reason of having acquired wireless exchange assets or operations previously owned by a Bell operating company or an affiliate of a Bell operating company.

(f) ANTITRUST LAWS.—As used in this section, 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.

(g) ADDITIONAL DEFINITIONS.—As used in this section, the terms "Modification of Final Judgment" and "Bell operating company" have the same meanings provided such terms in section 3 of the Communications Act of 1934.

SEC. 402. PREEMPTION OF LOCAL TAXATION WITH RESPECT TO DBS SERVICE.

(a) PREEMPTION.—A provider of direct-to-home satellite service shall be exempt from the collection or remittance, or both, of any tax or fee imposed by any local taxing jurisdiction with respect to the provision of direct-to-home satellite service. Nothing in this section shall be construed to exempt from collection or remittance any tax or fee on the sale of equipment.

(b) DEFINITIONS.—For the purposes of this section—

(1) DIRECT-TO-HOME SATELLITE SERVICE.—The term "direct-to-home satellite service" means the transmission or broadcasting by satellite of programming directly to the subscribers' premises without the use of ground receiving or distribution equipment, except at the subscribers' premises or in the uplink process to the satellite.

(2) PROVIDER OF DIRECT-TO-HOME SATELLITE SERVICE.—For purposes of this section, a "provider of direct-to-home satellite service" means a person who transmits, broadcasts, sells, or distributes direct-to-home satellite service.

(3) LOCAL TAXING JURISDICTION.—The term "local taxing jurisdiction" means any municipality, city, county, township, parish, transportation district, or assessment jurisdiction, or any other local jurisdiction in the territorial jurisdiction of the United States with the authority to impose a tax or fee, but does not include a State.

(4) STATE.—The term "State" means any of the several States, the District of Columbia, or any territory or possession of the United States.

(5) TAX OR FEE.—The terms "tax" and "fee" mean any local sales tax, local use tax, local intangible tax, local income tax, business license tax, utility tax, privilege tax, gross receipts tax, excise tax, franchise fees, local telecommunications tax, or any other tax, license, or fee that is imposed for the privilege of doing business, regulating, or raising revenue for a local taxing jurisdiction.

(c) PRESERVATION OF STATE AUTHORITY.—This section shall not be construed to prevent taxation of a provider of direct-to-home satellite service by a State or to prevent a local taxing jurisdiction from receiving revenue derived from a tax or fee imposed and collected by a State.

SEC. 403. PROTECTION OF MINORS AND CLARIFICATION OF CURRENT LAWS REGARDING COMMUNICATION OF OBSCENE AND INDECENT MATERIALS THROUGH THE USE OF COMPUTERS.

(a) PROTECTION OF MINORS.—

(1) GENERALLY.—Section 1465 of title 18, United States Code, is amended by adding at the end the following:

"Whoever intentionally communicates by computer, in or affecting interstate or foreign commerce, to any person the communicator believes has not attained the age of 18 years, any material that, in context, depicts or describes, in terms patently offensive as measured by contemporary community standards, sexual or excretory activities or organs, or attempts to do so, shall be fined under this title or imprisoned not more than five years, or both.".

(2) CONFORMING AMENDMENTS RELATING TO FORFEITURE.—

(A) Section 1467(a)(1) of title 18, United States Code, is amended by inserting "communicated," after "transported,".

(B) Section 1467 of title 18, United States Code, is amended in subsection (a)(1), by striking "obscene".

(C) Section 1469 of title 18, United States Code, is amended by inserting "communicated," after "transported," each place it appears.

(b) CLARIFICATION OF CURRENT LAWS REGARDING COMMUNICATION OF OBSCENE MATERIALS THROUGH THE USE OF COMPUTERS.—

(1) IMPORTATION OR TRANSPORTATION.—Section 1462 of title 18, United States Code, is amended—

(A) in the first undesignated paragraph, by inserting "(including by computer) after "thereof"; and

(B) in the second undesignated paragraph—

(i) by inserting "or receives," after "takes";

(ii) by inserting ", or by computer," after "common carrier"; and

(iii) by inserting "or importation" after "carriage".

(2) TRANSPORTATION FOR PURPOSES OF SALE OR DISTRIBUTION.—The first undesignated paragraph of section 1465 of title 18, United States Code, is amended—

(A) by striking "transports in" and inserting "transports or travels in, or uses a facility or means of,";

(B) by inserting "(including a computer in or affecting such commerce)" after "foreign commerce" the first place it appears; and

(C) by striking ", or knowingly travels in" and all that follows through "obscene material in interstate or foreign commerce," and inserting "of".

TITLE V—DEFINITIONS

SEC. 501. DEFINITIONS.

(a) ADDITIONAL DEFINITIONS.—Section 3 of the 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:

"(35) AFFILIATE.—The term 'affiliate', when used in relation to any person or entity, means another person or entity who owns or controls, is owned or controlled by, or is under common ownership or control with, such person or entity.

"(36) 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 that provides telephone exchange service.

"(37) CABLE SYSTEM.—The term 'cable system' has the meaning given such term in section 602(7) of this Act.

"(38) 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.

"(39) DIALING PARITY.—The term 'dialing parity' means that a person that is not an affiliated enterprise of a local exchange carrier is able to provide telecommunications services in such a manner that customers have the ability to route automatically, without the use of any access code, their telecommunications to the telecommunications services provider of the customer's designation from among 2 or more telecommunications services providers (including such local exchange carrier).

"(40) EXCHANGE ACCESS.—The term 'exchange access' means the offering of telephone exchange services or facilities for the purpose of the origination or termination of interLATA services.

"(41) INFORMATION SERVICE.—The term '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. For purposes of section 242, such term shall not include the provision of video programming directly to subscribers.

"(42) INTERLATA SERVICE.—The term 'interLATA service' means telecommunications

between a point located in a local access and transport area and a point located outside such area.

"(43) LOCAL ACCESS AND TRANSPORT AREA.—The term 'local access and transport area' or 'LATA' means a contiguous geographic area—

"(A) 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 paragraph; or

"(B) established or modified by a Bell operating company after the date of enactment of this paragraph and approved by the Commission.

"(44) LOCAL EXCHANGE CARRIER.—The term 'local exchange carrier' means any person that is engaged in the provision of telephone exchange service or exchange access. 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.

"(45) 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.

"(46) NUMBER PORTABILITY.—The term 'number portability' means the ability of users of telecommunications services to retain existing telecommunications numbers without impairment of quality, reliability, or convenience when changing from one provider of telecommunications services to another, as long as such user continues to be located within the area served by the same central office of the carrier from which the user is changing.

"(47) RURAL TELEPHONE COMPANY.—The term 'rural telephone company' means a local exchange carrier operating entity to the extent that such entity—

"(A) 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;

"(B) provides telephone exchange service, including telephone exchange access service, to fewer than 50,000 access lines;

"(C) provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines; or

"(D) has less than 15 percent of its access lines in communities of more than 50,000 on the date of enactment of this paragraph.

"(48) TELECOMMUNICATIONS.—The term '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.

"(49) TELECOMMUNICATIONS EQUIPMENT.—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).

"(50) TELECOMMUNICATIONS SERVICE.—The term '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.".

(b) STYLISTIC CONSISTENCY.—Section 3 of the Act (47 U.S.C. 153) is amended—

(1) in subsections (e) and (n), by redesignating clauses (1), (2) and (3), as clauses (A), (B), and (C), respectively;

(2) in subsection (w), by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively;

(3) in subsections (y) and (z), by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(4) by redesignating subsections (a) through (ff) as paragraphs (1) through (32);

(5) by indenting such paragraphs 2 em spaces;

(6) by inserting after the designation of each such paragraph—

(A) a heading, in a form consistent with the form of the heading of this subsection, consisting of the term defined by such paragraph, or the first term so defined if such paragraph defines more than one term; and

(B) the words "The term";

(7) by changing the first letter of each defined term in such paragraphs from a capital to a lower case letter (except for "United States", "State", "State commission", and "Great Lakes Agreement"); and

(8) by reordering such paragraphs and the additional paragraphs added by subsection (a) in alphabetical order based on the headings of such paragraphs and renumbering such paragraphs as so reordered.

(c) CONFORMING AMENDMENTS.—The Act is amended—

(1) in section 225(a)(1), by striking "section 3(h)" and inserting "section 3";

(2) in section 332(d), by striking "section 3(n)" each place it appears and inserting "section 3"; and

(3) in sections 621(d)(3), 636(d), and 637(a)(2), by striking "section 3(v)" and inserting "section 3".

TITLE VI—SMALL BUSINESS COMPLAINT PROCEDURE

SEC. 601. COMPLAINT PROCEDURE.

(a) PROCEDURE REQUIRED.—The Federal Communications Commission shall establish procedures for the receipt and review of complaints concerning violations of the Communications Act of 1934, and the rules and regulations thereunder, that are likely to result, or have resulted, as a result of the violation, in material financial harm to a provider of telemessaging service, or other small business engaged in providing an information service or other telecommunications service. Such procedures shall be established within 120 days after the date of enactment of this Act.

(b) DEADLINES FOR PROCEDURES; SANCTIONS.—The procedures under this section 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. In addition, the Commission may exercise its authority to impose other penalties or sanctions, to the extent otherwise provided by law.

(c) DEFINITION.—For purposes of this section, a small business shall be any business entity that, along with any affiliate or subsidiary, has fewer than 300 employees.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies."

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES

Mr. BLILEY. Mr. Speaker, pursuant to section 2 of H. Res. 207, I offer a motion.

The Clerk read as follows:

Mr. BLILEY moves that the House insist on its amendment to the Senate bill, S. 652, and request a conference with the Senate thereon.

The motion was agreed to.

MOTION TO INSTRUCT CONFEREES OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DINGELL moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the House amendments to the bill S. 652 be instructed to insist upon those provisions of the Senate bill and House amendment thereto which open all telecommunications markets to fair competition as expeditiously as possible in order to achieve the goal of maximizing consumer choices and benefits.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. DINGELL] will be recognized for 30 minutes, and the gentleman from Virginia [Mr. BLILEY] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, just prior to our adjournment last August, the House approved H.R. 1555, the Communications Act of 1995. That landmark legislation breaks down the barriers that inhibit competition in the telecommunications industries. I am offering this motion to instruct conferees to ensure that the consumer benefits that will result from the enactment of this bill will occur as quickly as possible.

Mr. Speaker, it should come as no surprise that many of the companies that are currently shielded from competition would like to preserve their privileged position in the marketplace. As long as they are able to limit competition, however, they deprive consumers of the benefits that competition will bring. And these benefits are many: Lower prices, improved products and services, more rapid innovation, and greater sensitivity to consumer needs. We passed H.R. 1555 to expedite

the delivery of these benefits to consumers. They should not be held hostage to the interests of companies that would rather compete with their lobbyists instead of in the marketplace.

I urge my colleagues to join me in support of this motion. It is my hope that the House and Senate conferees can resolve their differences quickly, and that we can send the President a bill that he can sign without further delay. To do otherwise would deprive our constituents of the many benefits that competition can bring.

I urge the adoption of the motion.

□ 1715

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

Mr. BLILEY. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I rise in support of the motion to instruct conferees offered by the gentleman from Michigan.

I agree with the gentleman that the core principle of telecommunications reform must be the concept of promoting competition as rapidly as possible. It is competition, and not government-mandated monopolies, which will best serve the public interest.

Our job in crafting legislation of this nature is to ensure that proper guidelines are installed during the transition period as we move towards full and open competition. It is true that the two bodies of Congress have produced slightly different approaches, but these approaches are based on an identical premise—that full competition must be the end result of any attempts at telecommunications reform.

Mr. Speaker, it is also true that bringing about telecommunications policy reform will benefit the American consumer. Telecommunications reform legislation will help increase technological innovation, lower prices for services, increase choices of products and services, create high-quality jobs, and increase the quality of living for our citizens. We should not forget that this bill is intended to promote consumer welfare.

I look forward to working with conferees in producing a bill that the President will sign and I thank my good friend from Michigan, Mr. DINGELL, for his support and help throughout this process.

I urge all Members to support the motion to instruct conferees.

Thank you, Mr. Speaker.

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

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I thank the gentleman from Michigan for yielding me this time.

Working in a bipartisan fashion with the members of the majority, it is our hope that we will be able to craft a historic telecommunications bill which will open all telecommunications marketplaces to full and open competition.

As we all know, each of these marketplaces, from cable to long-distance to local telephone markets, have been subject to historic monopoly practices. This bill will open them wide open and permanently.

We now go with the naming of the conferees to negotiate with the Senate, and it is our full intention that out of this historic negotiation we will be able to produce a bill back out here on the floor of the House within a very short period of time ready for a vote and then presentation to the President of the United States for his signature. That is the sincere, deep-felt conviction on the part of all who have participated in this process, and let us hope that the naming of the conferees today begins a very short process toward the culmination of that proceeding.

The gentleman from Virginia [Mr. BLILEY], the gentleman from Texas [Mr. FIELDS], the gentleman from Michigan [Mr. DINGELL], and I, and all the members of the committee have the full intent of making that the final product of our efforts this year.

Mr. BLILEY. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. FIELDS], the chairman of the Subcommittee on Telecommunications and Finance, a man who has been totally consumed by this legislation and who has done an outstanding job.

Mr. FIELDS of Texas. Mr. Speaker, I stand up here recognizing that is a watershed, historic moment as we enter this conference, and I want to build upon something that my good friend, the gentleman from Massachusetts [Mr. MARKEY], said just a moment ago. We are here after 2¾ years of very hard work, and I think it is a real tribute to each of the people who are here on the floor, particularly the gentleman from Michigan [Mr. DINGELL], the gentleman from Massachusetts [Mr. MARKEY], our chairman, the gentleman from Virginia [Mr. BLILEY], and others who have labored so hard in a bipartisan way to fashion a piece of legislation that catapults this country into the 21st century, moving us from the industrial age into the information age.

I am proud to say that we have worked trying very hard to keep the playing field level, not to be protelephone, procable, prosatellite, probroadcast, but to be proconsumer. I think that is what this bill really does.

As I understand the thrust of the motion to instruct by my good friend, the gentleman from Michigan [Mr. DINGELL], it talks about consumer choice in competition, and that is really what the promise and the potential of this legislation really holds, the ability of a consumer to have choice, that choice emanating from competition. We think there will be some real benefits.

We think that the consumer will have better and newer technology. We think there will be new applications for existing technology, and we think those benefits will be brought to the consumer at a lower per capita cost. That is the potential of what is there.

There is not a more important piece of legislation that comes before this body. I am convinced that, when we come to agreement with the Senate, when this legislation is taken to the President, a piece of legislation that the President will sign, we will see tens of billions of dollars invested in new infrastructure and new technology. We will see tens of thousands of new jobs created.

So this is important work. This is work that our committee is ready to engage in with the Senate.

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

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

The SPEAKER pro tempore. (Mr. LAHOOD). 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 Michigan [Mr. DINGELL].

The motion to instruct was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees:

Conferees on S. 652, Telecommunications Act:

From the Committee on Commerce, for consideration of the Senate bill, and the House amendment, and modifications committed to conference: Messrs. BLILEY, FIELDS of Texas, OXLEY, WHITE, DINGELL, MARKEY, BOUCHER, Ms. ESHOO, and Mr. RUSH.

Provided, Mr. PALLONE is appointed in lieu of Mr. BOUCHER solely for consideration of section 205 of the Senate bill.

As additional conferees, for consideration of sections 1–6, 101–04, 106–07, 201, 204–05, 221–25, 301–05, 307–311, 401–02, 405–06, 410, 601–06, 703, and 705 of the Senate bill, and title I of the House amendment, and modifications committed to conference: Messrs. SCHAEFER, BARTON of Texas, HASTERT, PAXON, KLUG, FRISA, STEARNS, BROWN of Ohio, GORDON, and Mrs. LINCOLN.

As additional conferees, for consideration of sections 102, 202–03, 403, 407–09 and 706 of the Senate bill, and title II of the House amendment, and modifications committed to conference: Messrs. SCHAEFER, HASTERT, and FRISA.

As additional conferees, for consideration of sections 105, 206, 302, 306, 312, 501–05, and 701–02 of the Senate bill, and

title III of the House amendment, and modifications committed to conference: Messrs. STEARNS, PAXON, and KLUG.

As additional conferees, for consideration of sections 7–8, 226, 404, and 704 of the Senate bill, and titles IV–V of the House amendment, and modifications committed to conference: Messrs. SCHAEFER, HASTERT, and KLUG.

As additional conferees, for consideration of title VI of the House amendment, and modifications committed to conference: Messrs. SCHAEFER, BARTON of Texas, and KLUG.

As additional conferees from the Committee on the Judiciary, for consideration of the Senate bill (except sections 1–6, 101–04, 106–07, 201, 204–05, 221–25, 301–05, 307–311, 401–02, 405–06, 410, 601–06, 703, and 705), and of the House amendment (except title I), and modifications committed to conference: Messrs. HYDE, MOORHEAD, GOODLATTE, BUYER, FLANAGAN, CONYERS, SCHROEDER and BRYANT of Texas.

As additional conferees, for consideration of sections 1–6, 101–04, 106–07, 201, 204–05, 221–25, 301–05, 307–311, 401–02, 405–06, 410, 601–06, 703, and 705 of the Senate bill, and title I of the House amendment, and modifications committed to conference: Messrs. HYDE, MOORHEAD, GOODLATTE, BUYER, FLANAGAN, GALLEGLY, BARR, HOKE, CONYERS, Mrs. SCHROEDER, Messrs. BERMAN, BRYANT of Texas, SCOTT, and Ms. JACKSON-LEE.

There was no objection.

MOTION TO INSTRUCT CONFEREES ON S. 652 TELECOMMUNICATIONS BILL

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

Mr. CONYERS. Mr. Speaker, I rise in support of this motion to instruct the conferees.

As ranking member of the Judiciary Committee which has jurisdiction over the antitrust laws which lie at the heart of the M-F-J, I believe we in Congress should be doing everything we can to foster fair competition.

I am, therefore, encouraged by the fact that my good friend and Michigan colleague and distinguished ranking member of the Commerce Committee, Mr. DINGELL, agreed to specify in this motion that the conferees support those provisions which promote fair competition in telecommunications.

That means that we should open telecommunications markets only to the extent that we can be sure that monopolies will not abuse the principles of fair and open competition in the marketplace. Such abuse of monopolistic power would surely lead to higher consumer prices.

During the conference I will be doing everything within my power to ensure that the final bill provides for fair competition without the possibility of monopoly abuse. I fought for fair competition in the Judiciary Committee with Chairman HYDE, I fought for fair competition on the House floor, and I hope that as the House and Senate bills are reconciled we can achieve an accommodation providing fair competition for the American people.

If the final legislative product does not achieve such an accommodation, but instead allows monopolies to abuse their market power, this would be a dramatic step backward from the M-F-J. In such an event, I believe it would be preferable for the President to veto the legislation so we can begin work again next Congress.

Finally, I note that nothing in this motion preempts conferees from being very flexible. Nothing prevents the conferees from looking at a whole variety of alternatives that will promote fair competition.

Nothing in this motion should prevent the conferees from engaging in serious discussions with the administration so that a consensus package can be arrived at, and so that we can have meaningful telecommunications reform this year.

I urge a "yes" vote on this motion and a vote for fair competition.

OMNIBUS CIVILIAN SCIENCE AUTHORIZATION ACT OF 1995

The SPEAKER pro tempore. Pursuant to House Resolution 234 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2405.

□ 1727

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. 2405) to authorize appropriations for fiscal years 1996 and 1997 for civilian science activities of the Federal Government, and for other purposes, with Mr. KINGSTON 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 Massachusetts [Mr. KENNEDY] had been disposed of and title V was open for amendment at any point.

Are there further amendments to title V?

AMENDMENT OFFERED BY MR. BROWN OF CALIFORNIA

Mr. BROWN of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROWN of California: Page 133, line 5, strike subparagraph (A).

Page 133, lines 6 and 7, redesignate subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

Mr. BROWN of California. Mr. Chairman, this is the third of three amendments all in one paragraph on page 133, which seeks to strike language which disallows funding for three existing EPA programs which, in our opinion on this side, are vitally important to the improvement of our environment. The previous two have been offered by the gentlewoman from California [Ms. LOFGREN] and the gentleman from Massachusetts [Mr. KENNEDY], dealing with indoor air pollution research and with the climate change action plan.

My amendment would eliminate the paragraph, the line, which deauthorizes funding for the environmental technology initiative. My amendment strikes this because we believe that the philosophy behind the deauthorization is incorrect, and as I indicated earlier, this debate is aimed at exploring philosophical differences rather than any hopes of getting a really good bill.

□ 1750

On the other side, this particular program in environmental technology, which is aimed at providing encouragement and assistance to private industry to develop environmentally safe and benign technologies and to create and exploit markets based upon this, is considered to be a form of corporate welfare.

It is certainly true that the environmental technology industry has grown over the past few decades into a substantial sized industry which, by some estimates, generates $100 billion in revenue annually and also employs about 1 million people and generates a surplus in international trade and involves over 50,000 firms around this country. This is part of our success story in environmental protection, maintaining and improving environmental quality and creating jobs at the same time through exploiting markets in environmental technology.

It is these successes that the administration wanted to promote through its Environmental Technology Initiative. Perhaps if we had held hearings on this topic, Members would have been better informed about the goals of this program. Unfortunately, on these programs which are proposed to be deauthorized, there is not a hearing record and there is no way of knowing what the concerned constituencies feel about it.

EPA is designated as the lead agency in this government-wide program. Other agencies, of course, are involved. The funds available under the Environmental Technology Initiative are primarily used to support regulatory permitting and enforcement reforms and technological verification and demonstration grants.

About one-third of the funds are directed to Federal, State, and tribal government agencies to facilitate activities in four areas: Research and development, demonstration, testing and

evaluation of technologies used for monitoring, pollution control and prevention, and remediation is the first of those four areas. Technical assistance for small business is the second. Third, promotion of U.S. environmental technologies overseas and cooperative work with industry to develop international standards for pollution control equipment. And, fourth, identification of environmental technology needs and regulatory barriers to innovation, and the development of more flexible permitting, inspection, and enforcement approaches to achieving environmental quality goals.

Mr. Chairman, I would like to close merely by indicating that this effort to assist American industry to rise to the challenge of developing the technologies, the processes, that will help to clean up the atmosphere, and to make a profit in so doing, has been ongoing for a number of years. That philosophy has been reflected in a number of research articles, magazine articles, and books which have had a tremendous impact on the business community. The leaders in the business community today, instead of resisting environmental regulations, now are seeking ways to make money from it. Example: the development of substitutes for the chlorofluoro carbons which are used in refrigerants.

The CHAIRMAN. The time of the gentleman from California [Mr. BROWN] has expired.

(By unanimous consent, Mr. BROWN of California was allowed to proceed for 2 additional minutes.)

Mr. BROWN of California. Mr. Chairman, this is something which the whole international community has joined in supporting and encouraging. We are now on the verge of developing worldwide markets in these new substitutes, which are environmentally benign. American business is in the lead in capturing this global market because of the foresight that we have had in this country in encouraging this kind of research in the environmental technologies program.

I think it is shortsighted at this particular point to deauthorize this program. It is one which has wide support in the business community. It has produced large amounts of income for American business, and our amendment is solely aimed at maintaining this program.

Obviously it will be at a lower level. This money does not have funding in it to continue at the scale we were before. We are not seeking to change the money, however. We are merely seeking to remove the prohibition against doing this kind of extremely popular and beneficial environmental activity.

Mr. ROHRABACHER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this program is $80 million worth of industrial policy. It is the type of program that Vice President Gore may hold very dear, but the taxpayers of the United States expect us to make some changes here in Washington, DC, that will lead to a balanced budget, and this program has no relationship to science whatsoever. It is supposedly aimed at finding ways to streamline regulations.

Well, giving $80 million to the government to streamline regulations is sort of like having the chickens give money to the foxes in order to protect them from foxes. It just does not make any sense.

Our position was endorsed in the committee by a bipartisan vote of 26 to 16. The bottom line is we do not have to spend $80 million of the taxpayers' money in order to streamline regulations. We can do it, and Congress in fact is already doing it, and that is why we oppose the amendment of the gentleman from California [Mr. BROWN].

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. BROWN].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BROWN of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 189, noes 219, not voting 24, as follows:

[Roll No. 711]

AYES—189

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Boehlert
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Filner
Flake
Foglietta
Forbes
Frank (MA)
Franks (NJ)
Frost
Furse
Gejdenson
Geren
Gibbons
Gilchrest
Gonzalez
Gordon
Green
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hastings (FL)
Hefner
Heineman
Hilliard
Hinchey
Holden
Horn
Houghton
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Minge
Mink
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Saxton
Schroeder
Schumer
Scott
Serrano
Skaggs
Skelton
Slaughter
Smith (NJ)
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Thompson
Thurman
Torkildsen
Torres
Towns
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Weldon (PA)
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOES—219

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bliley
Blute
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeFazio
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Fowler
Fox
Franks (CT)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Hoke
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
Longley
Lucas
Manzullo
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Salmon
Sanford
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—24

Bilirakis	Gephardt	Tejeda
Chapman	Harman	Thornton
Clay	Kennelly	Torricelli
Dornan	Lincoln	Tucker
Emerson	McCollum	Volkmer
Fazio	Moakley	Waxman
Fields (LA)	Mollohan	Williams
Ford	Roth	Wilson

□ 1756

Messrs. SAXTON, HEINEMAN, and KLINK changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN (Mr. KINGSTON). Are there further amendments to title V?

If not, the Clerk will designate title VI.

The text of title VI is as follows:

TITLE VI—TECHNOLOGY

Subtitle A—Technology Administration

SEC. 601. SHORT TITLE.

This title may be cited as the "American Technology Advancement Act of 1995".

SEC. 602. AUTHORIZATION OF APPROPRIATIONS.

(a) UNDER SECRETARY FOR TECHNOLOGY.—There are authorized to be appropriated for the Office of the Under Secretary of Commerce for Technology/Office of Technology Policy $5,066,000 for fiscal year 1996.

(b) NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.—There are authorized to be appropriated the following:

(1) For Scientific and Technical Research and Services of the National Institute of Standards and Technology, $275,579,000 for fiscal year 1996, of which—

(A) $39,628,000 shall be for Electronics and Electrical Engineering;

(B) $19,565,000 shall be for Manufacturing Engineering;

(C) $28,127,000 shall be for Chemical Science and Technology;

(D) $28,082,000 shall be for Physics;

(E) $54,314,000 shall be for Material Science and Engineering;

(F) $13,517,000 shall be for Building and Fire Research;

(G) $30,704,000 shall be for Computer Systems;

(H) $10,964,000 shall be for Applied Mathematics and Scientific Computing;

(I) $19,109,000 shall be for Technical Assistance;

(J) $28,169,000 shall be for Research Support; and

(K) $3,400,000 shall be for the Malcolm Baldrige National Quality Program under section 17 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a); and

(2) for Construction of Research Facilities of the National Institute of Standards and Technology, $62,055,000 for fiscal year 1996.

SEC. 603. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ACT AMENDMENTS.

The National Institute of Standards and Technology Act (15 U.S.C. 271 et seq.) is amended—

(1) in section 10(a)—

(A) by striking "nine" and inserting in lieu thereof "15"; and

(B) by striking "five" and inserting in lieu thereof "10";

(2) in section 15—

(A) by striking "Pay Act of 1945; and" and inserting in lieu thereof "Pay Act of 1945;"; and

(B) by inserting "; and (h) the provision of transportation services for employees of the Institute between the facilities of the Institute and nearby public transportation, notwithstanding section 1344 of title 31, United States Code" after "interests of the Government"; and

(3) in section 19, by striking "nor more than forty" and inserting in lieu thereof "nor more than 60".

SEC. 604. STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980 AMENDMENTS.

The Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) is amended—

(1) in section 11(i) (15 U.S.C. 3710(i))—

(A) by inserting "loan, lease," after "department, may"; and

(B) by inserting "Actions taken under this subsection shall not be subject to Federal requirements on the disposal of property." after "education and research activities."; and

(2) in section 17(c) (15 U.S.C. 3711a(c))—

(A) by striking paragraph (2);

(B) by redesignating paragraph (3) as paragraph (2); and

(C) in paragraph (2), as so redesignated by subparagraph (B) of this paragraph, by striking "two" and inserting in lieu thereof "4".

SEC. 605. PERSONNEL.

The personnel management demonstration project established under section 10 of the National Bureau of Standards Authorization Act for Fiscal Year 1987 (15 U.S.C. 275 note) is extended indefinitely.

SEC. 606. FASTENER QUALITY ACT AMENDMENTS.

(a) SECTION 2 AMENDMENTS.—Section 2 of the Fastener Quality Act (15 U.S.C. 5401) is amended—

(1) by striking subsection (a)(4), and redesignating paragraphs (5) through (9) as paragraphs (4) through (8), respectively;

(2) in subsection (a)(7), as so redesignated by paragraph (1) of this subsection, by striking "by lot number"; and

(3) in subsection (b), by striking "used in critical applications" and inserting in lieu thereof "in commerce".

(b) SECTION 3 AMENDMENTS.—Section 3 of the Fastener Quality Act (15 U.S.C. 5402) is amended—

(1) in paragraph (1)(B) by striking "having a minimum tensile strength of 150,000 pounds per square inch" and inserting in lieu thereof "having a minimum Rockwell C hardness of 40 or above";

(2) in paragraph (2)—

(A) by inserting "International Organization for Standardization," after "Society of Automotive Engineers,"; and

(B) by inserting "consensus" after "or any other";

(3) in paragraph (5)—

(A) by inserting "or" after "standard or specification," in subparagraph (B);

(B) by striking "or" at the end of subparagraph (C);

(C) by striking subparagraph (D); and

(D) by inserting "or produced in accordance with ASTM F 432" after "307 Grade A";

(4) in paragraph (6) by striking "other person" and inserting in lieu thereof "government agency";

(5) in paragraph (8) by striking "Standard" and inserting in lieu thereof "Standards";

(6) by striking paragraph (11) and redesignating paragraphs (12) through (15) as paragraphs (11) through (14), respectively;

(7) in paragraph (13), as so redesignated by paragraph (6) of this subsection, by striking ", a government agency" and all that follows through "markings of any fastener" and inserting in lieu thereof "or a government agency"; and

(8) in paragraph (14), as so redesignated by paragraph (6) of this subsection, by inserting "for the purpose of achieving a uniform hardness" after "quenching and tempering".

(c) SECTION 4 REPEAL.—Section 4 of the Fastener Quality Act (15 U.S.C. 5403) is repealed.

(d) SECTION 5 AMENDMENTS.—Section 5 of the Fastener Quality Act (15 U.S.C. 5404) is amended—

(1) in subsection (a)(1)(B) and (2)(A)(i) by striking "subsections (b) and (c)" and inserting in lieu thereof "subsections (b), (c), and (d)";

(2) in subsection (c)(2) by striking "or, where applicable" and all that follows through "section 7(c)(1)";

(3) in subsection (c)(3) by striking ", such as the chemical, dimensional, physical, mechanical, and any other";

(4) in subsection (c)(4) by inserting "except as provided in subsection (d)," before "state whether"; and

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

"(d) ALTERNATIVE PROCEDURE FOR CHEMICAL CHARACTERISTICS.—Notwithstanding the requirements of subsections (b) and (c), a manufacturer shall be deemed to have demonstrated, for purposes of subsection (a)(1), that the chemical characteristics of a lot conform to the standards and specifications to which the manufacturer represents such lot has been manufactured if the following requirements are met:

"(1) The coil or heat number of metal from which such lot was fabricated has been inspected and tested with respect to its chemical characteristics by a laboratory accredited in accordance with the procedures and conditions specified by the Secretary under section 6.

"(2) Such laboratory has provided to the manufacturer, either directly or through the metal manufacturer, a written inspection and testing report, which shall be in a form prescribed by the Secretary by regulation, listing the chemical characteristics of such coil or heat number.

"(3) The report described in paragraph (2) indicates that the chemical characteristics of such coil or heat number conform to those required by the standards and specifications to which the manufacturer represents such lot has been manufactured.

"(4) The manufacturer demonstrates that such lot has been fabricated from the coil or heat number of metal to which the report described in paragraphs (2) and (3) relates.

In prescribing the form of report required by subsection (c), the Secretary shall provide for an alternative to the statement required by subsection (c)(4), insofar as such statement pertains to chemical characteristics, for cases in which a manufacturer elects to use the procedure permitted by this subsection.".

(e) SECTION 6 AMENDMENT.—Section 6(a)(1) of the Fastener Quality Act (15 U.S.C. 5405(a)(1)) is amended by striking "Within 180 days after the date of enactment of this Act, the" and inserting in lieu thereof "The".

(f) SECTION 7 AMENDMENTS.—Section 7 of the Fastener Quality Act (15 U.S.C. 5406) is amended—

(1) by amending subsection (a) to read as follows:

"(a) DOMESTICALLY PRODUCED FASTENERS.—It shall be unlawful for a manufacturer to sell any shipment of fasteners covered by this Act which are manufactured in the United States unless the fasteners—

"(1) have been manufactured according to the requirements of the applicable standards and specifications and have been inspected and tested by a laboratory accredited in accordance with the procedures and conditions specified by the Secretary under section 6; and

"(2) an original laboratory testing report described in section 5(c) and a manufacturer's certificate of conformance are on file with the manufacturer, or under such custody as may be prescribed by the Secretary, and available for inspection,";

(2) in subsection (c)(2) by inserting "to the same" after "in the same manner and";

(3) in subsection (d)(1) by striking "certificate" and inserting in lieu thereof "test report"; and

(4) by striking subsections (e), (f), and (g) and inserting in lieu thereof the following:

"(e) SUBSEQUENT PURCHASER.—If a person who purchases fasteners for any purpose so requests either prior to the sale or at the time of sale, the seller shall conspicuously mark the container of the fasteners with the lot number from which such fasteners were taken.".

(g) SECTION 9 AMENDMENT.—Section 9 of the Fastener Quality Act (15 U.S.C. 5408) is amended by adding at the end the following new subsection:

"(d) ENFORCEMENT.—The Secretary may designate officers or employees of the Department of Commerce to conduct investigations pursuant to this Act. In conducting such investigations, those officers or employees may, to the extent necessary or appropriate to the enforcement of this Act, exercise such authorities as are conferred upon them by other laws of the United States, subject to policies and procedures approved by the Attorney General.".

(h) SECTION 10 AMENDMENTS.—Section 10 of the Fastener Quality Act (15 U.S.C. 5409) is amended—

(1) in subsections (a) and (b), by striking "10 years" and inserting in lieu thereof "5 years"; and

(2) in subsection (b), by striking "any subsequent" and inserting in lieu thereof "the subsequent".

(i) SECTION 13 AMENDMENT.—Section 13 of the Fastener Quality Act (15 U.S.C. 5412) is amended by striking "within 180 days after the date of enactment of this Act".

(j) SECTION 14 REPEAL.—Section 14 of the Fastener Quality Act (15 U.S.C. 5413) is repealed.

SEC. 607. PROHIBITION OF LOBBYING ACTIVITIES.

None of the funds authorized by this title shall be available for any activity whose purpose is to influence legislation pending before the Congress, except that this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to Members of Congress on the request of any Member or to Congress, through the proper channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business.

SEC. 608. LIMITATION ON APPROPRIATIONS.

(a) EXCLUSIVE AUTHORIZATION FOR FISCAL YEAR 1996.—Notwithstanding any other provision of law, no sums are authorized to be appropriated for fiscal year 1996 for the activities for which sums are authorized by this title unless such sums are specifically authorized to be appropriated by this title.

(b) SUBSEQUENT FISCAL YEARS.—No sums are authorized to be appropriated for any fiscal year after fiscal year 1996 for the activities for which sums are authorized by this title unless such sums are specifically authorized to be appropriated by Act of Congress with respect to such fiscal year.

SEC. 609. ELIGIBILITY FOR AWARDS.

(a) IN GENERAL.—The Director shall exclude from consideration for awards of financial assistance made by the Under Secretary for Technology/Office of Technology Policy or the National Institute of Standards and Technology after fiscal year 1995 any person who received funds, other than those described in subsection (b), appropriated for a fiscal year after fiscal year 1995, from any Federal funding source for a project that was not subjected to a competitive, merit-based award process. Any exclusion from consideration pursuant to this section shall be effective for a period of 5 years after the person receives such Federal funds.

(b) EXCEPTION.—Subsection (a) shall not apply to awards to persons who are members of a class specified by law for which assistance is awarded to members of the class according to a formula provided by law.

SEC. 610. STANDARDS CONFORMITY.

(a) USE OF STANDARDS.—Section 2(b) of the National Institute of Standards and Technology Act (15 U.S.C. 272(b)) is amended—

(1) by striking ", including comparing standards" and all that follows through "Federal Government";

(2) by redesignating paragraphs (3) through (11) as paragraphs (4) through (12), respectively; and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) to compare standards used in scientific investigations, engineering, manufacturing, commerce, industry, and educational institutions with the standards adopted or recognized by the Federal Government and to coordinate the use by Federal agencies of private sector standards, emphasizing where possible the use of standards developed by private, consensus organizations;".

(b) CONFORMITY ASSESSMENT ACTIVITIES.—Section 2(b) of the National Institute of Standards and Technology Act (15 U.S.C. 272(b)) is amended—

(1) by striking "and" at the end of paragraph (11), as so redesignated by subsection (a)(2) of this section;

(2) by striking the period at the end of paragraph (12), as so redesignated by subsection (a)(2) of this section, and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(13) to coordinate Federal, State, local, and private sector standards conformity assessment activities, with the goal of eliminating unnecessary duplication and complexity in the development and promulgation of conformity assessment requirements and measures.".

(c) TRANSMITTAL OF PLAN TO CONGRESS.—The National Institute of Standards and Technology shall, by January 1, 1996, transmit to the Congress a plan for implementing the amendments made by this section.

SEC. 611. FURTHER AUTHORIZATIONS.

Nothing in this Act shall preclude further authorization of appropriations for the Manufacturing Extension Partnerships program under sections 25 and 26 of the National Institute of Standards and Technology Act (15 U.S.C. 278k and 278l) for fiscal year 1996: *Provided*, That authorization allocations adopted by the Conference Committee on House Concurrent Resolution 67, and approved by Congress, allow for such further authorizations.

The CHAIRMAN. Are there amendments to title VI?

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER:

Page 144, after line 25, insert the following:

"(e) COMMINGLING.—It shall be unlawful for any manufacturer, importer, or private label distributor to commingle like fasteners from different lots in the same container, except that such manufacturer, importer, or private label distributor may commingle like fasteners of the same type, grade, and dimension from not more than two tested and certified lots in the same container during repackaging and plating operations. Any container which contains fasteners from two lots shall be conspicuously marked with the lot identification numbers of both lots.

Page 145, line 1, strike "(e)" and insert in lieu thereof "(f)".

Mr. WALKER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALKER. Mr. Chairman, when the Science Committee marked up the Fastener Quality Act, I attached an amendment to establish the Fastener Advisory Committee. This committee was to determine if the act would have any detrimental impacts on business.

The Fastener Advisory Committee reported and recommended changes to the act.

Title VI addresses the concerns of the Fastener Advisory Committee: heat mill certification, mixing of like certified fasteners, and minor nonconformance.

Working with this Congress and NIST, the Public Law Task Force, comprised of members from the manufacturing, importing, and distributing sectors of the fastener industry, has worked to improve the law while maintaining safety and quality. The Public Law Task Force represents 85 percent of all companies involved in the manufacture, distribution, and importation of fasteners and their suppliers in the United States. Combined, the Task Force represents over 100,000 employees in all 50 states.

Unfortunately, a provision was inadvertently left out when drafting the original amendment to the Fastener Quality Act.

The language of the amendment I am offering goes back to the original intent of the bill, but is less restrictive regarding commingling of fasteners, as recommended by the Fastener Advisory Committee. This amendment states that manufacturers, importers, and distributors of fasteners under private labels, may mix like-certified fasteners from only two tested and certified lots, and not more, and they must mark such containers accordingly.

This provision is less restrictive on industry. It was brought to our attention by NIST and is recommended and

supported by the Fastener Advisory Committee, NIST, and the Public Law Task Force.

This amendment is a good solution. I urge my colleagues to support its adoption.

Mr. BROWN of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we understand the chairman's concern with this language. He has been assiduous for a number of years in trying to reach acceptable language in the law with regard to fasteners, which is a rather esoteric but important issue. I intend to support his request with this caveat.

I do not know what is involved in this final corrective language. There have been several mistakes made in trying to correct this before. So I will support this additional effort with the understanding that we can continue to work to make sure that this language will be acceptable and meet both of our goals.

Mr. Chairman, the problems on this side of the aisle with this amendment arise from the fact that we are amending a complex piece of legislation with no time to understand the ramifications. We received this amendment late yesterday; Mr. DINGELL, the author of the original 1989 act was not informed about this amendment or the underlying problem until today.

In 1989, we made mistakes in writing this act despite intensive hearings and markup sessions in two House committees. This year, in committee, without having held hearings, we made a series of corrections recommended by NIST. Now we learn that 3 months ago, NIST's author of its corrections mailed corrections to his corrections to Mr. WALKER's staff.

It is too late to check the accuracy of these corrections. Our initial reading is that the amendment before us is a less than perfect fix to a significant omission from the committee amendment. Also, given past performance, we do not want to simply assume that the author got it right this time.

I understand the chairman's desire to make this correction, and I hope he understands our concerns as well. We will not oppose him today on the understanding that in the coming weeks we will take the time, bipartisanly and jointly with the Committee on Commerce, to perfect the amendment as necessary to make sure that as we work to ease this act's burden on industry we also continue to protect the American public from the threat of catastrophic failure of high strength fasteners.

□ 1800

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, we will be very happy to work with the gentleman to make certain, if there are any problems here, that we work them out.

Mr. OXLEY. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, let me briefly say to my good friend from Pennsylvania that we are strongly supportive of the efforts on his behalf in regard to the fastener issue. Our committee, the Subcommittee on Oversight and Investigations, then chaired by the gentleman from Michigan [Mr. DINGELL], had several hearings several Congresses ago about that issue. It actually passed legislation in that regard. This amendment tracks very carefully the path that we set out in the Committee on Commerce. This is a positive amendment.

Mr. Chairman, I rise today in support of the gentleman's amendment and this legislation.

The Fastener Quality Act, the result of a 4-year-long Oversight and Investigations Subcommittee investigation by the Committee on Energy and Commerce, requires testing and labeling procedures for certain grades of bolts and fasteners subject to high degrees of stress, such as in military and aerospace applications. The requirements of the Fastener Quality Act were designed to prevent the use of substandard bolts in applications where, if they were to fail, death or injury could occur.

The Commerce Committee and the Science Committee have a long history of working together on this act. After the O&I Subcommittee investigation, our committees worked together to secure passage of this legislation in the 101st Congress and the amendments to the Fastener Act contained in H.R. 2405.

Mr. Chairman, this amendment simply restores the original intent of the Fastener Quality Act. The Committee on Commerce has no objection to this amendment and urges its adoption.

Thank you, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title VI?

AMENDMENT OFFERED BY MR. TANNER

Mr. TANNER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TANNER: Page 149, after line 23, insert the following new section:

SEC. 612. AVAILABLE FUNDING.

Nothing in this title prohibits the National Institute of Standards and Technology from using available funds to perform research and development activities relating to environmental technologies, health care, information infrastructure, and construction technologies.

Page 4, after the item in the table of contents relating to section 611, insert the following:

SEC. 612. AVAILABLE FUNDING.

Mr. TANNER [during the reading]. Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. TANNER. Mr. Chairman, I want to reiterate at the outset that in title VI, as in all other titles heretofore discussed, we do not bust the budget in that we are completely consistent with the glide path toward a balanced budget. And we are in title VI as well.

Mr. Chairman, this amendment affirms the ability of the National Institute of Standards of Technology [NIST] to perform its activities in environmental technologies, health care, information infrastructure, and construction technologies. It does not increase funding.

Why am I offering this amendment? Because the committee report implicitly directs NIST not to pursue programmatic research in these areas, because they do not consider them to be related to the core mission of NIST. Why am I concerned? The current language in the bill inhibits NIST from doing activities that support American industry and promote the health and welfare of all Americans.

This language inhibits NIST from developing the measurement standards required for industry to develop chlorofluorocarbon substitutes. In addition NIST environmental technology standards help industry meet pollution emission standards and they provide more than 200 different standard reference materials. The National Center for Industrial and Treatment Technologies puts it succinctly:

> . . . NIST is seen as filling a unique and vital role in the fundamental science and engineering of pollution prevention and clean technology development. It is foolhardy to inhibit our use of these advanced laboratories merely because the outcome of the work might pay an environmental dividend. The health of the American taxpayer and the environment deserve better than that.

NIST health care program supports measurements that are critical to the accurate calibration of diagnostic equipment used in clinical labs around the country. These activities support clinical testing for measuring cholesterol, DNA testing, performing mammograms, and giving radiation treatment for cancer. NIST provides the services and conducts the research that forms the foundation for nationwide safety and quality assurance systems.

Health and Human Services reported that retesting accounts for between 10–25 percent of the total annual health care costs (between 90–220 billion in 1992). Even a 1-percent reduction in wasteful retesting results in savings approaching $1 billion. Measurement technology and standards developed and produced by NIST will improve cost effectiveness by facilitating the development of innovative diagnostic and therapeutical tools to provide for more accurate diagnosis. As a letter from the president of the National Conference of Standards Laboratories states:

> Without backing up the accuracy of this extraordinary number of measurements made in industry and trade, we would be unable to compete in international markets;

we could not assure proper functioning of products, safety and drugs and pharmaceuticals, and the efficiency of medical services staff.

Report language inhibiting NIST from performing work related to construction standards ignores the fact that NIST is the principle source of technical information for construction and fire safety standards which provide the basis for fire and building codes.

Every product of the work referred to by the committee report affects urgently needed new measurement methods, data, computer-based models or related tools as enabling infrastructure for evaluation of industry produced technologies, or information protocols to facilitate interoperability of industry produced construction products and equipment.

The construction industry endorses NIST efforts regarding on-site automation and building services protocols. Many of these activities are conducted in cooperation with leading construction industry firms such as Bechtel, Caterpillar, Fluor Daniel, Stone & Webster, PlantSTEP Consortium, and BACNET Consortium. As the Portland Cement Association wrote it:

NIST's construction industry programs would not be viable on a commercial basis because no one company could profit from any technology gains achieved.

Finally, majority report language concerning NIST's information infrastructure is wrong. NIST provides key meteorology support through development of test methods, simulations, and reference prototypes, labs, and testbeds. NIST collaborates with industry to develop test methods, metrics, and tools to measure conformity to standards and interoperability which are key to the national infrastructure.

Contrary to the committee report, these unique activities fall squarely within NIST's mission responsibilities.

This report language cuts at the very heart of NIST's traditional activities which promote American industry's competitiveness and American's health and Welfare.

There is nothing in the transcript of either the subcommittee or full committee markup, hearing testimony or staff reports to support the report language. The report demonstrates a fundamental misunderstanding of key NIST programs.

I urge my colleagues to adopt this amendment.

Mr. Chairman, these activities fall squarely within the core mission of NIST. I was not there the other day and, for example, they are developing an instrument to measure in very minute quantities some of the things that are being miniaturized now, such things that would go into one's body so a doctor can see to operate on one, such things as connected with all of the miniaturization that is going on in the computer world.

There has to be somebody to develop an instrument to measure a standard so we know where we are. This language in the report inhibits that, and our amendment simply does not prohibit NIST from doing this in connection and in conjunction with industry.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I move to strike the last word, and I rise on behalf of this amendment.

Mr. Chairman, the Science Committee has included in the report language which accompanies this bill health care language which could not be further from the truth.

The National Institute of Standards and Technology has not proposed to expand into the development preventive technologies. Rather, NIST has proposed to increase by $2 million the amount it would spend to establish accurate medical measurements to assist with improving our Nation's health care.

This is not a new area for NIST. The institute has been providing this service for decades.

Those in the health care community recognize that NIST is the ultimate authority on literally thousands of measurements which bring certainty to the practice of medicine in this country.

Without NIST, there would be no way to guarantee that a blood pressure or cholesterol measurement performed in Boston would be the same as one taken in Dallas, TX.

For example, Cellmark, the Nation's leader in DNA sciences, has stated that it would go out of business if it could not rely on NIST standards.

The work done by NIST in this area is not duplicative of work done by other agencies. To put it bluntly, other agencies neither understand nor perform this type of important medical work.

Additionally, Mr. Chairman, the report language seeks to forbid NIST from participating in the development of environmental technologies, by stating that the work of NIST is duplicative of the work done by other agencies.

NIST has a proven record of providing measurements and reference materials which are the basis of many environmental technology areas. For example, NIST has been involved in the development of standards for refrigerants and other chemicals covered by the Montreal Protocol. This process affects over $300 billion of refrigeration equipment in the United States.

The programs at NIST are not being carried out by other agencies. DOE and NSF are unable to perform the type of standard-setting work that goes on at NIST.

NIST deals with measurements, standards, reference data and test methods. No other agency has this role.

NIST provides the quality assurance for measurements which are made by other government agencies.

For example, NIST enables other companies and agencies to measure low levels of chemical concentrations by providing more than 200 different environmental reference materials that allow more accurate measurement of pollutants in air, water and soil.

Importantly, NIST does not establish or enforce regulatory standards. The role of NIST is to ensure that these activities are based on sound science and accurate measurements.

In sum, Mr. Chairman, the work being performed by NIST in the crucial areas of health care and environmental technology is of a critical nature, and is work that NIST is uniquely qualified to perform.

The amendment before us today will allow NIST to continue this important work, and I urge my colleagues to support it.

Mr. WALKER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I guess there is a feeling here that if you blow enough smoke on these issues and so on that somehow it will become true. The fact is that there is absolutely nothing in our bill that stops NIST from performing standard setting. That is what we think the core mission of NIST should be.

So in all the areas mentioned in the gentleman's amendment, NIST is still in the business of setting the standards. Any work that they do with regard to setting standards is perfectly appropriate. So the gentlewoman's talk about the fact that we need to have standards, we are all for that. That is the reason why we have sought to preserve the core program at NIST and have fought against those efforts to divert NIST away from its core program.

Now, what this amendment suggests is not just research into setting standards; it suggests the development activities. The development activities are where they have wandered off into doing research that is within the realm of business and industry. And therein lies the problem. We think that there are a whole host of areas here where they have wandered off to do things that are not a part of the standard setting mission of the agency.

□ 1815

We think that it is high time that the real standard setting mission of the agency is done, for exactly the reasons mentioned by the gentlewoman. When the gentleman from Tennessee mentioned the whole host of things that he thinks the agency should do, we looked through the bill. Virtually all of those things can be done under our bill.

The problem with adopting the gentleman's amendment is that what we do is we begin then to deteriorate the ability to do the things that we set out in the bill to emphasize. For example, what the amendment would undermine is the fact that we adopted six of 10

areas which the committee agreed to were a part of the core mission there in terms of broad based development.

That is manufacturing engineering. We increased that by 2 percent. We increased physics by 2 percent. Materials science and engineering was increased by 9 percent. Applied math and scientific computing was increased by 51 percent. Technical assistance activities were increased by 28 percent. Research support was increased by 2 percent.

The amendment offered refers to program activities as to which the President submitted proposals that were deemed to lie outside of NIST's expertise or represent research well advanced in the private sector. Obviously, however, some activities are ongoing in these areas that are authorized which are already within the traditional standards development activities of NIST. Those activities are already included within the authorization. The report language makes this distinction and sets forth the activities not factored into the authorized program levels.

What we have is a discussion here of an amendment that really suggests that we are taking away from NIST's ability to set standards in these areas, and that is absolutely not the case. To suggest that that is the case is just absolutely out of sort with both the bill and the report.

What the gentleman's amendment is doing is undermining the ability of the agency to do some good work in some areas where we have prioritized it, and distinctly not helping at all in the standard-setting process. I would suggest that the amendment is not doing what the two previous speakers have told us it is; that in fact what it is doing is undermining the very core mission that both the speakers have suggested that they want to keep in place.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentlewoman from Texas.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, the question I would like to ask is just for the gentleman to point out to me the specific language that he is referring to, because my intent is to just allow them to, where the gentleman says development, is to keep current on standards. Many things can be changed and updated and reformed for more efficiency, but the standards do not remain current in certain activities. They have to be updated because we have the technology to improve it.

Mr. WALKER. Reclaiming my time, what we are doing in our bill is protecting that core program so that that ongoing standards work can in fact be the concentration of the agency. That is exactly what we are attempting to do. This amendment undermines that particular goal because it takes us away from doing those core programs of ongoing standard settings and moves us off into, and this is what the amendment says, development activities.

The development activities are really industrial policy types of activities, and that is exactly what we are saying, is let us keep the standards as the focus, let us make certain that as new standards are needed that they are adopted.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

(By unanimous consent, Mr. WALKER was allowed to proceed for 2 additional minutes.)

Mr. WALKER. Mr. Chairman, I want to make certain that we have the ability to set standards in all these areas. That is the reason why we have said from the outset that we were determined to protect the core program at NIST. I am just disappointed to see an amendment that takes us away from doing what we thought we were beginning to accomplish.

Ms. EDDIE BERNICE JOHNSON of Texas. If the gentleman would yield further, I did not hear the specific language, if he would just point that out to me.

Mr. WALKER. The specific language is the authorization for the core program that is in the bill. With regard to health care, what we say is that the proposed nontraditional NIST activities are duplicative of ongoing major government initiatives at other agencies.

We are specifically referring to a $2 million new start that was put into the program. We eliminated the new start but we did not in any way impact on the ability to set the standards in the health area.

Ms. EDDIE BERNICE JOHNSON of Texas. If the gentleman would yield further, could I just follow up with one final question? Let me give an example of what one of my concerns might be.

In my area, there is an environmental area contaminated with lead. It has been there for a while. Years ago, where the standards were at one point, they are very different now. Tests have been done by some of the Federal agencies and a medical school and the results were differently interpreted. But when put by a standard that had been developed by process and updating of information, they had to be brought together.

No agency other than NIST could have done this with authority and neutral information. If we do not allow for updating, we will waste money because we are developing technologies to simplify it all the time.

Mr. WALKER. Once again reclaiming my time, there is nothing in our bill to suggest that they cannot update standards. In fact, we have the core program in place so that they can update the standards.

Ms. EDDIE BERNICE JOHNSON of Texas. What is the objection to the language in this amendment?

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has again expired.

(On request of Mr. BROWN of California, and by unanimous consent, Mr. WALKER was allowed to proceed for 2 additional minutes.)

Mr. WALKER. Mr. Chairman, we are funding the core program so that NIST has the capacity to do work in all of these areas. We suggest across the board that NIST is the premier agency for doing standard setting, and we fund a program that is in line with the President's request for doing that core program. That is what we are doing here. It would certainly allow them to set standards in either updated standards in old areas or new standards. That is what the bill is all about.

Mr. BROWN of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from Tennessee [Mr. TANNER].

Mr. TANNER. Mr. Chairman, I understand what the gentleman from Pennsylvania [Mr. WALKER] is saying, but if we read the report language, on page 24 the adjustments made in these four areas reflect committee assessments that certain existing or proposed program activities are or would have been insufficiently related to the core mission of NIST to justify the fiscal year 1996 requested funding. Those program activities fall into four broad categories: Information infrastructure, environmental technologies, fire research and health care.

I do not recall in any of our committee deliberations anyone coming before our committee talking about the legitimacy of standards in these areas out at NIST, not one person. This is a committee report language conclusion, I guess, and we want to know what is the basis on which the gentleman makes this assumption. What specific activities that NIST has proposed does the gentleman object to?

Finally, if I amend my amendment to say using available funds to perform standards-related research and development, would the gentleman accept that?

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, as nearly as we can tell, the gentleman is concerned about the amounts of money that are in the chart. The chart refers to the specific items and so on that were taken out, but it does not in any way relate to the fact that there is a core program of research available at NIST which can do work in these areas. We are not taking away from NIST's ability to set standards in the areas that are mentioned in the gentleman's amendment.

Mr. TANNER. What are the committee assessments that certain specific things do not fit into the core mission? We have never on the committee been advised of what the gentleman is talking about here. That is why we have objected to the report language.

Mr. WALKER. Mr. Chairman, the committee adopted the chart.

Mr. TANNER. I ask the gentleman from Pennsylvania again, would he accept an amendment to my amendment to perform standards-related research? He said in the well a minute ago that is what NIST should be doing, and we are perfectly willing to say that in these four areas. This report language is very troubling to us.

Mr. WALKER. Mr. Chairman, the fact is that we are acting on a committee- derived document. The committee in fact passed the chart. The committee action was that they passed the chart.

Mr. TANNER. Mr. Chairman, there was not one iota, we saw a chart at the end with no debate. There was not a witness that came forward on the internal programs of NIST, that I recall, that the committee said, "What are you doing that for? That is not part of your core mission."

There was none of that in our committee, nothing, not one word. What we are saying is this committee report language has a chilling effect on what the gentleman and I both want, and that is standards research out at NIST. We are willing to amend our amendment to say standards-related research and development in these four areas. I do not know how the gentleman could possibly object to standards-related research and development.

Mr. WALKER. If the gentleman would yield further, the fact is that what we were also trying to do was conform to the rescission bill. The 1995 rescission bill took away some of this money. In the 1995 rescission bill, in the chemical accounts for biotechnology, health care, and environmental technology, $7 million was rescinded, so that some of this is included as a part of the rescission bill situation as well. Do I understand the gentleman to say that he is prepared to modify his amendment?

Mr. TANNER. Mr. Chairman, yes, I have made that offer twice.

Mr. WALKER. His modification would be using available funds to perform research relating to——

Mr. TANNER. To perform standards-related research.

Mr. WALKER. For standards-related activities? I do not have a problem with that. I do not believe that that in any way moves us away from where the bill is. We want to be in the position of setting standards. If the gentleman wants to modify his amendment to suggest from using available funds to perform standards-related activities for environmental technologies, for health care, and so on, that is fine, from our standpoint.

MODIFICATION OF AMENDMENT OFFERED BY MR. TANNER

Mr. TANNER. Mr. Chairman, I ask unanimous consent to modify the amendment to reflect standards-related research.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification of amendment offered by Mr. TANNER: On line 4 of the matter proposed by the amendment, after "to perform" insert "standards-related".

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

(By unanimous consent, Mr. BROWN of California was allowed to proceed for 45 additional seconds.)

Mr. BROWN of California. Mr. Chairman, I think we have reached an amicable solution to this situation and I appreciate very much the distinguished chairman of the committee being amenable to this modification. I want to assure him that it was not the language in the bill that caused concern. It was the interpretation of the report language. The gentleman knows and has stated on the floor that the report language is not binding. But nevertheless as he well recognized, it is looked to as a means of guidance in the interpretation of the language of the bill.

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Mr. WALKER. If the gentleman will yield, I mean, in accepting the language there, I mean, we still stand by the report language. We believe that what this language does is simply emphasizes what we believe is in the report. If it helps you all to understand what the report means, that is fine. That works very well for me.

Mr. BROWN of California. We figured it would help us a great deal, I say to the gentleman from Pennsylvania [Mr. WALKER], and we appreciate the cooperation.

Mr WALKER. Excellent.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Tennessee [Mr. TANNER].

The amendment, as modified, was agreed to.

The CHAIRMAN. Are there further amendments to title VI?

If not, the Clerk will designate title VII.

The text of title VII is as follows:

TITLE VII—UNITED STATES FIRE ADMINISTRATION

SEC. 701. SHORT TITLE.

This title may be cited as the "Fire Administration Authorization Act of 1995".

SEC. 702. AUTHORIZATION OF APPROPRIATIONS.

Section 17(g)(1) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216(a)(I)) is amended—

(1) by striking "and" at the end of subparagraph (E);

(2) by striking the period at the end of subparagraph (F) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(G) $28,000,000 for the fiscal year ending September 30, 1996, which, notwithstanding subsection (h), includes any amounts appropriated under subsection (h) (3) and (4) for fiscal year 1996; and

"(H) $28,000,000 for the fiscal year ending September 30, 1997.".

SEC. 703. FIRE SAFETY SYSTEMS IN ARMY HOUSING.

Section 31(c)(1)(A)(ii)(II) is amended by inserting ", or in the case of housing under the control of the Department of the Army, 6 years after such date of enactment" after "date of enactment".

SEC. 704. SUCCESSOR FIRE SAFETY STANDARDS.

The Federal Fire Prevention and Control Act of 1974 is amended—

(1) in section 29(a)(1), by inserting ", or any successor standard thereto," after "Association Standard 74";

(2) in section 29(a)(2), by inserting "or any successor standards thereto," after "whichever is appropriate,";

(3) in section 29(b)(2) by inserting ", or any successor standards thereto" after "Association Standard 13 or 13-R";

(4) in section 31(c)(2)(B)(i), by inserting "or any successor standard thereto," after "Life Safety Code),"; and

(5) in section 31(c)(2)(B)(ii), by inserting "or any successor standard thereto," after "Association Standard 101,".

SEC. 705. TERMINATION OR PRIVATIZATION OF FUNCTIONS.

The Administrator of the United States Fire Administration shall transmit to Congress a report providing notice at least 60 days in advance of the termination or transfer to a private sector entity of any significant function of the United States Fire Administration.

SEC. 706. REPORT ON BUDGETARY REDUCTION.

The Administrator of the United States Fire Administration shall transmit to Congress, within three months after the date of the enactment of this Act, a report setting forth the manner in which the United States Fire Administration intends to implement the budgetary reduction represented by the difference between the amount appropriated to the United States Fire Administration for fiscal year 1996 and the amount requested in the President's budget request for such fiscal year. Such report shall be prepared in consultation with the Alliance for Fire and Emergency Management, the International Association of Fire Chiefs, the International Association of Fire Fighters, the National Fire Protection Association, the National Volunteer Fire Council, the National Association of State Fire Marshals, and the International Association of Arson Investigators.

The CHAIRMAN. Are there amendments to title VII?

If not, are there further amendments to the bill?

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: Page 152, after line 19, insert the following new title:

TITLE VIII—BUY AMERICAN

SEC. 801. BUY AMERICAN.

(a) SENSE OF CONGRESS.—It is the sense of Congress that any recipient of a grant under

this Act, or under any amendment made by this Act, should purchase, when available and cost-effective, American made equipment and products when expending grant monies.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In allocating grants under this Act, or under any amendment made by this Act, the Secretary shall provide to each recipient a notice describing the statement made in subsection (a) by the Congress.

Page 4, after the items in the table of contents relating to title VII, insert the following:

TITLE VIII—BUY AMERICAN

Sec. 801. Buy American.

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. WALKER. Mr. Chairman, reserving the right to object, is this the amendment that was worked out?

Mr. TRAFICANT. If the gentleman will yield, this is the Buy America amendment that had been worked out.

Mr. WALKER. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, there being no opposition, I yield back the balance of my time.

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 the bill?

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BROWN OF CALIFORNIA

Mr. BROWN of California. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. BROWN of California:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Omnibus Civilian Science Authorization Act of 1995".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Findings.

TITLE I—NATIONAL SCIENCE FOUNDATION

Sec. 101. Short title.
Sec. 102. Definitions.

Subtitle A—National Science Foundation Authorization

Sec. 111. Authorization of appropriations.
Sec. 112. Proportional reduction of research and related activities amounts.
Sec. 113. Consultation and representation expenses.
Sec. 114. Reprogramming.

Subtitle B—General Provisions

Sec. 121. Annual report.
Sec. 122. National research facilities.
Sec. 123. Eligibility for research facility awards.
Sec. 124. Administrative amendments.
Sec. 125. Indirect costs.
Sec. 126. Research instrumentation and facilities.
Sec. 127. Financial disclosure.
Sec. 128. Educational leave of absence for active duty.
Sec. 129. Science Studies Institute.
Sec. 130. Educational impact.

TITLE II—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Subtitle A—General Provisions

Sec. 201. Short title.
Sec. 202. Findings.
Sec. 203. Definition.

Subtitle B—Authorization of Appropriations

PART I—AUTHORIZATIONS

Sec. 211. Human space flight.
Sec. 212. Science, aeronautics, and technology.
Sec. 213. Mission support.
Sec. 214. Inspector General.
Sec. 215. Total construction of facilities authorization.

PART II—LIMITATIONS AND SPECIAL AUTHORITY

Sec. 221. Use of funds for construction.
Sec. 222. Availability of appropriated amounts.
Sec. 223. Reprogramming for construction of facilities.
Sec. 224. Consideration by committees.
Sec. 225. Use of funds for scientific consultations or extraordinary expenses.

Subtitle C—Miscellaneous Provisions

Sec. 231. Purchase of airborne infrared astronomy data services.
Sec. 232. Facilities closing commission.

TITLE III—DEPARTMENT OF ENERGY

Sec. 301. Short title.
Sec. 302. Findings.
Sec. 303. Definitions.
Sec. 304. Energy conservation.
Sec. 305. Fossil energy.
Sec. 306. High energy and nuclear physics.
Sec. 307. Solar and renewable energy.
Sec. 308. Nuclear energy.
Sec. 309. Civilian waste; environment, safety, and health.
Sec. 310. Long-term initiatives.
Sec. 311. Support programs for energy supply research and development.
Sec. 312. Limitation.
Sec. 313. Additional authorizations.
Sec. 314. Sense of Congress.

TITLE IV—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Sec. 401. Short title.
Sec. 402. Policy and purpose.
Sec. 403. National Weather Service operations and research.
Sec. 404. National Weather Service systems acquisition.
Sec. 405. Weather Service modernization.
Sec. 406. Basic functions and privatization of National Weather Service .
Sec. 407. Climate and air quality research.
Sec. 408. Atmospheric research.
Sec. 409. Oceans and Great Lakes programs.
Sec. 410. Satellite observing and environmental data management systems.
Sec. 411. National Ocean Service observation and assessment.
Sec. 412. Program support.
Sec. 413. NOAA fleet modernization.
Sec. 414. Educational programs and activities.
Sec. 415. Subpoena.
Sec. 416. Working capital fund.
Sec. 417. Weather data buoys.
Sec. 418. Reimbursement of expenses.
Sec. 419. Construction projects.
Sec. 420. Additional authorization for gaps in Weather Service coverage.

TITLE V—ENVIRONMENTAL PROTECTION AGENCY

Sec. 501. Short title.
Sec. 502. Definitions.
Sec. 503. Authorization of appropriations.
Sec. 504. Scientific research review.
Sec. 505. Environmental technology initiative.

TITLE VI—TECHNOLOGY

Sec. 601. Short title.
Sec. 602. Authorization of appropriations.
Sec. 603. National Institute of Standards and Technology Act amendments.
Sec. 604. Stevenson-Wydler Technology Innovation Act of 1980 amendments.
Sec. 605. Personnel.

TITLE VII—UNITED STATES FIRE ADMINISTRATION

Sec. 701. Short title.
Sec. 702. Authorization of appropriations.
Sec. 703. Fire safety systems in Army housing.
Sec. 704. Successor fire safety standards.
Sec. 705. Termination or privatization of functions.
Sec. 706. Report on budgetary reduction.

SEC. 2. FINDINGS.

The Congress finds that—

(1) science and technology have been major determinants of the American economy and quality of life and will be of even greater importance in the years ahead;

(2) public support of science and technology should be considered as an investment in the future;

(3) education and training in science, mathematics, and engineering are crucial to America's future;

(4) the Federal Government should continue to support strong research institutions—universities, research institutions, and national laboratories—as part of the Nation's science and technology infrastructure;

(5) the Federal investment portfolio in science and technology must support both basic and applied research, including the development of precompetitive technologies in cooperation with and for the private sector as well as for national needs; and

(6) stability of funding, based on long-range planning, is essential for effective and efficient use of the Federal investment in research and its associated educational function and for enhancing international collaboration.

TITLE I—NATIONAL SCIENCE FOUNDATION

SEC. 101. SHORT TITLE.

This title may be cited as the "National Science Foundation Authorization Act of 1995".

SEC. 102. DEFINITIONS.

For purposes of this title—

(1) the term "Director" means the Director of the Foundation;

(2) the term "Foundation" means the National Science Foundation;

(3) the term "institution of higher education" has the meaning given such term in section 1201(a) of the Higher Education Act of 1965;

(4) the term "national research facility" means a research facility funded by the Foundation which is available, subject to appropriate policies allocating access, for use by all scientists and engineers affiliated with

research institutions located in the United States; and

(5) the term "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

Subtitle A—National Science Foundation Authorization

SEC. 111. AUTHORIZATION OF APPROPRIATIONS.

(a) FINDINGS.—The Congress finds that—

(1) the programs of the Foundation are important for the Nation to strengthen basic research and develop human resources in science and engineering, and that those programs should be funded at an adequate level;

(2) the primary mission of the Foundation continues to be the support of basic scientific research and science education and the support of research fundamental to the engineering process and engineering education; and

(3) the Foundation's efforts to contribute to the economic competitiveness of the United States should be in accord with that primary mission.

(b) FISCAL YEAR 1996.—There are authorized to be appropriated to the Foundation $3,186,000,000 for fiscal year 1996, which shall be available for the following categories:

(1) Research and Related Activities, $2,280,000,000.

(2) Education and Human Resources Activities, $599,000,000.

(3) Major Research Equipment, $70,000,000.

(4) Academic Research Facilities Modernization, $100,000,000.

(5) Salaries and Expenses, $127,000,000.

(6) Office of Inspector General, $4,500,000.

(7) Headquarters Relocation, $5,200,000.

SEC. 112. PROPORTIONAL REDUCTION OF RESEARCH AND RELATED ACTIVITIES AMOUNTS.

If the amount appropriated pursuant to section 111(b)(1) is less than the amount authorized under that paragraph, the amount authorized for each subcategory under that paragraph shall be reduced by the same proportion.

SEC. 113. CONSULTATION AND REPRESENTATION EXPENSES.

From appropriations made under authorizations provided in this title, not more than $10,000 may be used in each fiscal year for official consultation, representation, or other extraordinary expenses at the discretion of the Director. The determination of the Director shall be final and conclusive upon the accounting officers of the Government.

SEC. 114. REPROGRAMMING.

(a) $500,000 OR LESS.—In any given fiscal year, the Director may transfer appropriated funds among the subcategories of Research and Related Activities, so long as the net funds transferred to or from any subcategory do not exceed $500,000.

(b) GREATER THAN $500,000.—In addition, the Director may propose transfers to or from any subcategory exceeding $500,000. An explanation of any proposed transfer under this subsection must be transmitted in writing to the Committee on Science of the House of Representatives, and the Committees on Labor and Human Resources and Commerce, Science, and Transportation of the Senate. The proposed transfer may be made only when 30 calendar days have passed after transmission of such written explanation.

Subtitle B—General Provisions

SEC. 121. ANNUAL REPORT.

Section 3(f) of the National Science Foundation Act of 1950 (42 U.S.C. 1862(f)) is amended to read as follows:

"(f) The Foundation shall provide an annual report to the President which shall be submitted by the Director to the Congress at the time of the President's annual budget submission. The report shall—

"(1) contain a strategic plan, or an update to a previous strategic plan, which—

"(A) defines for a three-year period the overall goals for the Foundation and specific goals for each major activity of the Foundation, including each scientific directorate, the education directorate, and the polar programs office; and

"(B) describe how the identified goals relate to national needs and will exploit new opportunities in science and technology;

"(2) identify the criteria and describe the procedures which the Foundation will use to assess progress toward achieving the goals identified in accordance with paragraph (1);

"(3) review the activities of the Foundation during the preceding year which have contributed toward achievement of goals identified in accordance with paragraph (1) and summarize planned activities for the coming three years in the context of the identified goals, with particular emphasis on the Foundation's planned contributions to major multi-agency research and education initiatives;

"(4) contain such recommendations as the Foundation considers appropriate; and

"(5) include information on the acquisition and disposition by the Foundation of any patents and patent rights.".

SEC. 122. NATIONAL RESEARCH FACILITIES.

(a) FACILITIES PLAN.—The Director shall provide to Congress annually, as a part of the report required under section 3(f) of the National Science Foundation Act of 1950, a plan for the proposed construction of, and repair and upgrades to, national research facilities. The plan shall include estimates of the cost for such construction, repairs, and upgrades, and estimates of the cost for the operation and maintenance of existing and proposed new facilities. For proposed new construction and for major upgrades to existing facilities, the plan shall include funding profiles by fiscal year and milestones for major phases of the construction. The plan shall include cost estimates in the categories of construction, repair, and upgrades for the year in which the plan is submitted to Congress and for not fewer than the succeeding 4 years.

(b) LIMITATION ON OBLIGATION OF UNAUTHORIZED APPROPRIATIONS.—No funds appropriated for any project which involves construction of new national research facilities or construction necessary for upgrading the capabilities of existing national research facilities shall be obligated unless the funds are specifically authorized for such purpose by this title or any other Act which is not an appropriations Act, or unless the total estimated cost to the Foundation of the construction project is less than $50,000,000. This subsection shall not apply to construction projects approved by the National Science Board prior to June 30, 1994.

SEC. 123. ELIGIBILITY FOR RESEARCH FACILITY AWARDS.

Section 203(b) of the Academic Research Facilities Modernization Act of 1988 is amended by striking the final sentence of paragraph (3) and inserting in lieu thereof the following: "The Director shall give priority to institutions or consortia that have not received such funds in the preceding 5 years, except that this sentence shall not apply to previous funding received for the same multiyear project.".

SEC. 124. ADMINISTRATIVE AMENDMENTS.

(a) NATIONAL SCIENCE FOUNDATION ACT OF 1950 AMENDMENTS.—The National Science Foundation Act of 1950 (42 U.S.C. 1861 et seq.) is amended—

(1) by redesignating the subsection (k) of section 4 (42 U.S.C. 1863(k)) that was added by section 108 of the National Science Foundation Authorization Act of 1988 as subsection (l);

(2) in section 5(e) (42 U.S.C. 1864(e)) by amending paragraph (2) to read as follows:

"(2) Any delegation of authority or imposition of conditions under paragraph (1) shall be promptly published in the Federal Register and reported to the Committees on Labor and Human Resources and Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives.";

(3) by inserting "be entitled to" between "shall" and "receive", and by inserting ", including traveltime," after "Foundation" in section 14(c) (42 U.S.C. 1873(c));

(4) by striking section 14(j) (42 U.S.C. 1873(j)); and

(5) by striking "Atomic Energy Commission" in section 15(a) (42 U.S.C. 1874(a)) and inserting in lieu thereof "Secretary of Energy".

(b) NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT, 1976 AMENDMENTS.—Section 6(a) of the National Science Foundation Authorization Act, 1976 (42 U.S.C. 1881a(a)) is amended by striking "social," the first place it appears.

(c) NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT OF 1988 AMENDMENTS.—(1) Section 117(a)(1)(B)(v) of the National Science Foundation Authorization Act of 1988 (42 U.S.C. 1881b(1)(B)(v)) is amended to read as follows:

"(v) from schools established outside the several States and the District of Columbia by any agency of the Federal Government for dependents of its employees.".

(2) Section 117(a)(3)(A) of such Act (42 U.S.C. 1881b(3)(A)) is amended by striking "Science and Engineering Education" and inserting in lieu thereof "Education and Human Resources".

(d) EDUCATION FOR ECONOMIC SECURITY ACT AMENDMENTS.—Section 107 of Education for Economic Security Act (20 U.S.C. 3917) is repealed.

(e) TECHNICAL AMENDMENT.—The second subsection (g) of section 3 of the National Science Foundation Act of 1950 is repealed.

SEC. 125. INDIRECT COSTS.

(a) MATCHING FUNDS.—Matching funds required pursuant to section 204(a)(2)(C) of the Academic Research Facilities Modernization Act of 1988 (42 U.S.C. 1862c(a)(2)(C)) shall not be considered facilities costs for purposes of determining indirect cost rates.

(b) REPORT.—The Director of the Office of Science and Technology Policy, in consultation with other relevant agencies, shall prepare a report analyzing what steps would be needed to—

(1) reduce by 10 percent the proportion of Federal assistance to institutions of higher education that are allocated for indirect costs; and

(2) reduce the variance among indirect cost rates of different institutions of higher education,

including an evaluation of the relative benefits and burdens of each option on institutions of higher education. Such report shall

be transmitted to the Congress no later than December 31, 1995.

SEC. 126. RESEARCH INSTRUMENTATION AND FACILITIES.

The Foundation shall incorporate the guidelines set forth in Important Notice No. 91, dated March 11, 1983 (48 Fed. Reg. 15754, April 12, 1983), relating to the use and operation of Foundation-supported research instrumentation and facilities, in its notice of Grant General Conditions, and shall examine more closely the adherence of grantee organizations to such guidelines.

SEC. 127. FINANCIAL DISCLOSURE.

Persons temporarily employed by or at the Foundation shall be subject to the same financial disclosure requirements and related sanctions under the Ethics in Government Act of 1978 as are permanent employees of the Foundation in equivalent positions.

SEC. 128. EDUCATIONAL LEAVE OF ABSENCE FOR ACTIVE DUTY.

In order to be eligible to receive funds from the Foundation after September 30, 1995, an institution of higher education must provide that whenever any student of the institution who is a member of the National Guard, or other reserve component of the Armed Forces of the United States, is called or ordered to active duty, other than active duty for training, the institution shall grant the member a military leave of absence from their education. Persons on military leave of absence from their institution shall be entitled, upon release from military duty, to be restored to the educational status they had attained prior to their being ordered to military duty without loss of academic credits earned, scholarships or grants awarded, or tuition and other fees paid prior to the commencement of the military duty. It shall be the duty of the institution to refund tuition or fees paid or to credit the tuition and fees to the next semester or term after the termination of the educational military leave of absence at the option of the student.

SEC. 129. SCIENCE STUDIES INSTITUTE.

(a) AMENDMENT.—Section 822 of the National Defense Authorization Act for Fiscal 1991 (42 U.S.C. 6686) is amended—

(1) by striking "Critical Technologies Institute" in the section heading and in subsection (a), and inserting in lieu thereof "Science Studies Institute";

(2) in subsection (b) by striking "As determined by the chairman of the committee referred to in subsection (c), the" and inserting in lieu thereof "The";

(3) by striking subsection (c), and redesignating subsections (d), (e), (f), and (g) as subsections (c), (d), (e), and (f), respectively;

(4) in subsection (c), as so redesignated by paragraph (3) of this subsection—

(A) by inserting "science and" after "developments and trends in" in paragraph (1);

(B) by striking "with particular emphasis" in paragraph (1) and all that follows through the end of such paragraph and inserting in lieu thereof "and developing and maintaining relevant informational and analytical tools.";

(C) by striking "to determine" and all that follows through "technology policies" in paragraph (2) and inserting in lieu thereof "with particular attention to the scope and content of the Federal science and technology research and develop portfolio as it affects interagency and national issues";

(D) by amending paragraph (3) to read as follows:

"(3) Initiation of studies and analysis of alternatives available for ensuring the long-term strength of the United States in the development and application of science and technology, including appropriate roles for the Federal Government, State governments, private industry, and institutions of higher education in the development and application of science and technology.";

(E) by inserting "science and" after "Executive branch on" in paragraph (4)(A); and

(F) by amending paragraph (4)(B) to read as follows:

"(B) to the interagency committees and panels of the Federal Government concerned with science and technology.";

(5) in subsection (d), as so redesignated by paragraph (3) of this subsection, by striking "subsection (d)" and inserting in lieu thereof "subsection (c)"; and

(6) by amending subsection (f), as so redesignated by paragraph (3) of this subsection, to read as follows:

"(f) SPONSORSHIP.—The Director of the Office of Science and Technology Policy shall be the sponsor of the Institute.".

(b) CONFORMING USAGE.—All references in Federal law or regulations to the Critical Technologies Institute shall be considered to be references to the Science Studies Institute.

SEC. 130. EDUCATIONAL IMPACT.

(a) FINDINGS.—The Congress finds that—

(1) Federal research funds made available to institutions of higher education often create incentives for such institutions to emphasize research over undergraduate teaching and to narrow the focus of their graduate programs; and

(2) National Science Foundation funds for Research and Related Activities should be spent in the manner most likely to improve the quality of undergraduate and graduate education in institutions of higher education.

(b) EDUCATIONAL IMPACT.—(1) The impact that a grant or cooperative agreement by the National Science Foundation would have on undergraduate and graduate education at an institution of higher education shall be a factor in any decision whether to award such grant or agreement to that institution.

(2) Paragraph (1) shall be effective with respect to any grant or cooperative agreement awarded after September 30, 1996.

(c) REPORT.—The Director shall provide a plan for the implementation of subsection (b) of this section, no later than December 31, 1995, to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Labor and Human Resources of the Senate.

TITLE II—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Subtitle A—General Provisions

SEC. 201. SHORT TITLE.

This title may be cited as the "National Aeronautics and Space Administration Authorization Act, Fiscal Year 1996".

SEC. 202. FINDINGS.

The Congress finds that—

(1) a balanced civil space program is a critical element of the Nation's investment in research and development that needs to be maintained even as the United States reduces its deficit;

(2) the National Aeronautics and Space Administration will require predictable and adequate funding over the next 5 years in order to carry out a balanced program of initiatives in human space flight and science, aeronautics, and technology;

(3) international cooperation can play a major role in leveraging American investments in space exploration and utilization and should be encouraged; and

(4) the National Aeronautics and Space Administration should continue its efforts to reduce institutional costs, through management restructuring, facility consolidation when appropriate, procurement reform, personnel base downsizing, and convergence with other defense and private sector systems.

SEC. 203. DEFINITION.

For purposes of this title, the term "Administrator" means the Administrator of the National Aeronautics and Space Administration.

Subtitle B—Authorization of Appropriations

PART I—AUTHORIZATIONS

SEC. 211. HUMAN SPACE FLIGHT.

(a) AUTHORIZATIONS.—There are authorized to be appropriated to the National Aeronautics and Space Administration for fiscal year 1996 for Human Space Flight the following amounts:

(1) For Russian Cooperation, $100,000,000.

(2) For the Space Shuttle, $3,171,800,000.

(3) For Payload and Utilization Operations, $315,000,000.

(b) CONSTRUCTION OF FACILITIES.—(1) Of the funds authorized to be appropriated under subsection (a)(2), $7,500,000 are authorized for replacement of the Chemical Analysis Facility, Kennedy Space Center.

(2) Of the funds authorized to be appropriated under subsection (a)(2), $4,900,000 are authorized for replacement of the Space Shuttle Main Engine Processing Facility, Kennedy Space Center.

(3) Of the funds authorized to be appropriated under subsection (a)(2), $5,000,000 are authorized for modernization of the Firex System, Pads A and B, Kennedy Space Center.

SEC. 212. SCIENCE, AERONAUTICS, AND TECHNOLOGY.

(a) AUTHORIZATIONS.—There are authorized to be appropriated to the National Aeronautics and Space Administration for fiscal year 1996 for Science, Aeronautics, and Technology the following amounts:

(1) For Space Science, $1,972,400,000, of which—

(A) $1,154,600,000 are authorized for Physics and Astronomy, including $7,000,000 for the Space Infrared Telescope Facility, $28,700,000 for the Stratospheric Observatory for Infrared Astronomy, and $51,500,000 for the Gravity Probe B Relativity Mission; and

(B) $817,800,000 are authorized for Planetary Exploration, including $20,000,000 for the New Millenium program.

(2) For Life and Microgravity Sciences and Applications, $293,200,000.

(3) For Mission to Planet Earth, $1,283,360,000.

(4) For Space Access and Technology, $520,200,000, of which—

(A) $59,000,000 are authorized for the Reusable Launch Vehicle technology development program, and, to the extent provided in appropriations Acts, the Administrator may utilize up to $100,000,000 from funds otherwise provided to the Department of Defense for the Reusable Launch Vehicle;

(B) $140,500,000 are authorized for Spacecraft and Remote Sensing; and

(C) $22,600,000 are authorized for the Small Spacecraft Technology Initiative.

(5) For Aeronautical Research and Technology, $877,300,000, of which—

(A) $354,700,000 are authorized for Research and Technology Base activities;

(B) $240,500,000 are authorized for High Speed Research;

(C) $163,400,000 are authorized for Advanced Subsonic Technology; and

(D) $65,200,000 are authorized for High Performance Computing and Communications.

(6) For Mission Communication Services, $461,300,000.

(7) For Academic Programs, $102,200,000.

(b) CONSTRUCTION OF FACILITIES.—(1) Of the funds authorized to be appropriated under subsection (a)(2), $3,000,000 are authorized for the construction of an addition to the Microgravity Development Laboratory, Marshall Space Flight Center.

(2) Of the funds authorized to be appropriated under subsection (a)(3), $17,000,000 are authorized for construction of Earth Systems Science Building, Goddard Space Flight Center.

(3) Of the funds authorized to be appropriated under subsection (a)(5), $5,400,000 are authorized for modernization of the Unitary Plan Wind Tunnel Complex, Ames Research Center.

SEC. 213. MISSION SUPPORT.

There are authorized to be appropriated to the National Aeronautics and Space Administration for fiscal year 1996 for Mission Support the following amounts:

(1) For Safety, Reliability, and Quality Assurance, $37,600,000.

(2) For Space Communications Services, $299,400,000, of which $175,800,000 are authorized for the Tracking and Data Relay Satellite Replenishment program.

(3) For Research and Program Management, including personnel and related costs, travel, and research operations support, $2,094,800,000.

(4) For Construction of Facilities, including land acquisition, $166,400,000, of which—

(A) $6,300,000 are authorized for restoration of Flight Systems Research Laboratory, Ames Research Center;

(B) $3,000,000 are authorized for restoration of Chilled Water Distribution System, Goddard Space Flight Center;

(C) $4,800,000 are authorized for replacement of Chillers, various buildings, Jet Propulsion Laboratory;

(D) $1,100,000 are authorized for rehabilitation of Electrical Distribution System, White Sands Test Facility, Johnson Space Center;

(E) $4,200,000 are authorized for replacement of Main Substation Switchgear and Circuit Breakers, Johnson Space Center;

(F) $1,800,000 are authorized for replacement of 15KV Load Break Switches, Kennedy Space Center;

(G) $9,000,000 are authorized for rehabilitation of Central Air Equipment Building, Lewis Research Center;

(H) $4,700,000 are authorized for restoration of High Pressure Air Compressor System, Marshall Space Flight Center;

(I) $6,800,000 are authorized for restoration of Information and Electronic Systems Laboratory, Marshall Space Flight Center;

(J) $1,400,000 are authorized for restoration of Canal Lock, Stennis Space Center;

(K) $2,500,000 are authorized for restoration of Primary Electrical Distribution System, Wallops Flight Facility;

(L) $35,000,000 are authorized for repair of facilities at various locations, not in excess of $1,500,000 per project;

(M) $35,000,000 are authorized for rehabilitation and modification of facilities at various locations, not in excess of $1,500,000 per project;

(N) $3,800,000 are authorized for minor construction of new facilities and additions to existing facilities at various locations, not in excess of $1,500,000 per project;

(O) $10,000,000 are authorized for facility planning and design; and

(P) $37,000,000 are authorized for environmental compliance and restoration.

SEC. 214. INSPECTOR GENERAL.

There are authorized to be appropriated to the National Aeronautics and Space Administration for fiscal year 1996 for Inspector General, $17,300,000.

SEC. 215. TOTAL CONSTRUCTION OF FACILITIES AUTHORIZATION.

Notwithstanding any other provision of this subtitle, the total amount authorized to be appropriated under this title for Construction of Facilities shall not exceed $199,200,000.

PART II—LIMITATIONS AND SPECIAL AUTHORITY

SEC. 221. USE OF FUNDS FOR CONSTRUCTION.

(a) AUTHORIZED USES.—Funds appropriated under sections 211(a), 212(a), and 213 (1) and (2), and funds appropriated for research operations support under section 213(3), may be used for the construction of new facilities and additions to, repair of, rehabilitation of, or modification of existing facilities at any location in support of the purposes for which such funds are authorized.

(b) LIMITATION.—None of the funds used pursuant to subsection (a) may be expended for a project, the estimated cost of which to the National Aeronautics and Space Administration, including collateral equipment, exceeds $500,000, until 30 days have passed after the Administrator has notified the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the nature, location, and estimated cost to the National Aeronautics and Space Administration of such project.

(c) TITLE TO FACILITIES.—If funds are used pursuant to subsection (a) for grants to institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities, title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in the grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to ensure that the United States will receive therefrom the benefits adequate to justify the making of that grant.

SEC. 222. AVAILABILITY OF APPROPRIATED AMOUNTS.

To the extent provided in appropriations Acts, appropriations authorized under part I may remain available without fiscal year limitation.

SEC. 223. REPROGRAMMING FOR CONSTRUCTION OF FACILITIES.

Appropriations authorized under section 211(b), 212(b), or 213(4)—

(1) may be varied upward by 10 percent at the discretion of the Administrator; or

(2) may be varied upward by 25 percent, to meet unusual cost variations, after the expiration of 30 days following a report on the circumstances of such action by the Administrator to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

The aggregate amount authorized to be appropriated under sections 211(b), 212(b), and 213(4) shall not be increased as a result of actions authorized under paragraphs (1) and (2) of this section.

SEC. 224. CONSIDERATION BY COMMITTEES.

Notwithstanding any other provision of this title—

(1) no amount appropriated to the National Aeronautics and Space Administration may be used for any program for which the President's annual budget request included a request for funding, but for which the Congress denied or did not provide funding;

(2) no amount appropriated to the National Aeronautics and Space Administration may be used for any program in excess of the amount actually authorized for the particular program by part I; and

(3) no amount appropriated to the National Aeronautics and Space Administration may be used for any program which has not been presented to the Congress in the President's annual budget request or the supporting and ancillary documents thereto,

unless a period of 30 days has passed after the receipt by the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of notice given by the Administrator containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action. The National Aeronautics and Space Administration shall keep the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate fully and currently informed with respect to all activities and responsibilities within the jurisdiction of those committees. Except as otherwise provided by law, any Federal department, agency, or independent establishment shall furnish any information requested by either committee relating to any such activity or responsibility.

SEC. 225. USE OF FUNDS FOR SCIENTIFIC CONSULTATIONS OR EXTRAORDINARY EXPENSES.

Funds appropriated under section 212 may be used, but not to exceed $35,000, for scientific consultations or extraordinary expenses upon the authorization of the Administrator.

Subtitle C—Miscellaneous Provisions

SEC. 231. PURCHASE OF AIRBORNE INFRARED ASTRONOMY DATA SERVICES.

(a) CONTRACT FOR SERVICES.—The Administrator is authorized to enter into multiyear contracts for the purchase of services to provide infrared astronomical data by airborne platforms. Such contracts may provide for the acquisition of aircraft, instruments, support equipment, and any capital items necessary to meet Government needs, and further, the costs of such items may be amortized over the life of the contract.

(b) TERMINATION LIABILITY.—Any contract entered into pursuant to this section may provide for the payment of contingent liability that may accrue in the event that the Federal Government for its convenience terminates such contracts. Payments made for such liability shall be derived from appropriations for Science, Aeronautics, and Technology which remain unobligated from any fiscal year.

(c) CALCULATION OF TRANSACTIONS.—For the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, the Congressional Budget Act of 1974, the Budget Enforcement Act of 1990, and scorekeeping guidelines, the Office of Management and Budget and the Congressional Budget Office shall score any contract entered into under this section in the same manner as if the contract had been entered into on September 30, 1990.

SEC. 232. FACILITIES CLOSING COMMISSION.

(a) ESTABLISHMENT.—In the event that the total amount of funds appropriated to the

National Aeronautics and Space Administration for fiscal year 1996 is less than the amount authorized to be appropriated to the National Aeronautics and Space Administration in this title, there shall be established an independent commission to be known as the National Aeronautics and Space Administration Facilities Commission (hereafter referred to in this section as the "Commission"). The Commission shall be constituted and conduct its activities in accordance with a plan provided to Congress by the President within 90 days after the date of the enactment of the Act making such appropriations.

(b) PURPOSE.—The purpose of the Commission shall be to make recommendations for the closure or reconfiguration of National Aeronautics and Space Administration facilities, including research and operations Centers, resulting in cost savings for the overall budget for such facilities.

TITLE III—DEPARTMENT OF ENERGY

SEC. 301. SHORT TITLE.

This title may be cited as the "Energy Research and Development Act of 1995".

SEC. 302. FINDINGS.

The Congress finds that—

(1) Federal support of research and development in general, and energy research and development in particular, has played a key role in the growth of the United States economy since World War II through the production of new knowledge, the development of new technologies and processes, and the demonstration of such new technologies and processes for application to industrial and other uses;

(2) Federal support of energy research and development is especially important because such research and development contributes to solutions for national problems in energy security, environmental restoration, and economic competitiveness;

(3) the Department of Energy has successfully promoted new technologies and processes to address problems with energy supply, fossil energy, and energy conservation through its various research and development programs;

(4) while the Federal budget deficit and payments on the national debt must be addressed through cost-cutting measures, investments in basic research and research and development on key energy issues must be maintained;

(5) within the last two years, the Department of Energy has made great strides in managing its programs more efficiently and effectively;

(6) significant savings should result from these measures without hampering the Department's core missions; and

(7) the Strategic Realignment Initiative and other such efforts of the Department should be continued.

SEC. 303. DEFINITIONS.

For purposes of this title—

(1) the term "Department" means the Department of Energy; and

(2) the term "Secretary" means the Secretary of Energy.

SEC. 304. ENERGY CONSERVATION.

There are authorized to be appropriated to the Secretary for fiscal year 1996 for energy conservation research, development, and demonstration—

(1) $62,700,000 for energy conservation in buildings;

(2) $121,700,000 for energy conservation by industry;

(3) $185,700,000 for energy conservation in the transportation sector;

(4) no funds for energy conservation by utilities;

(5) $36,400,000 for technical and financial assistance; and

(6) $7,000,000 for policy and management activities.

SEC. 305. FOSSIL ENERGY.

There are authorized to be appropriated to the Secretary for fiscal year 1996 for fossil energy research, development, and demonstration—

(1) $114,900,000 for coal;

(2) $81,700,000 for petroleum;

(3) $116,300,000 for gas;

(4) no funds for the Fossil Energy Cooperative Research and Development Program;

(5) $2,000,000 for fuels;

(6) $64,000,000 for program direction and management;

(7) $3,000,000 for plant and capital improvements; and

(8) $16,400,000 for environmental restoration.

SEC. 306. HIGH ENERGY AND NUCLEAR PHYSICS.

(a) AUTHORIZATIONS.—There are authorized to be appropriated to the Secretary for fiscal year 1996 for high energy and nuclear physics activities of the Department—

(1) $665,000,000 for high energy physics activities;

(2) $321,100,000 for nuclear physics activities; and

(3) $9,000,000 for program direction.

(b) REPORT TO CONGRESS.—Before May 1, 1996, the Secretary, after consultation with the high energy and nuclear physics communities, shall prepare and transmit to the Congress a strategic plan for the high energy and nuclear physics activities of the Department, assuming a combined budget of $900,000,000 for all activities authorized under this section for each of the fiscal years 1997, 1998, 1999, and 2000. The report shall include—

(1) a list of research opportunities to be pursued, including both ongoing and proposed activities;

(2) an analysis of the relevance of each research facility to the research opportunities listed under paragraph (1):

(3) a statement of the optimal balance among facility operations, construction, and research support and the optimal balance between university and laboratory research programs;

(4) schedules for the continuation, consolidation, or termination of each research program, and continuation, upgrade, transfer, or closure of each research facility; and

(5) a statement by project of efforts to coordinate research projects with the international community to maximize the use of limited resources and avoid unproductive duplication of efforts.

SEC. 307. SOLAR AND RENEWABLE ENERGY.

There are authorized to be appropriated to the Secretary for fiscal year 1996 for solar and renewable energy research, development, and demonstration—

(1) $263,000,000 for solar energy;

(2) $30,000,000 for geothermal energy;

(3) $25,000,000 for hydrogen energy;

(4) $500,000 for hydropower;

(5) $34,700,000 for electric energy systems; and

(6) $5,200,000 for energy storage systems.

SEC. 308. NUCLEAR ENERGY.

(a) AUTHORIZATIONS.—There are authorized to be appropriated to the Secretary for fiscal year 1996 for nuclear energy research, development, and demonstration—

(1) $161,000,000 for nuclear energy, including $49,740,000 for the Advanced Light Water Reactor program;

(2) $69,700,000 for the termination of certain facilities; and

(3) $25,400,000 for isotope support.

(b) PROHIBITIONS.—None of the funds authorized in this title for any fiscal year may be used for the Soviet Design Reactor Safety Initiative or the Russian Replacement Power Initiative.

(c) NATIONAL ACADEMY OF SCIENCES REPORT.—The Secretary shall enter into an agreement with the National Academy of Sciences for such Academy to conduct a study of the Gas Turbine-Modular Helium Reactor, and report the results of such study to the Congress by December 31, 1995. Such study shall consider the technical feasibility and economic potential of such reactor design.

SEC. 309. CIVILIAN WASTE; ENVIRONMENT, SAFETY, AND HEALTH.

There are authorized to be appropriated to the Secretary for fiscal year 1996 for research, development, and demonstration—

(1) $700,000 for civilian waste; and

(2) $143,900,000 for environment, safety, and health.

SEC. 310. LONG-TERM INITIATIVES.

(a) AUTHORIZATIONS.—There are authorized to be appropriated to the Secretary for fiscal year 1996—

(1) $429,500,000 for biological and environmental research activities;

(2) $275,000,000 for fusion energy research, development, and demonstration, including a fusion research program using the Tokamak Fusion Test Reactor, except that no funds authorized by this title for fiscal year 1996 or 1997 may be used for construction of the Tokamak Physics Experiment; and

(3) $761,000,000 for basic energy sciences research activities.

(b) REPORT TO CONGRESS.—Before May 1, 1996, the Secretary, after consultation with the relevant scientific communities, shall prepare and transmit to the Congress a report detailing a strategic plan for the operation of facilities that are provided funds authorized by subsection (a)(3). The report shall include—

(1) a list of such facilities, including schedules for continuation, upgrade, transfer, or closure of each facility;

(2) a list of proposed facilities to be provided funds authorized by subsection (a)(3), including schedules for the construction and operation of each facility;

(3) a list of research opportunities to be pursued, including both ongoing and proposed activities, by the research activities authorized by subsection (a)(3); and

(4) an analysis of the relevance of each facility listed in paragraphs (1) and (2) to the research opportunities listed in paragraph (3).

SEC. 311. SUPPORT PROGRAMS FOR ENERGY SUPPLY RESEARCH AND DEVELOPMENT.

There are authorized to be appropriated to the Secretary for fiscal year 1996 for support programs for Energy Supply Research and Development—

(1) $1,400,000 for Energy Research Analyses;

(2) $40,000,000 for Laboratory Technology Transfer;

(3) $7,700,000 for advisory and oversight activities;

(4) $25,000,000 for the Multi-Program Energy Laboratory program;

(5) $4,000,000 for policy and management of Energy Supply Research and Development;

(6) $2,000,000 for policy and management of the energy research programs;

(7) $20,000,000 for University and Science Education programs;

(8) $10,000,000 for the Technology Information Management Program;

(9) $2,000,000 for the Technology Partnership;

(10) $15,000,000 for In-House Energy Management; and

(11) $642,000,000 for Civilian Environmental Restoration and Waste Management.

SEC. 312. LIMITATION.

None of the funds authorized by this title shall be used at the Idaho National Engineering Laboratory after June 1, 1996, with the exception of funds authorized by sections 309 and 311(11).

SEC. 313. ADDITIONAL AUTHORIZATIONS.

There are authorized to be appropriated to the Secretary for each of the fiscal years 1997, 1998, 1999, and 2000 $4,342,000,000 for carrying out the activities authorized by this title.

SEC. 314. SENSE OF CONGRESS.

It is the sense of the Congress that $100,000,000 previously appropriated for the Clean Coal Technology Program should be returned to the Treasury, and that $220,000,000 of funds previously appropriated for activities for which funds are authorized by this title, and allocated for a specific location by the Congress, should also be returned to the Treasury.

TITLE IV—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

SEC. 401. SHORT TITLE.

This title may be cited as the "National Oceanic and Atmospheric Administration Authorization Act of 1995".

SEC. 402. POLICY AND PURPOSE.

It is the policy of the United States and the purpose of this title to—

(1) support and promote continuing the mission of the National Oceanic and Atmospheric Administration to monitor, describe and predict changes in the Earth's environment, protect lives and property, and conserve and manage the Nation's coastal and marine resources to ensure sustainable economic opportunities;

(2) affirm that such mission involves basic responsibilities of the Federal Government for ensuring general public safety, national security, and environmental well-being, and promising economic growth;

(3) affirm that the successful execution of such mission depends strongly on interdependency and synergism among component activities of the National Oceanic and Atmospheric Administration;

(4) recognize that the activities of the National Oceanic and Atmospheric Administration underlie the societal and economic well-being of many sectors of our Nation; and

(5) recognize that such mission is most effectively performed by a single Federal agency with the capability to link societal and economic decisions with a comprehensive understanding of the Earth's environment, as provided for in this title.

SEC. 403. NATIONAL WEATHER SERVICE OPERATIONS AND RESEARCH.

There are authorized to be appropriated to the Secretary of Commerce to enable the National Oceanic and Atmospheric Administration to carry out the operations and research activities of the National Weather Service $483,124,000 for fiscal year 1996.

SEC. 404. NATIONAL WEATHER SERVICE SYSTEMS ACQUISITION.

(a) AUTHORIZATION.—There are authorized to be appropriated to the Secretary of Commerce to enable the National Oceanic and Atmospheric Administration to improve its public warning and forecast systems $90,343,000 for fiscal year 1996. None of the funds authorized under this section may be used for the purposes for which funds are authorized under section 102(b) of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (Public Law 102-567).

(b) CONTRACTOR ACTIVITIES.—Activities of any non-Federal entity, including the purchase, transportation, receipt, and installation of property and materials, on behalf of the National Oceanic and Atmospheric Administration pursuant to the modernization of the National Weather Service as set forth in the Weather Service Modernization Act (title VII of Public Law 102-567), are hereby expressly exempted from taxation in any manner or form by any State, county, or municipality, or any subdivision thereof.

(c) REPEAL.—Section 102(b)(2) of the National Oceanic and Atmospheric Administration Authorization Act of 1992 is repealed.

SEC. 405. WEATHER SERVICE MODERNIZATION.

(a) AMENDMENTS.—The Weather Service Modernization Act is amended—

(1) in section 706—

(A) by striking "60-day" in subsection (c)(2) and inserting in lieu thereof "30-day";

(B) by amending subsection (b)(6) to read as follows:

"(6) any recommendations of the Committee submitted under section 707(c) that evaluate the certification.";

(C) by amending subsection (d) to read as follows:

"(d) FINAL DECISION.—If the Secretary decides to close, consolidate, automate, or relocate any such field office, the Secretary shall publish the certification in the Federal Register and submit the certification to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives."; and

(D) by amending subsection (f) to read as follows:

"(f) PUBLIC LIAISON.—The Secretary shall maintain for a period of at least two years after the closure of any weather office a program to—

"(1) provide timely information regarding the activities of the National Weather Service which may affect service to the community, including modernization and restructuring; and

"(2) work with area weather service users, including persons associated with general aviation, civil defense, emergency preparedness, and the news media, with respect to the provision of timely weather warnings and forecasts."; and

(2) by amending section 707(c) to read as follows:

"(c) DUTIES.—The Committee may review any certification under section 706, for which the Secretary has provided a notice of intent to certify, in the plan, including any certification for which there is a significant potential for degradation of service within the affected area. Upon the request of the Committee, the Secretary shall make available to the Committee the supporting documents developed by the Secretary in connection with the certification. The Committee shall evaluate any certification reviewed on the basis of the modernization criteria and with respect to the requirement that there be no degradation of service, and advise the Secretary accordingly.".

(b) SENSE OF CONGRESS REGARDING ADDITIONAL MODERNIZATION ACTIVITIES.—It is the sense of Congress that the Secretary of Commerce should plan for the implementation of a follow-on modernization program aimed at improving weather services provided to areas which do not receive weather radar coverage at 10,000 feet. In carrying out such a program, the Secretary should plan for a procurement of Block II NEXRAD radar units.

SEC. 406. BASIC FUNCTIONS AND PRIVATIZATION OF NATIONAL WEATHER SERVICE.

(a) BASIC FUNCTIONS.—The basic functions of the National Weather Service shall be—

(1) the provision of forecasts and warnings including forecasts and warnings, of severe weather, flooding, hurricanes, and tsunami events;

(2) the collection, exchange, and distribution of meteorological, hydrologic, climatic, and oceanographic data and information; and

(3) the preparation of hydrometeorological guidance and core forecast information.

(b) PROHIBITION.—The National Weather Service shall not provide any new or enhanced weather services for the sole benefit of an identifiable private entity or group of such entities operating in any sector of the national or international economy in competition with the private weather service industry.

(c) NEW OR ENHANCED SERVICE.—If the Secretary determines, after consultation with appropriate Federal and State officials, that a new or enhanced weather service is necessary and in the public interest to fulfill the international obligations of the United States, to enable State or Federal emergency or resource managers to better perform their State or Federal duties, or to carry out the functions of the National Weather Service described in subsection (a), the National Weather Service may provide such new or enhanced service as one of its basic functions if—

(1) each new or enhanced service provided by the National Weather Service will be limited to the level that the Secretary determines necessary to fulfill the requirements of this subsection, taking into account the capabilities and limitations of resources available, scientific knowledge, and technological capability of the National Weather Service; and

(2) upon request, the National Weather Service will promptly make available to any person the data or data products supporting the new or enhanced service provided pursuant to this section, at a cost not greater than that sufficient to recover the cost of dissemination.

(d) FEDERAL REGISTER.—The Secretary shall promptly publish in the Federal Register each determination made under subsection (c).

(e) PRIVATIZATION REVIEW.—The Secretary shall, by February 15, 1996, conduct a review of all existing weather services and activities performed by the National Oceanic and Atmospheric Administration in order to identify those activities which may be transferred to the private sector. Such review shall include a determination that activities identified for privatization will continue to be disseminated to users on a reasonably affordable basis with no degradation of service. The Secretary shall, by March 15, 1996, provide to the Speaker of the House of Representatives and the President of the Senate a plan for transferring these identified services to the private sector.

SEC. 407. CLIMATE AND AIR QUALITY RESEARCH.

(a) AUTHORIZATION.—There are authorized to be appropriated to the Secretary of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its climate and air quality research activities $139,238,000 for fiscal year 1996.

(b) GLOBE.—Of the amount authorized in subsection (a), $7,000,000 are authorized for fiscal year 1996 for a program to increase scientific understanding of the Earth and student achievement in math and science by using a worldwide network of schools to collect environmental observations. Beginning

in fiscal year 1996, amounts appropriated for such program may be obligated only to the extent that an equal or greater amount of non-Federal funding is provided for such program.

SEC. 408. ATMOSPHERIC RESEARCH.

There are authorized to be appropriated to the Secretary of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its atmospheric research activities $46,909,000 for fiscal year 1996.

SEC. 409. OCEANS AND GREAT LAKES PROGRAMS.

(a) MARINE PREDICTION RESEARCH.—There are authorized to be appropriated to the Secretary of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its oceans and Great Lakes research activities, including Marine Prediction Research, $14,984,000 for fiscal year 1996.

(b) SEA GRANT.—Section 212(a) and (b) of the National Sea Grant College Program Act (33 U.S.C. 1131 (a) and (b)) are amended to read as follows:

"(a) The Secretary shall maintain within the Administration a program to be known as the National Sea Grant College Program. The National Sea Grant College Program shall consist of the financial assistance and other activities provided for in this Act, and shall be administered by a National Sea Grant Office within the Administration. The Secretary shall establish long-range planning guidelines and priorities for, and adequately evaluate, this program.

"(b) There are authorized to be appropriated to carry out all aspects of the National Sea Grant College Program, including research directed toward zebra mussel and other aquatic nuisance mitigation, $49,400,000 for fiscal year 1996.".

(c) NATIONAL UNDERSEA RESEARCH.—By February 15, 1996, the Administrator of the National Oceanic and Atmospheric Administration shall submit to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report setting forth those specific actions taken to ensure that the research activities formerly carried out under the National Undersea Research Program are transferred to and sustained within other existing research programs of the National Oceanic and Atmospheric Administration. In providing for this transfer, the Administrator shall afford the maximum practicable consideration to extending the existing extramural grants and contracts of the National Undersea Research Program. Within the amounts authorized by this title, there are authorized such sums as may be necessary for carrying out the purposes of this subsection.

SEC. 410. SATELLITE OBSERVING AND ENVIRONMENTAL DATA MANAGEMENT SYSTEMS.

(a) AUTHORIZATION.—There are authorized to be appropriated to the Secretary of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its satellite observing systems activities and data and information services, $357,381,000 for fiscal year 1996. None of the funds authorized in this subsection may be used for the purposes for which funds are authorized under section 105(d) of the National Oceanic and Atmospheric Administration Act of 1992 (Public Law 102-567).

(b) METEOROLOGICAL SATELLITE ACQUISITION STRATEGIC PLAN.—By February 15, 1996, the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives a strategic plan for the acquisition of meteorological satellite systems which provides options for reducing the annual costs of acquisition. The Secretary shall consider alternative contractual approaches including—

(1) single prime contracts which provide for satellite delivery on orbit;

(2) acquisition of data services rather than hardware procurement; and

(3) Government-private sector cost sharing.

(c) AMENDMENT TO THE LAND REMOTE SENSING ACT OF 1992.—Section 101 of the Land Remote Sensing Act of 1992 (15 U.S.C. 5601 et seq.) is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c) the following new subsection:

"(d) AUTHORITY TO RETAIN FEES.—The Landsat Program Management Member responsible for operation of the Landsat 7 system may retain fees collected from foreign ground stations and from other Landsat 7 data sales to offset the costs of operating the Landsat 7 system.".

(d) SOLE SOURCE CONTRACTS.—Of the sums authorized under subsection (a) of this section, $44,561,000 for fiscal year 1996 are authorized to remain available until expended to procure additional Geostationary Operational Environmental NEXT satellites and instruments together with the launch and supporting ground systems for such satellites, to enter through the National Aeronautics and Space Administration into contracts and amendments or modifications of contracts with the developer of previous GOES-NEXT satellites to ensure and facilitate the acquisition of the additional GOES-NEXT satellites and instruments, if the Secretary of Commerce certifies to the Speaker of the House of Representatives and the President of the Senate that the exercise of such authority is necessary to ensure continuous service in geostationary satellite imagery equivalent to that provided by the GOES I-M system.

(e) INTERAGENCY FACILITY CONSOLIDATION.—By February 15, 1996, the Secretary, in consultation with the Administrator of the National Aeronautics and Space Administration, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives a report assessing the costs and impacts on operations that would result from the consolidation of satellite command and control, and data acquisition and transfer functions now being carried out at the Satellite Operations Control Center and Command and Data Acquisition Centers with functionally compatible facilities located at the Goddard Space Flight Center.

(f) REPEAL.—Section 105(d)(2) of the National Oceanic and Atmospheric Administration Authorization Act of 1992 is repealed.

SEC. 411. NATIONAL OCEAN SERVICE OBSERVATION AND ASSESSMENT.

There are authorized to be appropriated to the Secretary of Commerce to enable the National Oceanic and Atmospheric Administration to carry out observation and assessment activities $48,521,000 for fiscal year 1996.

SEC. 412. PROGRAM SUPPORT.

(a) EXECUTIVE DIRECTION AND ADMINISTRATIVE ACTIVITIES.—There are authorized to be appropriated to the Secretary of Commerce to enable the National Oceanic and Atmospheric Administration to carry out executive direction and administrative activities, including management, administrative support, provision of retired pay of National Oceanic and Atmospheric Administration commissioned officers, and policy development, $55,725,000 for fiscal year 1996.

(b) ACQUISITION, CONSTRUCTION, MAINTENANCE, AND OPERATION OF FACILITIES.—There are authorized to be appropriated to the Secretary of Commerce for acquisition, construction, maintenance, and operation of facilities of the National Oceanic and Atmospheric Administration $52,299,000 for fiscal year 1996.

(c) MARINE SERVICES.—There are authorized to be appropriated to the Secretary of Commerce to enable the National Oceanic and Atmospheric Administration to carry out marine service activities, including ship operations, maintenance, and support, $62,011,000 for fiscal year 1996.

(d) AIRCRAFT SERVICES.—There are authorized to be appropriated to the Secretary of Commerce to enable the National Oceanic and Atmospheric Administration to carry out aircraft services activities, including aircraft operations, maintenance, and support, $10,248,000 for fiscal year 1996.

(e) VOLUNTARY SEPARATIONS AND RETIREMENTS.—To ease the transition into the civilian workforce of members of the National Oceanic and Atmospheric Administration Commissioned Officer Corps and to facilitate the reduction of active duty officers—

(1) section 1174a of title 10, United States Code, shall apply to the NOAA Corps in the same manner and to the same extent as that provision applies to the Department of Defense, and the Secretary of Commerce shall implement the provisions of that section with respect to the NOAA Corps and apply the applicable provisions of title 33, United States Code, relating to separation of NOAA Corps personnel; and

(2) section 4403(a) and (g) through (i) of the Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2315) shall apply to the NOAA Corps in the same manner and to the same extent as those provisions apply to the Department of Defense, and the Secretary of Commerce shall implement those provisions with respect to the NOAA Corps and apply the applicable provisions of title 33, United States Code, relating to retirement of NOAA Corps personnel.

SEC. 413. NOAA FLEET MODERNIZATION.

There are authorized to the Secretary of Commerce to enable the National Oceanic and Atmospheric Administration to carry out fleet modernization activities, including repair, construction, acquisition, leasing, charter, or conversion of vessels, including related equipment to maintain and modernize the existing fleet and to continue planning the modernization of the fleet, $5,950,000 for fiscal year 1996.

SEC. 414. EDUCATIONAL PROGRAMS AND ACTIVITIES.

The Secretary of Commerce may conduct educational programs and activities related to the responsibilities of the National Oceanic and Atmospheric Administration. For the purposes of this section, the Secretary may award grants and enter into cooperative agreements and contracts with States, private sector, and nonprofit entities.

SEC. 415. SUBPOENA.

(a) GENERAL RULE.—Except as provided in subsection (c), no employee of the National Weather Service shall give testimony or introduce evidence before any court in any proceeding in which the United States is not a party concerning any function of the National Weather Service or any data, information, or record created or acquired by the National Weather Service unless a court of competent jurisdiction determines that—

(1) the evidence is not contained in the official records maintained by the National Weather Service at the National Climatic Data Center and is not otherwise available from any other source; or

(2) the evidence is contained in the official records maintained by the National Weather Service at the National Climatic Data Center but the applicable laws of evidence provide no basis, including stipulation by the parties, under which the requested data, information, or records can be introduced in evidence without the employee's testimony.

(b) COURT ORDER.—No National Weather Service employee shall honor any subpoena to provide testimony or introduce evidence under the circumstances described in this section unless the subpoena is accompanied by the requisite court order.

(c) EXCEPTION.—The National Weather Service may authorize an employee to give testimony or introduce evidence in proceedings in which the United States is not a party if such testimony will further the interests of the National Weather Service or the public.

SEC. 416. WORKING CAPITAL FUND.

(a) ESTABLISHMENT.—The Administrator of the National Oceanic and Atmospheric Administration is authorized to establish a working capital fund (in this section referred to as the "Fund"), to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such administrative services as the Administrator shall find to be desirable in the interest of economy and efficiency.

(b) TRANSFER FROM FUND.—The Administrator may transfer services out of the Fund upon a determination that centralization of particular services is no longer advantageous.

(c) TRANSFERS TO FUND.—There shall be transferred to the Fund the stocks of supplies, equipment, assets, liabilities, and unpaid obligations relating to the services which the Administrator determines will be performed through the Fund.

(d) APPROPRIATIONS.—Appropriations to the Fund, in such amounts as may be necessary to provide additional working capital, are authorized.

(e) CREDITS TO FUND.—The Fund shall be credited with receipts from the sale or exchange of its property, and receipts in payment for loss or damage to property owned by the Fund.

(f) RECOVERY TO FUND.—The Fund shall recover, from the appropriations and funds for which services are performed, either in advance or by way of reimbursement, at rates which will return in full all expenses of operation, including reserves for annual leave, sick leave used, and the depreciation of real and personal property: *Provided*, That such services shall, to the fullest extent practicable, be used to avoid duplication of separate like services in the National Oceanic and Atmospheric Administration: *Provided further*, That an adequate system of accounts for the Fund shall be maintained on the accrual method and financial records shall be prepared on the basis of such accounts. An annual business type budget shall be prepared for operations under the Fund. The Fund shall be subject to an annual audit to ensure that it is being operated in accordance with all applicable accounting rules.

(g) DISPOSITION OF NET INCOME.—The amount of any earned net income resulting from the operation of the Fund at the close of each fiscal year may be applied to restore any previous impairment of the Fund, and to ensure the availability of working capital necessary to replace equipment and inventories: *Provided*, That any remaining net income after such restoration shall be paid into the General Fund of the Treasury.

(h) DELEGATION.—The Administrator is authorized to delegate the responsibility for the management of the Fund.

(i) EFFECTIVE DATE.—This section shall take effect on October 1, 1995, or the date of the enactment of this Act, whichever is later.

SEC. 417. WEATHER DATA BUOYS.

(a) PROHIBITION.—It shall be unlawful for any unauthorized person to remove, change the location of, obstruct, willfully damage, make fast to, or interfere with any weather data buoy established, installed, operated, or maintained by the National Data Buoy Center. Any person who violates this section may be assessed a civil penalty by the Administrator of the National Oceanic and Atmospheric Administration of not more than $10,000 for each violation. Each day during which a violation continues shall be considered a new offense. Such penalties will be assessed after notice and opportunity for a hearing.

(b) REWARDS.—The Administrator may offer and pay rewards for the apprehension and conviction, or for information helpful therein, of persons violating subsection (a), or for information leading to the discovery of missing National Weather Service property or the recovery thereof.

SEC. 418. REIMBURSEMENT OF EXPENSES.

(a) IN GENERAL.—Notwithstanding section 3302 (b) and (c) of title 31, United States Code, and subject to subsection (b) of this section, all amounts received by the United States in settlement of, or judgment for, damage claims arising from the October 9, 1992, allision of the vessel ZACHERY into the National Oceanic and Atmospheric Administration research vessel DISCOVERER—

(1) shall be retained as an offsetting collection in the Operations, Research, and Facilities account of the National Oceanic and Atmospheric Administration;

(2) shall be deposited in that account upon receipt by the United States Government; and

(3) shall be available only for obligation for National Oceanic and Atmospheric Administration marine services.

(b) LIMITATION.—Not more than $518,757.09 of the amounts referred to in subsection (a) may be deposited into the Operations, Research, and Facilities account pursuant to subsection (a).

SEC. 419. CONSTRUCTION PROJECTS.

(a) WEATHER FORECAST OFFICE.—The Secretary of Commerce is authorized to enter into a contract with Florida State University which shall—

(1) provide the University with appropriated funds to assist in the construction and associated expenses, including parking, of a meteorological sciences building on its Tallahassee, Florida, campus; and

(2) include a space agreement with the University at no cost to the Government, other than for operational expenses, for space in this building for use as the Weather Forecast Office.

(b) OPERATIONS AND RESEARCH CENTER.—The Secretary of Commerce is authorized, subject to the availability of appropriations, to construct, on approximately 10 acres of land at Goddard Space Flight Center, a facility for a National Oceanic and Atmospheric Administration Operations and Research Center.

SEC. 420. ADDITIONAL AUTHORIZATION FOR GAPS IN WEATHER SERVICE COVERAGE.

From sums otherwise provided in this title, up to $7,000,000 may be used to augment National Weather Service coverage for those geographic areas identified in the June, 1995 report of the National Research Council as having potentially degraded service.

TITLE V—ENVIRONMENTAL PROTECTION AGENCY

SEC. 501. SHORT TITLE.

This title may be cited as the "Environmental Research, Development, and Demonstration Authorization Act of 1995".

SEC. 502. DEFINITIONS.

For the purposes of this title, the term—

(1) "Administrator" means the Administrator of the Environmental Protection Agency;

(2) "Agency" means the Environmental Protection Agency; and

(3) "Assistant Administrator" means the Assistant Administrator for Research and Development of the Agency.

SEC. 503. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Administrator $545,637,700 for fiscal year 1996 for the Office of Research and Development for environmental research, development, and demonstration activities, including program management and support, in the areas specified in subsection (b).

(b) SPECIFIC PROGRAMS AND ACTIVITIES.—Of the amount authorized in subsection (a), there are authorized to be appropriated the following:

(1) For air related research, $103,508,800.

(2) For water quality related research, $20,605,800.

(3) For drinking water related research, $21,015,800.

(4) For pesticide related research, $13,190,300.

(5) For toxic chemical related research, $15,025,700.

(6) For research related to hazardous waste, $22,131,400.

(7) For multimedia related research expenses, $282,425,700.

(8) For program management expenses, $7,225,600.

(9) For research related to cleanup of contaminated sites, $57,991,000.

(10) For research related to leaking underground storage tanks, $750,600.

(11) For oil pollution related research, $1,767,100.

(c) LIMITATION.—No funds are authorized to be appropriated for any fiscal year after fiscal year 1996 for carrying out the programs and activities for which funds are authorized by this title.

SEC. 504. SCIENTIFIC RESEARCH REVIEW.

(a) IN GENERAL.—The Administrator shall assign to the Assistant Administrator the duties of—

(1) developing a strategic plan for scientific and technical activities throughout the Agency;

(2) integrating that strategic plan into ongoing Agency planning activities; and

(3) reviewing all Agency research to ensure the research—

(A) is of high quality; and

(B) does not duplicate any other research being conducted by the Agency.

(b) REPORT.—The Assistant Administrator shall transmit annually to the Administrator and to the Committee on Science of the House of Representatives and the Committee on Environment and Public Works of the Senate a report detailing—

(1) all Agency research the Assistant Administrator finds is not of sufficiently high quality; and

(2) all Agency research the Assistant Administrator finds duplicates other Agency research.

SEC. 505. ENVIRONMENTAL TECHNOLOGY INITIATIVE.

(a) AVAILABILITY OF FUNDS.—Of the amount authorized to be appropriated in section 503(b)(7) for multimedia related research expenses, $40,000,000 is available for the Environmental Technology Initiative.

(b) LIMITATIONS.—

(1) EVALUATION PROCESS.—The Administrator may select projects for funding under the Environmental Technology Initiative only through a competitive, merit-based evaluation process.

(2) ELIGIBILITY.—The projects eligible for funding under the Environmental Technology Initiative are only the following:

(A) Projects to provide technical performance verification of environmental technologies and involving, to the extent appropriate, partnerships among Federal, State, local, and tribal agencies and private-sector entities.

(B) Projects to facilitate the demonstration of environmental technologies at appropriate Federal or other sites.

(C) Projects to enhance the capacity of Federal, State, local, and tribal agencies to promote the adoption of environmental technologies through regulatory reforms, technical assistance, improved dissemination of information (domestically and internationally), modifications to environmental permitting processes, and modifications to enforcement processes.

(3) SPECIFIC ENVIRONMENTAL TECHNOLOGIES.—The Administrator may not provide direct financial assistance under the Environmental Technology Initiative to a private-sector entity for the purpose of developing and commercializing a specific environmental technology.

TITLE VI—TECHNOLOGY

SEC. 601. SHORT TITLE.

This title may be cited as the "Technology Administration Authorization Act of 1995".

SEC. 602. AUTHORIZATION OF APPROPRIATIONS.

(a) UNDER SECRETARY FOR TECHNOLOGY.—There are authorized to be appropriated to the Secretary of Commerce for the activities of the Under Secretary for Technology/Office of Technology Policy $9,992,000 for fiscal year 1996.

(b) NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.—There are authorized to be appropriated to the Secretary of Commerce for the National Institute of Standards and Technology for fiscal year 1996 the following amounts:

(1) For Scientific and Technical Research and Services, $744,200,000, of which—

(A) $330,700,000 shall be for the Advanced Technology Program under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n);

(B) $130,600,000 shall be for the Manufacturing Extension Partnerships program under sections 25 and 26 of the National Institute of Standards and Technology Act (15 U.S.C. 278k and 278l); and

(C) $3,400,000 shall be for the Malcolm Baldrige National Quality Award program under section 17 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a).

(2) For Construction of Research Facilities, $15,000,000.

SEC. 603. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ACT AMENDMENTS.

The National Institute of Standards and Technology Act (15 U.S.C. 271 et seq.) is amended—

(1) in section 10(a)—

(A) by striking "nine" and inserting in lieu thereof "15"; and

(B) by striking "five" and inserting in lieu thereof "10";

(2) in section 15—

(A) by striking "Pay Act of 1945; and" and inserting in lieu thereof "Pay Act of 1945;"; and

(B) by inserting "(h) the provision of transportation services for employees of the Institute between the facilities of the Institute and nearby public transportation, notwithstanding section 1344 of title 31, United States Code," after "interests of the Government";

(3) in section 19, by striking "nor more than forty";

(4) in section 25(c)—

(A) by striking "for a period not to exceed six years" in paragraph (1); and

(B) by striking "which are designed" and all that follows through "operation of a Center" in paragraph (5) and inserting in lieu thereof "to a maximum of ⅓ Federal funding. Each Center which receives financial assistance under this section shall be evaluated during its sixth year of operations, and at least once each three years thereafter as the Secretary considers appropriate, by an evaluation panel appointed by the Secretary in the same manner as was the evaluation panel previously appointed. The Secretary shall not provide funding for additional years of the Center's operation unless the most recent evaluation is positive and the Secretary finds that continuation of funding furthers the purposes of this section";

(5) in section 28—

(A) by striking "or contracts" in subsection (b)(1)(B), and inserting in lieu thereof "contracts, and, subject to the last sentence of this subsection, other transactions";

(B) by inserting "and if the non-Federal participants in the joint venture agree to pay at least 50 percent of the total costs of the joint venture during the Federal participation period, which shall not exceed 5 years," after "participation to be appropriate,";

(C) by striking "provision of a minority share of the cost of such joint ventures for up to 5 years, and (iii)" in subsection (b)(1)(B), and inserting in lieu thereof "and";

(D) by striking "and cooperative agreements" in subsection (b)(2), and inserting in lieu thereof ", cooperative agreements, and, subject to the last sentence of this subsection, other transactions";

(E) by adding after subsection (b)(4) the following:

"The authority under paragraph (1)(B) and paragraph (2) to enter into other transactions shall apply only if the Secretary, acting through the Director, determines that standard contracts, grants, or cooperative agreements are not feasible or appropriate, and only when other transaction instruments incorporate terms and conditions that reflect the use of generally accepted commercial accounting and auditing practices."; and

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

"(k) Notwithstanding subsection (b)(1)(B)(ii) and subsection (d)(3), the Director may grant extensions beyond the deadlines established under those subsections for joint venture and single applicant awardees to expend Federal funds to complete their projects, if such extension may be granted with no additional cost to the Federal Government and it is in the Federal Government's interest to do so.";

(6) by redesignating section 31 as section 32; and

(7) by inserting after section 30 the following new section:

"NATIONAL QUALITY PROGRAM

"SEC. 31. A National Quality Program is established within the Institute, the purpose of which shall be to perform research and outreach activities to assist private sector quality efforts and to serve as a mechanism by which companies in the United States, universities and other interested parties, and the Institute can work together to advance quality management programs and to share and, as appropriate, develop manufacturing best practices.".

SEC. 604. STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980 AMENDMENTS.

The Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) is amended—

(1) in section 11(1) (15 U.S.C. 3710(1))—

(A) by inserting "loan, lease," after "department, may"; and

(B) by inserting "Actions taken under this subsection shall not be subject to Federal requirements on the disposal of property." after "education and research activities."; and

(2) by amending section 17(c)(3) to read as follows:

"(3) No award shall be made within any category or subcategory if there are no qualifying enterprises in that category or subcategory.".

SEC. 605. PERSONNEL.

The personnel management demonstration project established under section 10 of the National Bureau of Standards Authorization Act for Fiscal Year 1987 (15 U.S.C. 275 note) is extended indefinitely.

TITLE VII—UNITED STATES FIRE ADMINISTRATION

SEC. 701. SHORT TITLE.

This title may be cited as the "Fire Administration Authorization Act of 1995".

SEC. 702. AUTHORIZATION OF APPROPRIATIONS.

Section 17(g)(1) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216(a)(1)) is amended—

(1) by striking "and" at the end of subparagraph (E);

(2) by striking the period at the end of subparagraph (F) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(G) $28,000,000 for the fiscal year ending September 30, 1996, which, notwithstanding subsection (h), includes any amounts appropriated under subsection (h) (3) and (4) for fiscal year 1996; and

"(H) $28,000,000 for the fiscal year ending September 30, 1997.".

SEC. 703. FIRE SAFETY SYSTEMS IN ARMY HOUSING.

Section 31(c)(1)(A)(ii)(II) is amended by inserting ", or in the case of housing under the control of the Department of the Army, 6 years after such date of enactment" after "date of enactment".

SEC. 704. SUCCESSOR FIRE SAFETY STANDARDS.

The Federal Fire Prevention and Control Act of 1974 is amended—

(1) in section 29(a)(1), by inserting ", or any successor standard thereto," after "Association Standard 74";

(2) in section 29(a)(2), by inserting "or any successor standards thereto," after "whichever is appropriate,";

(3) in section 29(b)(2), by inserting ", or any successor standards thereto" after "Association Standard 13 or 13–R";

(4) in section 31(c)(2)(B)(i), by inserting "or any successor standard thereto," after "Life Safety Code),"; and

(5) in section 31(c)(2)(B)(ii), by inserting "or any successor standard thereto," after "Association Standard 101,".

SEC. 705. TERMINATION OR PRIVATIZATION OF FUNCTIONS.

The Administrator of the United States Fire Administration shall transmit to Congress a report providing notice at least 60 days in advance of the termination or transfer to a private sector entity of any significant function of the United States Fire Administration.

SEC. 706. REPORT ON BUDGETARY REDUCTION.

The Administrator of the United States Fire Administration shall transmit to Congress, within three months after the date of the enactment of this Act, a report setting forth the manner in which the United States Fire Administration intends to implement the budgetary reduction represented by the difference between the amount appropriated to the United States Fire Administration for fiscal year 1996 and the amount requested in the President's budget request for such fiscal year. Such report shall be prepared in consultation with the Alliance for Fire and Emergency Management, the International Association of Fire Chiefs, the International Association of Fire Fighters, the National Fire Protection Association, the National Volunteer Fire Council, the National Association of State Fire Marshals, and the International Association of Arson Investigators.

Mr. BROWN of California (during the reading). Mr. Chairman, I ask unanimous consent the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BROWN of California. Mr. Chairman, I think this is the last amendment, and I know we look forward to completing this bill as quickly as we can.

Let me briefly indicate the scope of what we are trying to do here.

Mr. Chairman, I rise to offer an alternative to H.R. 2405, which will hopefully bring our Nation's research and development back into line with the reality that is facing us over the next several decades. That is, we must balance the budget while preserving the wise investments that will generate economic growth and offer a better world for our children.

Since the beginning of this year, the American people have been offered two vastly different alternative visions regarding the future direction we will take in Federal research and development. I want to take a few minutes to summarize this important debate.

At the outset, let me stress that there is little or no difference between Republicans and Democrats or between the Congress and the President over the need and the importance of balancing the budget. All have accepted this as a staring point in the debate. The difference has to do with how quickly we can do so without harming rather than stimulating the economy, and which areas we can cut and still deliver the benefits that middle class America wants from their government.

The alternative I am offering is based on the Conservative Coalition Budget that was offered but not approved by the House earlier this year. The Conservative Budget Resolution was intended to achieve a balanced budget without targeting Medicare, student loans, or research and development. The reductions in Federal spending included in the Conservative Budget Resolution had only one purpose—to eliminate the deficit, not to pay for a tax cut for the rich, and, of course, I know that this is a major difference in the 2 parties here.

Thus, the alternative we will consider, this substitute, does reduce spending on R&D by over 4 percent from the fiscal year 1995 levels and I can assure all my colleagues that these cuts are painful. However, it also attempts to preserve the valuable investments we have made in the past and it stops short of the extreme measures taken by the Republican leadership in H.R. 2405.

It is an attempt to maintain a balanced R&D program including both basic and applied research and it preserves a Federal role in such areas as environmental research, energy research, and technology development. It recognizes science for what it is—an investment in the future—not some ideological playground.

Mr. Chairman, I will put the rest of my remarks in the RECORD here. But let me say that this substitute is based upon the alternatives that were offered in the committee and obviously not accepted to each of these sections. It cuts below the 1995 level by 4 percent, as I indicated. It projects a 5-year outlook which will balance the budget within the 7-year period.

I believe very strongly that this substitute is in the best interests of the American people and the American economy. I would like to indicate that this bill before us is one which, in its present condition, is unacceptable to the administration, and I will ask to insert the written statement of the administration with regard to the fact that the President would veto this bill if it came to it. I do not think it will ever get to him, but with my substitute, I think the President might be willing to sign this bill if it ever got to it.

Mr. Chairman, the Republican leadership's view of science and technology would scarcely be recognized by most scientists or most American people. It is premised on the distorted view that applied science and research is in some way evil and must be eliminated. It seems to say that when a researcher gets to the point that he or she can envision how a particular line of research can be applied to another problem, he or she should be cut off. In the Republican view, research should never get to the point that it may become relevant.

In the Republican view there is no room for Government-industry partnerships. There is a narrow minded obsession with the belief that industry can and will increase their investments in R&D as the Government pulls out. Privately owned companies are completely oriented toward maximizing their return on investment. The research needed for America to keep pace with the rest of the world is long term in nature and will take years to mature. This type of investment has become increasingly difficult for most companies to undertake on their own and the past two Administrations have developed cost shared partnership programs that are working. The Republican assertion that there will be some widespread sea change in which American industry begins to change its perceptions is sadly out of touch with reality.

When Republicans attack R&D they are not attacking corporate welfare, they are threatening public health, public safety, the environment, energy security, and education. They are striking at the very heart of the link between the Government and the excellence of our colleges and universities. These are the very benefits middle-class America has valued in their Government.

The Republican plan cuts science and technology 10 percent below fiscal year 1995 levels this year and begins the path toward the 5-year 33 percent decline included in the budget resolution. These cuts affect not only the researchers themselves, they will affect every American. Universities will either have to abandon their roles in research or will have to find additional revenues to take up the slack. This amounts to nothing less than a hidden tax and will inevitably result in higher education costs.

Industry will have to look elsewhere for support to keep abreast of cutting edge technologies. They will, by necessity, need to internationalize. Not only will this change the nature of American competitiveness, it will cause a job loss now and it will undermine job growth in the future.

Mr. Chairman, I will close by restating the choices before us today. The extreme Republican leadership plan or the alternative that will continue the long tradition of unpoliticized, bipartisan support for our Nation's science and technology. I ask support for my alternative.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from California [Mr. BROWN].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BROWN of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 177, noes 229, not voting 26, as follows:

[Roll No. 712]

AYES—177

Abercrombie
Ackerman
Baesler
Baldacci
Barcia
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Filner
Flake
Frank (MA)
Frost
Furse
Gejdenson
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Houghton
Hoyer
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meek
Menendez
Mfume
Miller (CA)
Minge
Mink
Montgomery
Moran
Murtha
Neal
Oberstar
Olver
Ortiz
Orton
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Thompson
Thornton
Thurman
Torres
Towns
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—229

Allard
Andrews
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Bateman
Bereuter
Bilbray
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCrery
McHugh
McInnis
McIntosh
McKeon
Meehan
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—26

Barton
Bilirakis
Chapman
Cox
Crane
Dornan
Emerson
Fazio
Fields (LA)
Foglietta
Ford
Gephardt
Kennelly
McCollum
McDade
Moakley
Mollohan
Nadler
Owens
Portman
Roth
Schumer
Tejeda
Torricelli
Tucker
Volkmer

□ 1855

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Mr. WALKER. Mr. Chairman, I move to strike the last word.

Mr. HILLEARY. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Tennessee.

Mr. HILLEARY. Mr. Chairman, I rise to encourage the House Members to vote for H.R. 2405, Omnibus Civilian Science Authorization Act. It is a good bill that contains vital programs and helpful language that affects the whole country.

This bill includes a provision to update the language of the Unitary Wind Tunnel Act of 1949 which originally declared that the NASA Administrator and the Secretary of Defense should jointly develop a plan for construction of wind tunnel facilities for the solution of research, development, and evaluation problems in aeronautics at educational institutions within the continental limits of the United States for training and research in aeronautics, and to revise the uncompleted portions of the unitary plan from time to time to accord with changes in national defense requirements and scientific and technical advances.

The field of aeronautics has received many advances since this act was last amended in 1958—almost four decades ago. Unfortunately, as we heard from expert testimony before the Science Committee, the wind tunnel facilities in this Nation are showing their age. The European countries, in a consortium, recently opened a new transonic wind tunnel while is technologically superior to any in the United States. This will have a direct effect on improving the competitiveness of European aircraft in the global market.

Mr. Chairman, the aerospace industry is the second largest exporting industry in this country, second only to agriculture. While just a few short years ago, the Unites States aerospace industry accounted for around 70 percent of the global market, recent reports show that this year we may drop below 50 percent. This loss of market share costs us billions of dollars in our trade deficit and each percentage point of global aerospace market lost by our domestic companies translates into about 44,000 Americans losing their jobs.

A study conducted by the National Research Council [NRC] in 1992 identified that our current wind tunnel facilities are inadequate for maintaining aeronautical superiority into the next century.

In 1994, NASA was directed by Congress to conduct a study of the needs and requirements of a national wind tunnel complex and appropriated $35 million for the study.

The language of this bill calls for no action on the wind tunnel until after the phase 1 study on the current status of our Nation's wind tunnels is complete. I feel confident that the information being gathered will be instrumental in maintaining aeronautical superiority over the rest of the world. With this in mind I encourage my colleagues to vote "yes" for this bill.

Mr. BROWN of California. Mr. Chairman, my good friend from Pennsylvania has recently been citing a GAO report on the Advanced Technology Program as showing that 80 percent of the firms that receive ATP funds would have done the work without Government funding.

I know a little about the GAO report because it was requested by the Democratic members of the Science Committee. The thrust of the GAO's finding was that, in their opinion, NIST officials had overstated the short-term successes of the ATP.

Now if gilding the lily were a great sin, there probably wouldn't be very many of us in this body who would be allowed to speak on the floor. What is ironic in this particular case is that my friend from Pennsylvania has taken some liberties himself with the facts to try to make a better case for his position that ATP

should be terminated—the very crime GAO found that NIST had committed.

The relevant portion of the GAO report summarizes the findings from a third-party survey of 26 ATP award winning companies. To set the record straight I would like to briefly read from that survey.

[From Solomon Associates, "The Advanced Technology Program, an Assessment of Short-Term Impacts: First Competition Participants," Feb. 1993]

When asked "with what likelihood their organization would have pursued the development of this technology, without the ATP award" participants responded: 15 percent definitely yes; 38 percent probably yes; 27 percent probably no; 19 percent definitely no.

Asked further to elaborate on whether their organization would have pursued the development of this technology—without the ATP award—at about the same level of effort, with the same ultimate goal, none of the 26 companies interviewed answered "yes," while nearly ¾ of the participants described how the project would have been different without the ATP award. Typical comments made are:

"Would not have done the same thing without ATP—the scale would have been smaller, the timelines slower, and the goal would have been different—not as far-reaching."

"Couldn't afford it. Might have skirted around the edges of it, but not pursued it at the same level of effort with the same resources."

"Probably would have done, but at a much reduced level . . . would have taken 10 times as long to get there and we may never have accomplished what we have to date."

"Ten years down the road, we might have gotten there, but competitors might have gotten there before us."

Mr. WALKER conveniently misquotes only the first part of these findings, pretending that the second half of the findings don't exist. But of course the whole point of ATP is not just to fund the research but to move the research forward in a timely fashion that fits with the research opportunities and rhythms of American firms competing against well-funded companies in other countries.

Doing the research is fine, but doing it in time and in a way that improves a company's competitive standing is far better—better for American jobs, for American companies and for the American economy. My friend from Pennsylvania doesn't understand what anyone in the private sector could tell him.

I hope that from here on out we can try to keep at least this small set of facts straight as we debate these important policy choices.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, October 11, 1995.

STATEMENT OF ADMINISTRATION POLICY

(H.R. 2405—Omnibus Civilian Science Authorization Act of 1995, Walker of Pennsylvania and 4 cosponsors)

If H.R. 2405 were presented to the President in its current form, the Secretaries of Commerce and Energy, the EPA Administrator, the Director of the Office of Management and Budget and the President's Science Adviser would recommend that the bill be vetoed because of its unacceptably deep reductions in, and terminations of, Federal investments in science and technology.

This bill would reverse the past fifty years of unwavering, bipartisan commitment to U.S. leadership in science and technology. It would threaten economic growth, job creation, protection of the environment, national security, and improvements in the quality of life for all Americans.

H.R. 2405 would cut authorized FY 1996 appropriations for the Nation's civilian science and technology programs by more than $3 billion below current levels and about $3.3 billion below the President's FY 1996 Budget. The bill would effectively terminate the Advanced Technology Program. This Program promotes high-risk, long-term technology development with economic potential, and is essential to our country's competitiveness. H.R. 2405 would prohibit the use of funds for 42 programs, projects, and activities of the Department of Energy, including science education activities, laboratory technology transfer programs, and efforts to improve the safety of Soviet-designed nuclear reactors. H.R. 2405 would also prohibit the use of funds for EPA's environmental technology initiative and climate change action plan.

The prohibitions on the use of funds authorized by H.R. 2405 to "influence legislation pending before the Congress" except for certain "requests for legislation or appropriations" should be deleted. These overly broad prohibitions, if applied literally, would inappropriately and unnecessarily limit the ability of departments and agencies to advise Congress and the public of their views on pending legislation. These provisions are especially troublesome insofar as they would purport to constrain the constitutional authority of the President to communicate his views, through subordinates, to Congress and the American people. (Sections 129, 254, 310, 455, 505, and 607)

Sections 237 and 309(a) would interfere with the President's constitutional authorities to conduct foreign affairs and should be deleted.

H.R. 2405 also contains numerous provisions that would significantly restrict effective and efficient management decisionmaking or impose excessively burdensome reporting requirements. These include sections 124, 132, 214, 252, 306, 307, 311, 312, and 503.

A further explanation of major objections to H.R. 2405 is contained in the Attachment.

PAY-AS-YOU-GO SCORING

H.R. 2405 would affect direct spending and receipts; therefore, it is subject to the pay-as-you-go (PAYGO) requirements of the Omnibus Budget Reconciliation Act of 1990. The preliminary PAYGO estimate is being developed, but it could be several hundred million dollars in FY 1996. The major direct spending would result from the use of unobligated funds previously appropriated for the Clean Coal Technology Program for termination costs of certain Energy Department programs (section 312). The bill does not contain provisions to offset this increased deficit spending.

ATTACHMENT

Title VI—Technology. The appropriations authorization levels for the Commerce Department's civilian technology programs are unacceptable. These levels would gut initiatives essential to U.S. competitiveness. The FY 1996 authorization of appropriations for the entire National Institute of Standards and Technology (NIST) of $338 million is $685 million less than the President's Budget, a reduction of 67 percent. Such a drastic cut will undermine the NIST labs' ability to provide the scientific and industrial community with the measurement base essential to industrial competitiveness and public health and safety. The authorization for the Under Secretary for Technology/Office of Technology Policy is only $5.1 million compared to the request of $13.9 million, a 63 percent reduction from the President's Budget. This cut will deprive U.S. industry of an effective advocate for technological innovation at a time of fierce global competition.

The bill provides no authorization for the Advanced Technology Program and an authorization for the Manufacturing Extension Program only to the extent that future congressional budget allocations allow. These initiatives are essential components of the Administration's portfolio of civilian technology programs. Without these two programs, the pace of research and technology development will be slowed, and important improvements in U.S. manufacturing and business performance will be curtailed.

Title III—Department of Energy (Civilian Research and Development). The FY 1996 authorization of appropriations for energy research and development activities of $4.25 billion is $1.2 billion below the President's Budget, a reduction of more than 21 percent. The reduction includes termination of funding, or significant reductions in funding, for research in fusion energy, fossil energy, energy conservation, solar energy and renewables, alternative fuel vehicles, and global climate change, as well as for projects to improve the safety of Soviet-designed nuclear reactors and laboratory technology transfer.

Sec. 309(a) would require the Secretary of Energy to negotiate with a consortium of foreign governments with specific instructions concerning a specified international energy project, the Large Hadron Collider. This would interfere with the President's constitutional authority to determine whether and when to enter into negotiations, the content of negotiations, and to whom that authority is delegated.

Title V—Environmental Protection Agency (Office of Research and Development). The FY 1996 authorization of appropriations for environmental research, development, and demonstration activities of $490 million is $139 million less than the President's Budget, a reduction of 22 percent. The reduction includes termination of funding for innovative environmental technologies, the climate change action plan, and indoor air pollution research. The environmental technology initiative is spurring development of new technologies to protect public health, reduce costs, and create new American jobs and export markets. There would also be significant reductions in other critical programs.

In addition to these resource reductions, H.R. 2405 would seriously undermine EPA's flexibility in building a strong environmental science research program. Such a program is needed to ensure policy responses that are based on sound science.

Title IV—National Oceanic and Atmospheric Administration (NOAA). NOAA's operations would be severely harmed by H.R. 2405. The bill would cause unnecessary delays in modernization of the National Weather Service and cutting edge research leading to economically sustainable environmental policies. The FY 1996 authorization of appropriations for NOAA operations, research, and facilities of $1.69 billion is $405 million below the President's Budget, a reduction of 19 percent. The bill would reduce NOAA's satellite funding, thereby increasing the risk of satellite failure and loss of severe weather data. Operations and research funding would be reduced to a level that would cripple NOAA's ability to maintain efforts to safeguard environmental health and safety.

Title II—National Aeronautics and Space Administration. The FY 1996 authorization

of appropriations for NASA of $11.55 billion is a reduction of nearly $600 million from the President's Budget request. The reduction includes $324 million for the Mission to Planet Earth program, a reduction of 25 percent below the President's Budget; $35 million for High Performance Computing and Communications, a 50 percent cut; and termination of funding for the Clean Car initiative and the Space Infrared Telescope Facility.

Sec. 237 would impose onerous reporting and certification requirements on the President and the Government of the Russian Federation.

Sec. 249 would deny NASA needed flexibility in transitioning toward the privatization of the Space Shuttle.

Sec. 252 would interrupt important NASA microgravity sciences research and put at risk astronaut training until a commercial operator is certified and ready to begin operations.

Title I—National Science Foundation (NSF). The FY 1996 authorization of appropriations for the NSF of $3.13 billion is a reduction of $234 million below the President's Budget request. The reduction will mean that investments in basic research and education will have to be curtailed.

Mr. PACKARD. Mr. Chairman, as a former member of the Science, Space, and Technology Committee, I know just how important our civilian research efforts are.

This Federal-civilian partnership plays a key role in sponsoring developments in space flight and exploration, environmental protection, energy use and conservation and weather tracking, just to name a few. The scientific value of this legislation cannot be overstated. It is an investment in our future—not just our ability to compete in global technology, but in the quality of our lives in the rapidly approaching 21st century and beyond. The results of our research are not in saleable goods, but in benefits that are readily available to everyone.

I strongly urge my colleagues to support this bill in order to secure our place in the future and the technology necessary for our children and Nation to prosper.

The CHAIRMAN. Are there further amendments to the bill?

If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. DICKEY) having assumed the chair, Mr. KINGSTON, 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. 2405) to authorize appropriations for fiscal years 1996 and 1997 for civilian science activities of the Federal Government, and for other purposes, pursuant to House Resolution 234, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on engrossment and third reading of the bill.

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

The SPEAKER pro tempore. The question is on the passage of the bill.

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

Mr. BROWN of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 248, nays 161, not voting 23, as follows:

[Roll No. 713]

YEAS—248

Allard
Andrews
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Bilbray
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Brownback
Bryant (TN)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Luther
Manzullo
Martini
McCarthy
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—161

Abercrombie
Ackerman
Baesler
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Bunn
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Cooley
Costello
Coyne
Cramer
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Filner
Flake
Foglietta
Frank (MA)
Furse
Gejdenson
Gibbons
Gonzalez
Gordon
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Manton
Markey
Martinez
Mascara
Matsui
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mink
Moran
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (VA)
Pelosi
Peterson (FL)
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Scott
Serrano
Skaggs
Slaughter
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Thompson
Thornton
Thurman
Torres
Towns
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—23

Barton
Bilirakis
Bono
Chapman
Dornan
Emerson
Fazio
Fields (LA)
Ford
Gephardt
Horn
Kennelly
Maloney
McCollum
Moakley
Mollohan
Payne (NJ)
Roth
Schumer
Tejeda
Torricelli
Tucker
Volkmer

□ 1919

Mr. WILSON changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. ROTH. Mr. Speaker, as the representative of Congress to the United Nations, I was in New York attending a meeting with Ambassador Albright, and I was forced to miss votes.

Had I been in attendance, I would have voted as follows:

"Yea" on final passage of H.R. 2405, rollcall vote No. 713.

"No" on the Brown amendment to H.R. 2405, rollcall vote No. 712.

"No" on the Brown amendment to H.R. 2405, rollcall vote No. 711.

"No" on the Kennedy amendment to H.R. 2405, rollcall vote No. 710.

"No" on the Lofgren amendment to H.R. 2405, rollcall vote No. 709.

PERSONAL EXPLANATION

Mr. BONO. Mr. Speaker, on October 12, 1995, I was unavoidably delayed and missed rollcall vote No. 713, final passage of the Omnibus Civilian Science Authorization Act of 1995, H.R. 2405. If I were present, I would have voted "aye," in support of final passage.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 2405, OMNIBUS CIVILIAN SCIENCE AUTHORIZATION ACT OF 1995

Mr. WALKER. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill the Clerk be directed to make such technical and conforming changes to reflect the actions of the House.

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

There was no objection.

GENERAL LEAVE

Mr. BROWN of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the bill just passed.

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

There was no objection.

LEGISLATIVE PROGRAM

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

Mr. HOYER. Mr. Speaker, I rise for the purpose of inquiring of the distinguished majority leader the schedule for the coming week.

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

Mr. HOYER. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, I would like to just take a moment to thank the members of the Foreign Operations Appropriations Subcommittee, the Committee on Commerce and the Committee on Science on both sides of the aisle for their cooperation that enabled us to complete this week's work tonight and have had now our last vote for the week.

We will be in session tomorrow pro forma only. We will not be in session on Monday. But to get to the point of the question, Mr. Speaker, the House will not be in session on Monday, October 16. There will be no recorded votes on Monday.

On Tuesday, the House will meet at 12:30 p.m. for morning hour and at 2 p.m. for legislative business.

After 1-minutes we pan to take up 10 bills under suspension of the rules. These bills are H.R. 1715, a bill to reverse the Supreme Court decision in Adams versus Barrett; H.R. 1606, the Harry Kizirian Post Office Designation Act; H.R. 1026, the Winfield Scott Stratton Post Office Designation Act; H.R. 587, Biotechnical Process Patents Act; H.R. 1506, Digital Performance Rights in Sound Recordings Act; H.R. 2070, Providing for the United States distribution of the "Fragile Ring of Life" film; H.R. 629, the Fall River Visitor Center Act; S. 268, Collection of Fees for Triploid Grass Carp Certification Inspection; H.R. 1743, Water Resources Research Act Amendments of 1995; and H.R. 2353, Extending Certain Veterans' Affairs Health and Medical Care Expiring Authorities.

Members should be advised that any recorded votes ordered on these suspensions will be postponed until 5 p.m. on Tuesday next.

On Wednesday and Thursday, the House will met at 10 a.m. for legislative business. We plan to complete consideration of H.R. 39, the Fishery Conservation and Management Amendments of 1995, before turning to H.R. 2259, Disapproving Certain Sentencing Guidelines, which will be subject to a rule.

The House will then consider H.R. 2425, the Medicare Preservation Act of 1995, also subject to a rule.

Members should also be advised that conference reports may be brought to the floor at any time.

There will be no recorded votes on Friday, October 20, and we hope to have Members on their way home to their families by 6 p.m. on Thursday.

I thank the gentleman for yielding to me.

Mr. HOYER. Mr. Speaker, I thank the distinguished majority leader for informing us of the schedule next week.

I would ask the gentleman if he knows specifically when the Medicare bill will be going to the Committee on Rules?

Mr. ARMEY. Mr. Speaker, if the gentleman will continue to yield, we will be going to Rules on Wednesday.

Mr. HOYER. Is it the intention to bring the bill up on the floor on Thursday?

Mr. ARMEY. Yes, Mr. Speaker.

Mr. HOYER. So can I ask the gentleman, obviously that will be one day, and we hope to get out by 6. I presume we are going in at 10 on Thursday?

Mr. ARMEY. Yes.

Mr. HOYER. Does the gentleman have any idea as to how much debate will be allowed on the Medicare bill on Thursday? Under the rule?

Mr. ARMEY. Mr. Speaker, at this time I cannot say for certain because the Committee on Rules has not met, but it would certainly be a couple hours at least.

Mr. HOYER. Mr. Speaker, I say in all due respect to my friend, the majority leader, this is a bill that I understand exceeds 450 pages. The bill has not received any days of hearings because it was not drafted. But there were no hearings in the Committee on Commerce.

I say with all due respect to my friend, the majority leader, does the majority leader believe that 2 hours or so of debate on a bill of this magnitude is sufficient to fully inform the Members on all the issues that will be incorporated in the bill?

Mr. ARMEY. Mr. Speaker, yes.

Mr. HOYER. The problem we have on this side is that we do perceive this as a bill which will have very serious impact on millions of people in this country. Obviously, we have had bills on this floor of relatively small consequence which have been debated, frankly, for days on this floor. Is there any possibility that we might get at least a guarantee of maybe 4 hours of general debate on this bill?

Mr. ARMEY. Mr. Speaker, If the gentleman will continue to yield, of course, I can understand the gentleman is interested in such a request. I think the appropriate place to make the request would be before the Committee on Rules. They will write the rules, and I would welcome the gentleman to make his case before the committee.

Mr. HOYER. Well, Mr. Speaker, I will tell the majority leader that we certainly intend to ask the Committee on Rules, and I hope the majority leader and the Speaker who, of course, will advise the Committee on Rules, as we did, as to what they believe to be the appropriate time and rule under which the Medicare bill ought to be considered. But I hope, in all seriousness, that the majority leader and the Speaker would advise the Committee on Rules that a sufficient time be allotted for debate on this bill which gives the Congress the opportunity to fully explore the effects of the legislation on each of its parts on the people of this country and on the budget and on the health care security of our senior citizens.

I would urge the leader to do that this week and next week when we talk to members of the Committee on Rules.

Furthermore, nearly 2 weeks have passed since this body passed a continuing resolution. We have approximately a month remaining until that continuing resolution expires.

To date, only one bill, appropriation bill, has been signed by the President, as we all know, which means that 12 still remain unsigned. The last bill, last week, only one bill has passed the House. As a member of, for instance of the Treasury Postal bill, that bill has been ready, in my opinion, to pass out of conference for the last 15 days. And it is my understanding that the President has indicated, if the bill passes without the Istook amendment, that it will be signed.

Now, it seems to me, the gentleman talked a little bit on NPR this morning about cooperation and about moving ahead on those issues where we could reach agreement. That bill and some other appropriation bills, if they could move forward, we would serve the American public's interest in having their government funded in a timely fashion.

The fiscal year, of course, ended 2 weeks ago. We had no appropriation bills signed by then. And is the majority leader aware of what the plans are to see that appropriation bills move in a timely fashion so that we do not have to be confronted on November 16 with the necessity to pass another continuing resolution?

I know the majority leader in the past has stated his deep concern about continuing resolutions. I tend to share that concern. I am wondering whether or not we have plans to preclude that from happening.

Mr. ARMEY. Mr. Speaker, I thank the gentleman for his observations. Let me just say, we are working on all these bills. We are making good progress. Having just completed foreign operations today, I am pleased to hear that the President has stipulated the conditions under which he might sign one of the other bills. I look forward to hearing from the President on that matter. I am sure he will want to communicate that to me.

Mr. HOYER. Mr. Speaker, I will tell the majority leader that I believe that has been essentially communicated to the committee.

Mr. ARMEY. Mr. Speaker, I will look into it.

Mr. HOYER. I will certainly see if we can get information directly to the gentleman.

Mr. Speaker, I thank the gentleman for his information and would simply again urge him to provide for the opportunity for this House to fully debate a bill on the consequence of the Medicare proposal.

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PERMISSION FOR COMMITTEE ON COMMERCE AND COMMITTEE ON WAYS AND MEANS TO HAVE UNTIL MIDNIGHT, MONDAY, OCTOBER 16, 1995 TO FILE REPORTS

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the Committee on Commerce and the Committee on Ways and Means may have until midnight on Monday, October 16, 1995, to file reports to the House.

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

There was no objection.

ADJOURNMENT FROM FRIDAY, OCTOBER 13, 1995 TO TUESDAY, OCTOBER 17, 1995

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Friday, October 13, 1995, it adjourns to meet at 12:30 p.m. on Tuesday, October 17, for morning hour debates.

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

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

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

There was no objection.

THE OTHER AMERICA

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

Mr. COLEMAN. Mr. Speaker, I know that some of you may have seen the "60 Minutes" report on CBS Sunday night about what was called the other America, a report about the shameful developments along our border known as colonias.

I only wanted to take this time this morning to come before my colleagues on both sides of the aisle and to simply say on behalf of so many men, women, and children who have been helped by the action of this Congress, thank you. It is true that Democrats and Republicans have come together on an issue of extreme importance, and that is to provide water and sewer service, the basic necessities of life to so many in the United States who live along the United States-Mexico border, who are indeed American citizens, but who have been the subject of much greed by developers who sold them land without having dedicated the very basic necessities of life for their future habitation.

Unfortunately, the "60 Minutes" report did cloud the issue somewhat by suggesting that our dollars were going to help the developers. Nothing could be further from the truth. What we have done on both sides of this aisle is to provide the services to the people who really need it, and for that I say thank you.

Some of you may have seen the "60 Minutes" report on CBS Sunday night about the other America—a report about the shameful developments along our border known as colonias.

Throughout my tenure in the U.S. Congress, throughout my public service—I have sought to make the American people aware of the fact that, as the result of the indefensible greed of developers, these communities lack the basic necessities to sustain life—water and sewer services.

The colonias are breeding grounds for deadly diseases most of the United States never sees—cholera, typhoid, tuberculosis, and others that occur mostly in the poorest nations of the world, not, one would think, on our very own border from Texas to California. These diseases and the impoverished communities in which they fester are a threat to every American.

It is for these reasons that I have fought and even pleaded with some of you not to forsake victims of the colonias—thousands of people who risked their financial resources for a small slice of the American Dream that has, all too often, turned out to be an unsantiary patch of desert that has robbed their babies of childhood and them of their hard-earned dollars.

As a result of our efforts to give local communities and the victims of colonias the resources for the basic water and sewer services that any home requires, some $250 million has given thousands of colonias residents not just running water and toilet facilities, but hope.

And it's been worth every penny of it and it's been worth every one of the countless hours I have spent trying to explain the need just to look in the eyes of a colonia child who is healthy today only because of Congress.

And Texas, too, has responded by enacting legislation similar to that I proposed in the Texas Legislature more than 20 years ago to make it impossible to develop more colonias that fail to offer water and sewer services.

Not one penny of America's tax dollars has gone to colonia developers. All of it has gone to help their victims and to help protect all Americans from diseases no American should be exposed to.

Although "60 Minutes" made some of these points and raised the consciousness of viewers about this issue, it made some suggestions it knew to be false—including that I threatened the attorney general of Texas.

Attorney General Morales knows that I never directly or indirectly threatened him in any fashion about this or any other issue, nor participated in any conference call with him about colonias or any other matter. The attorney general knows this and "60 Minutes" and other news media would, too, if they only bothered to investigate.

"60 Minutes" could have helped colonia residents and the public health crisis caused by colonia. Instead, it muddied the water with false charges and innuendos that careful, accurate reporting—or attention to the facts provided it—could have avoided.

Because my intentions with regard to colonias—helping the victims get water and sewer services and putting the developers out of business—has clearly been a matter of public record for 25 years, I ask you, my colleagues, and you, the American people, not to turn your backs on the children and struggling families living along our southern border in the abominations called colonias.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

ISTOOK AMENDMENT TO HAVE FAR-REACHING EFFECTS

The SPEAKER pro tempore. Under the previous order of the House, the gentleman from Colorado [Mr. SKAGGS] is recognized for 5 minutes.

Mr. SKAGGS. Mr. Speaker, today I circulated to my colleagues in the House the following document entitled "The Istook Amendment, New Regulation of Your Business."

One of the myths about the so-called Istook-McIntosh-Ehrlich proposal is that it has only to do with nonprofit organizations. In fact its reach will be much broader than that. I think my colleagues ought to be aware of exactly how extensive and pervasive and perverse that reach would be.

This factsheet outlines what businesses could expect under the regime that would be imposed by the Istook amendment. Many people think it has only to do with grants. Of course grants do go to many businesses. Just to point out a few, Lockheed Martin gets research grants from the Defense Department; Chrysler, Ford, W.R. Grace from the Commerce Department. Thousands of others would be affected by grants.

But because of the other language in this proposal, many, many other companies would also be subjected to its extraordinary regulatory regime. That is because not only do direct payments count but also the receipt of, quote, anything of value.

So, for instance, a farming business that gets irrigation water from the Federal Government would be included, as would, in my part of Colorado, several major businesses who happen to get irrigation water from Bureau of Reclamation projects.

Farmers getting emergency livestock feed during severe weather would be affected, and some other things that you really would not think of initially as a thing of value until you examine carefully.

For instance, publishers of newspapers and magazines getting second class mailing permits, a benefit from what would otherwise be their mailing costs. Broadcasters getting television or radio licenses, companies getting patents, and so on. Many, many things that do not necessarily occur to you right off the bat as being a grant or a thing of value would suck you into the regulations.

How would that affect your business? Well, it would mean that you would be restricted from spending even your private business resources to protect your private business interests whenever the government was involved. Because anything you might do to try to change or influence or reverse any decision by any level of government that might affect your business would be subjected to this restriction against your use of your private money, if you got any grant or thing of value from the Federal Government.

So appealing a State administrative or local administrative decision would count as political activity that would be restricted. Participating in any kind of campaign, even a local referendum affecting the business climate, would be covered.

But much more significantly than that, you would have to find out not only accounting for your own political activity, but you would have to find out about the political activity of anybody with whom you did business, your employees, your vendors, and so forth. Because if they were hyperactive politically, if they happened in 1 year or another to exceed a 15-percent limit, then anything you spent with them would count against your own limit. If you exceeded your own limit, then you would be in violation of the law and, among other things, would be subject to a kind of vigilante lawsuit that is authorized under this bill by incorporating the Federal False Claims Act.

It is much broader, as I say, than just a regulation of the lobbying activities of nonprofits getting Federal grants. That is the mask behind which the proponents of this language wish to hide. In fact, it is entirely likely that the Istook-McIntosh-Ehrlich proposal would affect virtually all businesses in this country in one way or another.

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

THE ISTOOK AMENDMENT: NEW REGULATION OF YOUR BUSINESS

To stifle critics of their political agenda, House Republicans have come up with what may be the most intrusive regulatory scheme ever. Although often described as applying just to nonprofit organizations, the "Istook amendment"[1] is written so broadly that it would regulate many (or even all) American businesses.

[1] The Istook amendment is title VI of H.R. 2127, the House-passed Labor-HHS-Education appropriations bill. House conferees have also proposed it as a conference-committee addition to the Treasury-Postal Service-General Government appropriations bill.

ARE YOU REGULATED:

With few exceptions, your business will be regulated if it gets money or any "thing of value" from the federal government.

The only relevant exceptions: you wouldn't be regulated for receiving payments for property or services you provide "for the direct benefit or use of the United States," or for receiving "payments of loans, debts, or entitlements."

Does your business get federal grants? Then you're regulated.

Lockheed-Martin (Defense Department research grants); Ball Corporation (NASA); Alcoa, Amoco, Chrysler, Food, General Motors, W.R. Grace & Co., Dow Chemical, and U.S. Steel (all Commerce Department); and thousands of other companies would be regulated.

Other federal payments? You're regulated.

Agricultural exporters in the Market Promotion Program, fishermen compensated when offshore oil and gas drilling reduces their catch, and shipbuilders getting merchant marine subsidies would all be regulated.

Get something tangible from the government? You're regulated.

Getting Bureau of Reclamation water makes your regulated. Besides farmers and ranchers, one project's water users include IBM, Hewlett-Packard, Eastman Kodak, a Chevrolet dealer, a dry cleaner, banks, construction companies, insurance companies, and manufacturers—all examples of the unexpected reach of the amendment.

Farmers getting emergency livestock feed would be regulated.

Something intangible? Apparently you're regulated, too.

An intangible item can be a "thing of value."

Publishers getting second-class mailing permits, broadcasters getting television or radio licenses, and companies getting patents appear to be regulated.

Have a federal loan? You're apparently regulated.

The exemption for "payments of loans" seems to apply only when the federal government repays funds it has borrowed—for example, redeeming a savings bond. Borrowing money from the government doesn't seem to be exempted.

So, businesses getting loans from the Small Business Administration, the Farmers Home Administration, or other agencies would be regulated. Even getting a disaster-assistance loan for rebuilding after the Oklahoma City bombing or Hurricane Opal would get you regulated.

Buy something from the government and pay full price? Believe it or not, even that gets you regulated.

There's an exemption for contractors getting paid for goods and services provided to the federal government "for the direct benefit or use of the United States." But that quoted phrase keeps the exemption from applying to items you receive from the government for your benefit or use, even if fully paid for.

So, the regulations would hit businesses buying or leasing surplus government property, national forest timber, oil or gas on public lands, electricity from the Tennessee Valley Authority, or conceivably even stamps from the U.S. Postal Service.

RESTRICTIONS ON ADVOCACY FOR YOUR BUSINESS INTERESTS

If you're regulated, the amendment restricts how much of your own money you can spend in certain ways—even on your essential business interests.

The restrictions apply to your "political advocacy," which includes (1) influencing any federal, state, or local legislation; (2) influencing or appealing any federal, state, or local agency's administrative actions; (3) influencing public opinion on federal, state, or local legislation or agency action; (4) suing federal, state, or local governments; and (5) participating in any campaign for any federal, state, or local office.

This covers everything from seeking a rezoning to opposing tax increases, from applying for a building permit to doing studies to support Food and Drug Administration (FDA) approval of a new medicine, from advising your employees of pending legislation to addressing public concerns about the location of a new office building, and from seeking judicial relief when an agency misapplies the law to posting a campaign sign in your shop window.

The term also includes derivative "political advocacy:" buying goods or services from a person or organization that in the previous year spent over 15 percent of its own funds on "political advocacy."

Derivative "political advocacy" doesn't depend on your activities, but on the activities of those with whom you do business. It can even be triggered by a series of business transactions. Say a start-up pharmaceutical company spent 15 percent of its budget in 1994 on studies to support FDA approval of a new medicine. It's then a "15-percenter," contaminating anybody that buys something from it in the next year. If such a purchase pushes a second company's overall 1995 spending on "political advocacy" over 15 percent and your business buys something from the second company in 1996, that is "political advocacy" by your company.

Of course, compliance would be impossible. As IBM has commented, "We have no way of knowing what the situation might be with the literally thousands of vendors to whom IBM may have made disbursements."

If your business has already received money or something of value from the Federal Government, it can spend no more than one to five percent of its own funds in any one year on "political advocacy." And spending more than that on "political advocacy" makes your business ineligible to get Federal funds or items for the next five years.

The limit would be five percent of a business' first $20 million, and one percent beyond that. So a $1 billion corporation would have a 1.08 percent limit.

A family-farm partnership with a $200,000 budget could spend no more than $10,000 a year, in total, on:

Buying goods or services from businesses that are "15-percenters."

Hiring employees who are "15-percenters."

Suing to challenge an environmental regulation as a "taking" of property.

Applying for crop-price supports. (They are an entitlement, and receiving them doesn't make you regulated; but applying for them is "political advocacy.")

Applying for permits and licenses (such as section 404 clean water permits, building permits, and tractor registrations); doing studies to support them; responding to public criticisms of them; and appealing any denial of them.

Paying dues to a Chamber of Commerce or a farmers' association.

Having any contact with a member of a city council, state legislature, or Congress, or their staff, about land use or farm policies.

Opposing citizen-initiated ballot measures to preserve open space.

Making contributions to candidates for public office.

Informing employees about proposed legislation that would affect them.

In addition, a business receiving Federal funds could not spend any of those funds on "political advocacy."

A defense contractor couldn't use research-grant funds to buy something from a "15-percenter." A company receiving a joint grant with a "15-percenter" firm couldn't make any payments to its partner. The only way out of these situations is if Congress later passes a specific bill to lift the prohibition.

INDIRECT REGULATION OF POSSIBLE "15-PERCENTERS"

Even if your business is not directly regulated, you will be substantially affected if you do business with, or try to do business with, a regulated company.

Under penalty of law, a regulated company has to determine if all organizations and individuals it makes payments to are "15-percenters," so it knows whether to count and report those payments as "political advocacy."

Obviously, regulated companies will try to avoid doing business with "15-percenters," because payments to them count against the spending limits. (This seems to be the intent of the amendment.) There will also be a chilling effect on regulated companies doing business with those claiming they aren't "15-percenters," because if that claim's inaccurate the regulated company is liable.

RECORDKEEPING AND REPORTING REQUIREMENTS

Your business, whether directly regulated or indirectly affected, will have to track its spending on "political advocacy" on the basis of the Federal fiscal year.

All calculations under the Istook amendment must be based on the Federal fiscal year—both for a regulated business to track its compliance with the spending limits, and for a non-regulated business to determine whether it's a "15-percenter."

All employees will have to keep records of the time they spend on "political advocacy."

The appropriate share of payments for salaries and benefits has to be counted as "political advocacy." Again, this is true for both regulated businesses (to comply with the spending limits) and non-regulated businesses (to be able to show whether they are "15-percenters").

Regulated businesses have to follow "generally accepted accounting principles" in tracking funds or items received from the Federal Government.

Even a family farm must follow these standards in accounting for its use of emergency livestock feed or irrigation water.

Regulated businesses are subject to Federal audits.

The audits will be made available to the public, even if they contain information that otherwise would be kept confidential under the Freedom of Information Act.

Regulated businesses will have to file certified annual report describing their "political advocacy" activities and the money spent on them.

Apparently every contact with federal, state, and local government officials, every attempt to influence the opinion of any group on a policy matter, and every purchase from a "15-percenter" will have to be listed, even if no money was spent on it. For those with a cost, the amount of money spent will have to be listed.

These reports will be made available to the public; a national political registry containing all annual reports will go out on the Internet.

All applications for funding or items from the government will be made available to the public.

The applications will be released even if they contain information that would be kept confidential under the Freedom of Information Act.

PRESUMPTION OF GUILT

If your compliance with the law is challenged, you have the burden of proving that you have complied.

This reverses a hallowed American principle: the presumption of innocence.

To prove your innocence, you would have to present "clear and convincing evidence" of your compliance.

This is the toughest standard in civil litigation. This two-part, unprecedented stacking of the legal deck applies even to matters impossible to prove, such as whether another business is a 15-percenter.

HARASSING LAWSUITS

A regulated business can be sued by the federal government or a person acting as a "private attorney general," claiming the business failed to comply.

Anyone found in violation has to repay three times the value of whatever was received from the government, plus fines. A person bringing a "private attorney general" lawsuits gets a share of this money—obviously inviting and even financing harassment lawsuits and vigilantism.

REPEAL THE DAVIS-BACON ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. BALLENGER] is recognized for 5 minutes.

Mr. BALLENGER. Mr. Speaker, I hope that my colleagues were able to see the NBC news story last night featuring Davis-Bacon as part of an ongoing series on "The Fleecing of America." For those who missed the story, I am submitting a copy of the transcript for the RECORD. The report covered an investigation into the Davis-Bacon prevailing wage rates for Oklahoma. Survey data listing non-existent projects and ghost employees was submitted to the Department in an apparent effort to inflate the wages paid on Federal construction projects. For example, a Federal wage survey form was submitted to the Department documenting a construction project in Mustang, OK, which was never built, needed, or even proposed.

This is just one example of what may well be a systemic problem with the administration of the Davis-Bacon Act by the Department of Labor. Sixty-three years of artificially high construction costs are enough.

The Davis-Bacon Act should be buried among other legislative antiquities. It is the perfect example of an outdated, expensive and unnecessary law. Whether or not the Davis-Bacon Act was ever really needed is debatable; but today Davis-Bacon remains law, giving some construction workers a bonus at the bargaining table at the taxpayer's expense.

Enacted during the throes of the Depression, the Davis-Bacon Act required contractors on federally funded construction to pay the government mandated "prevailing wage." Over the years, the prevailing wage requirements of the Act have been extended into many other Federal programs, which would not have otherwise been covered by Davis-Bacon. Some $48 billion annually in federal construction spending falls under the Davis-Bacon Act requirements. In effect, the Davis-Bacon Act amounts to a "tax" on construction.

The Congressional Budget Office says that the Davis-Bacon Act raises government construction costs on the order of $1 billion a year. That, however, is probably only a fraction of the cost. Contractors who pay less than Davis-Bacon wages on private construction projects are deterred from bidding on government projects because they fear the disruptive effects of two-tiered pay scales. Many contractors simply refuse to bid on Federal projects because they will have to pay some of their employees more than others for the same work. Thus, Federal work attracts less competition—and higher winning bids.

The act is incapable of equitable administration. There are simply too many judgment calls required, too many indeterminate concepts. As a result, its administration is a mess and its wage rates are arbitrary and inconsistent. Responses to the Department of Labor's wage surveys are voluntary and the Department does not verify any of the data it receives.

The Davis-Bacon Act is demonstrably unnecessary. Labor leaders warn that construction workers would be victimized and exploited without Davis-Bacon. Despite the rhetoric, unionized construction firms do compete effectively in many private markets which are not covered by the Davis-Bacon Act. Moreover, since the enactment of Davis-Bacon in 1931, other labor protection measures have become law, thus giving construction workers the same protections which are afforded to other workers in other industries.

At a time when every American is being asked to sacrifice something in order to protect our children's future, it would be unconscionable to let Davis-Bacon continue to exist. Davis-Bacon may have had its time and purpose, but those are long since past. Now the act is just another expensive governmental burden to the taxpaying citizen. I urge my colleagues to join me in supporting repeal of the Davis-Bacon Act.

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

[From NBC Nightly News, Oct. 11, 1995]

THE FLEECING OF AMERICA/THE DAVIS-BACON ACT

Tom Brokaw. Time now for our regular Wednesday feature about your money and how your government wastes it. Tonight, how phantom construction projects are driving up the cost of real buildings.

NBC's Robert Hager has details now in this Fleecing of America.

Robert Hager. Mustang, Oklahoma, a rural town in the nation's heartland with a brand new $2 million underground storage tank. But where is it.

Jim Morgan [City Manger]. No, this is not a underground storage tank.

Hager. In fact, the underground tank was never built, needed or even proposed. It only exists in these documents, federal wage survey forms, fraudulently submitted to the U.S. Labor Department, complete with fake salaries and fake jobs, intended to persuade the government to set higher construction wage scales for that area. Remarkably, it worked.

And since until recently by law, Oklahoma had to pay using the same wage scales, the state labor commissioner is furious, saying the fraud is costing taxpayers there millions of dollars.

Brenda Reneau [Oklahoma Labor Commissioner]. The wage rate for this area was based on that non-existent or ghost project.

Hager. A federal law, the Davis-Bacon Act, requires that construction workers on almost all U.S. government projects, be paid the prevailing or going salary for a specific region. Those salaries are set by the wage survey. But critics say many of those surveys are being rubber stamped without any checking.

In Oklahoma, the impact on the state's wage rate is tremendous. A backhoe operator whose salary was 8.40 an hour started getting $22 an hour. A truck driver whose salary was 7.30 got $15 an hour. Total additional taxpayer cost, $21 million.

On Capitol Hill there's concern.

Rep. Cass Ballenger [R-North Carolina]. If they found out in Oklahoma that you could get away with cheating, it's not a secret they must have kept in Oklahoma. It's got to elsewhere in the country.

Hager. And NBC News has learned the FBI is now investigating. Because of this, the U.S. Labor Department says it's limited in what it can say.

Thomas Williamson [Labor Department Attorney]. We take very seriously allegations of fraud that call into question the integrity or accuracy of any wage surveys used by the David-Bacon program.

Hager. In Oklahoma, more fakery. Someone wanted to double pay for asphalt workers, so a form was sent to the U.S. Labor Department claiming asphalt workers had made big wages to resurface a parking lot. But a look today reveals it was never paved with asphalt. Another survey detailed high wages to put up a building at a water treatment plant. But a look today reveals no building to be found, only barbed wire. Now, because of continued abuse, the U.S. Labor Department has withdrawn the prevailing wage rate for Oklahoma.

And because she first raised questions of fraud, the state labor commissioner's life has been threatened. But that's not stopping her.

Reneau. It's fraud. It's fraud at the fullest extent.

Hager. No one has been charged yet, but there's growing concern that the system of setting wages on U.S. government construction projects is so flawed that it's fleecing taxpayers of hundreds of millions of dollars.

Robert Hager, NBC News, Washington.

MEDIA OWNERSHIP AND OTHER ISSUES FACING AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Vermont [Mr. SANDERS] is recognized for 5 minutes.

Mr. SANDERS. Mr. Speaker, as the only Independent in the Congress, what I want to do is take a few minutes to discuss some of the major issues facing this country, issues which often do not get the time and exposure that I think that they need.

The very first issue that I would like to touch upon deals with how the American people get the information that they need in order to formulate intelligent decisions in our democracy. I am increasingly concerned about the rapid concentration of ownership within the media in America today. It should be a real concern to all Americans that all of our major television networks are owned by very, very powerful and wealthy corporations who very clearly have a conflict of interest in terms of what they present on the air. Rupert Murdoch, a multi-billionaire right-wing individual, owns the Fox Television Network. ABC has recently been purchased by Walt Disney whose chief executive officer earns several hundred millions of dollars a year and is one of the wealthier people in America. CBS will now be owned by the Westinghouse Corp. NBC is owned by General Electric. I think what we have got to ask ourselves, are corporations like these going to provide objective information to the American people? I think the answer is very clearly no, and I think the situation in terms of corporate ownership of the media is going from bad to worse. Fewer and fewer large corporations are controlling not only the television, controlling the radio industry, book publishing, newspapers, et cetera.

Mr. Speaker, I would raise a particular concern that recently, just in the last week or so, we learned that the Jim Hightower radio show has been taken off the air by ABC. To my mind, the Hightower show was one of the more provocative and interesting radio talk shows in America. It was a progressive show. I think it was a very good antidote to the Rush Limbaugh and the G. Gordon Liddy types, and I am concerned about its disappearance from the air.

Mr. Speaker, the second issue that I want to talk about which also does not get a whole lot of discussion is the reality that is facing middle-class America and the working people of this country.

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To my mind, the most important economic issue facing this country is that the standard of living of the vast majority of our people has declined since 1973. I get very tired of reading newspapers that tell us about how good the

economy is, how the economy is booming, how we are creating new jobs, how the gross national product is going up. All of those figures are fine, but they are irrelevant in terms of what is happening to the average American worker.

The fact of the matter is that since 1973, 80 percent, repeat, 80 percent of American working people have seen either a decline in their real inflation-accounted-for-wages or, at best, economic stagnation. The middle class is shrinking. Poverty has increased significantly over the last 15 years.

On the other hand, what has happened is the very wealthiest the people in this country have seen a tremendous increase in their incomes.

I wonder how many Americans know that right now, today, the United States of America has by far, by far, the most unequal distribution of wealth in the industrialized world. No, it is not Great Britain with their queens and their dukes and their barons and their strong class-based society which has the most unequal distribution of wealth. It is the United States of America.

With the rich growing richer, the middle class shrinking, and the poverty increasing, we now have a situation where the richest 1 percent own more wealth than the bottom 90 percent, which is 1 percent or more wealth than the bottom 90 percent. No matter how you slice it, "That ain't fair." It is not what America is supposed to be.

Very clearly, NEWT GINGRICH's Contract With America, which will give huge tax breaks to the richest people in this country, which will, in effect, do away with taxes for the largest corporations while cutting back on all the needs of working people, low-income people and the middle class, will only make that situation even worse.

Let me very briefly, Mr. Speaker, touch upon some of the areas that I think we have got to move in if we are going to revitalize American democracy, if we are going to increase voter turnout, if we are going to make the American people feel—well, Mr. Speaker, it looks like I am not going to get to those issues. We will try again next time.

INTRODUCTION OF LEGISLATION TO REFORM DAVIS-BACON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WELDON] is recognized for 5 minutes.

Mr. WELDON of Pennsylvania. Mr. Speaker, I rise today to discuss an issue that was previously discussed by my friend and colleague, the gentleman from North Carolina [Mr. BALLENGER], dealing with the Davis-Bacon legislation. There are many on my side of the aisle that would like to totally repeal this legislation and put at risk those construction workers across America whose quality of life and skilled craftsmanship directly depends on this important piece of legislation. There are many in the Republican Party who disagree with that premise but who do believe that reform of this rather outdated law in terms of its threshold level needs to be reformed and revised.

Mr. Speaker, with that in mind, over the past several months a group of us have, in fact, come up with a piece of legislation to reform Davis-Bacon. This piece of legislation I introduced today with the cosponsorship of 27 Republicans and the support of organized labor across the country as well as many of the largest contracting corporations in America.

Mr. Speaker, this legislation, in fact, does allow us to reform Davis-Bacon. It allows us to deal with the extremely low threshold of $2,000 and raise that in a significant way. In fact, similar legislation was already introduced in the Senate in the form of S. 1183, which also enjoyed the support of the labor movement in this country.

Like S. 1183, my bill will raise the current $2,000-and-above threshold for applying Davis-Bacon to Federal contracts to $100,000 for contracts for new construction, and $25,000 for renovation and repair work. It will prohibit contract-splitting to avoid Davis-Bacon coverage. It will make provisions for payment of less than prevailing wages to apprentices, trainees, and helpers.

A very important part of reform, Mr. Speaker, is to allow us to continue to develop the apprenticeship programs and the trainees and helpers that are so necessary to the building trades of this country, and, in fact, the construction unions are, in most cases, the organizations that best provide those apprenticeship programs.

The act enforces and provides enhanced enforcement of the act and makes other changes to clarify the scope of coverage of Davis-Bacon. But my legislation differs from the Senate bill in two important ways that I think bring the bill even more to the center.

First of all, where S. 1183 adjusts the threshold for inflation only every 5 years, my bill adjusts the Davis-Bacon threshold on an annual basis so that that threshold goes up each year.

Second, where S. 1183 replaces the current weekly payroll reporting requirements with a monthly requirement which is very onerous for the business community, my bill requires payroll reports only every 3 months, or quarterly, which is a provision very much welcomed by the business community.

Mr. Speaker, there are many who will get up and argue there are abuses of the program, as my friend and colleague, the gentleman from North Carolina [Mr. BALLENGER] did today, and I will not dispute that, and, in fact, there are the appropriate actions that can be taken by the Federal agencies, Department of Labor, to deal with those instances where fraud and abuse occurs. That does not mean we should jeopardize the quality of life of every construction worker in this country, which is what repeal of Davis-Bacon would do. I would like to submit for the RECORD as part of my extraneous material, Mr. Speaker, a series of articles put forth by Peter Cockshaw. Peter Cockshaw publishes the Construction Labor News and opinion articles and newsletter. He has been doing this since 1971 and is one of the most respected construction authors in the country. In his letter that I am going to submit for the RECORD, he points out in the 1960's and 1970's he strongly backed repeal of Davis-Bacon, but as the same article indicates, he says, "My opposition to repeal today is based on a medically changed labor relations climate."

Peter Cockshaw and the Cockshaw report, which owe nothing to anyone and operate independently from both union and nonunion contractors, supports keeping Davis-Bacon in place but making the reforms in line with what I have outlined in my legislation.

In addition, Mr. Speaker, the legislation I have introduced today not only is supported by all the major building and construction trades, but I have here a list that I will also include of 145 contracting companies and associations across America, many of them that frequently support Republican candidates in 20 separate States, who support this legislation and who support reform of Davis-Bacon as opposed to repeal of Davis-Bacon.

Let me further add, Mr. Speaker, that 34 Republican members signed a letter that I circulated to Speaker GINGRICH saying that we did not want Davis-Bacon to be a part of reconciliation and we continue to work to try to pull that out to allow us to have a separate up-or-down vote, hopefully, on my amendment and my bill, which would, in fact, reform the entire Davis-Bacon process.

Mr. Speaker, this is a sound way to approach a difficult issue. It is Republican approach that I know my Democrat colleagues will embrace as well. Labor is behind it. Significant business support is behind it.

I urge my colleagues to join with us in reforming Davis-Bacon is a way that keeps in mind the sensitivity of the American worker.

The material referred to follows:

COCKSHAW'S CONSTRUCTION,
LABOR NEWS+OPINION,
Newton Square, PA, May 4, 1995.

DAN MCGIRT,
Legislative Assistant, Office of U.S. Representative Curt Weldon, Rayburn House Office Building, Washington, DC.

DEAR DAN: As you requested when we talked Wednesday evening, enclosed is our April issue with follow up on the Davis-Bacon "battle" (see page 3).

Among other aspects, the article documents that the use of higher skilled, higher paid tradesmen on federal highway construction over a 14 year period actually was less costly than in the lower wage states. If you have any questions on the piece, or any other Davis-Bacon matter, please don't hesitate to call me.

Also enclosed is a bio and "Newsmaker" reprint which summarizes my 31-year background in construction.

As I indicated, our publication is 100% independent. We accept no advertising or financial support from any organization. The sole source of our revenues is from subscribers and from all types of industry groups I address in speeches (union and non-union employers as well as organized labor).

Finally, as the March article you have notes, I strongly backed repeal of Davis-Bacon in the 1960's and 1970's. But, as the same article indicates, my opposition to repeal today is based on a radically-changed labor relations climate.

Hopefully, this information is useful to you. I would appreciate your forwarding a copy of Curt's letter with the March article when it is sent to the other Members.

And please give my best wishes to Curt.

With warmest personal wishes,

PETER A. COCKSHAW,
National Labor Analyst/Publisher.

[From Cockshaw's Construction Labor News+Opinion, March, 1995]

WILL PREVAILING WAGE LAWS BE REPEALED?

OPPOSING SIDES LAUNCH HIGH STAKES CAMPAIGNS THAT WILL DETERMINE FATE OF DAVIS-BACON ACT

The campaign to repeal the Davis-Bacon Act is shaping up as the most bitter labor relations battle of this decade.

Gauging by the sparks now flying between repeal proponents and opponents, that probably is an understatement.

Encouraged by Republican victories in Congress and many state legislatures last year, repeal advocates see a golden opportunity to ax the Act.

U.S. House and Senate bills H.R. 500 and S. 141 seek to do just that. Repeal supporters also are pushing legislation in several states which have "Little Davis-Bacon" laws.

Leading these efforts is the merit shop Associated Builders and Contractor (ABC). It heads a group called the "Coalition to Repeal the Davis-Bacon Act."

Faced with the repeal threat, opponents are marshaling their forces all over the country. The largest group is the "Contractors' Coalition for Davis-Bacon" comprised of some 18,000 employers, associations and building trades unions.

To influence the outcome, opposing sides have "flooded the airwaves" with a blitz of claims, position papers and studies. Cockshaw's, assisted by respected construction analyst and research William Maloney, has just completed an exhaustive probe into all these arguments — both pro-and-con.

Having done so, we'll now attempt to put the Davis-Bacon debate in sharper focus and offer our views on whether repeal is in construction's best interests.

Let's first examine the key arguments by ABC and others who seek to kill prevailing wage laws at both the state and federal levels.

In making their case, repeal advocates focus on two central issues:

1. That the Davis-Bacon Act inflates the cost of construction, and

2. That it serves to protect the wage and benefit structure of union workers.

(Some also allege that the Act is racially discriminatory — a charge we view too spurious to dignify.)

Before addressing the critical issue of cost, let's dispense with the claim that the act fosters union bias.

This contention was true in the 1960's and '70's. Then the Act did protect union wages because the unions enjoyed a large portion of market share.

However, this is the 1990's where the tremendous growth of the non-union sector has shrunk organized labor's market share to about 20% of all construction.

Moreover, when once a majority of the workforce was organized, only 18.8% of construction workers were union members in 1994, the BLS reports.

Data from the U.S. Labor Department's Wage and Hour Division also illustrate the lessening impact of union rates on prevailing wages.

Last year only 29% of the 12,500 wage decisions were based on union rates.

So arguments that Davis-Bacon protects union compensation packages are no longer relevant.

NOT BATTLE BETWEEN UNION AND OPEN SHOP SECTORS

Industry authority Maloney who heads the University of Maryland's Construction Engineering and Management Program makes another crucial point:

"Although some may see it as such, the fight over Davis-Bacon is not strictly a union vs. non-union struggle.

"Many nonsignatories have as much to lose from repeal as the signatory sector.

"That because astute open shop contractors offer wages and benefits comparable to union signatories—pay needed to recruit and retain qualified workers.

"Absent the Act, cutthroat competitors will steal work from union and non-union employers alike.

"They'll do so by low-balling the bid with lower-paid, lower-skilled workers."

In sum, the current battle is between responsible employers—both union and open shop—on one side and those who win work by shortchanging workers on the other.

COST SAVINGS ARGUMENTS ARE DISPUTED

The disputed argument of those who want to ax Davis-Bacon is that the repeal will save money.

"In making their case," Maloney explains, "opponents have adopted a extremely narrow perspective on the Act's impact.

"They have done this by focusing solely on the value of the construction contract.

"That simplistic approach assumes that wage rates are the main determinant of installed costs.

"It totally ignores the influence of productivity—which is largely influenced by the knowledge and skills of the workforce."

Results of an eye-opening study by three noted economists at the University of Utah support Maloney's contention.

The economists probed the impact of repeal in nine states in which prevailing wage laws were repealed.

Their 82-page study is "Losing Ground: Lessons from the Repeal of Nine 'Little Davis-Bacon Acts'."

Tossing cold water on the cost-savings claims by repeal advocates, the Utah economists found:

"The shift to a less-skilled labor force—lowering labor productivity along with wages—have lessened any possible savings associated with repeal."

On the other hand, repeal proponents repeatedly cite cost savings estimates made by the Congressional Budget Office (CBO).

Last year CBO estimated that repeal would save some $3 billion over five years.

The problem with that projection is that it is based on outdated and dubious methodology compiled from a study done 13 years ago.

This fact was pointed out by the U.S. Labor Department's (DOL) Employment Standards Administration.

In testimony before the Senate Labor and Human Resources Committee last month, Assistant DOL Secretary B.E. Anderson stated:

"Current CBO estimates originate from a 1983 study which used crude savings estimates from a 1982 departmental regulatory impact analysis.

"Changes in the construction industry—including narrowing the gap between union and non-union wages and changes in our administration of the Act—make these estimates unreliable."

The cost issue aside, University of Utah economists cited the impact of repeal on training and safety.

The study found that construction training fell off 40% in the 9 states which repealed the laws. It also noted that occupational injuries rose by 15%.

REPEAL ADVOCATES IGNORE CHANGED CONDITIONS

The biggest problem Cockshaw's has with arguments made by repeal advocates is that they totally ignore current industry conditions.

Most of the claims now being made to kill the Act have validity when applied to the 1960's and 1970's.

But, unlike the high wage climate 20 and 30 years ago, construction today is a low wage industry.

Pay is so lousy the industry no longer can compete for qualified workers and there are skilled shortages most everywhere.

Interestingly, those who lead the drive to repeal the Davis-Bacon Act agree with these points.

In a speech last year, Tommy Knight, president and CEO of ABC member Brown & Root stated:

"None of our challenges is more important than the need to reverse the decline in living standards that our craft employees have suffered over the past decade.

"Since 1983, the purchasing power of the typical construction worker has been reduced by almost 30%.

"Worse, a majority no longer can carry health insurance for their families. They can't afford it.

"Typical teenagers now view a potential career in construction as only slightly more appealing than becoming a migrant farm worker."

Brown & Root's chief executive continued: "It's a small wonder that our average craftsman is more than 40 years old and from a generation that entered the business when a good living could still be made from it.

"If this trend is left unchecked, it won't be long before our industry compromises its ability to fill the needs of our customers and our country."

ABC's executive vice president, Dan Bennet, also sounded the alarm early last year about construction's poor financial incentives.

Then in December he bemoaned the resulting skills shortfalls, noting: "A major part of the problem lies with an aging workforce . . . and the lack of qualified entry level workers to take their place."

Given these views, the ABC's campaign to repeal Davis-Bacon is puzzling.

That's because it is impossible to raise wages when you act to lower them!

And there is solid evidence that this is exactly what will happen if prevailing wage provisions are struck down.

It comes from the same 82-page University of Utah study cited earlier. The authors' key conclusion regarding the impact of repeal in nine states:

"Repeals in the states studied cost construction workers at least an average $1,477 per year in earnings."

Given this evidence, it's crystal clear that scrapping Davis-Bacon will lower wages further and make a construction career even more unattractive.

And skilled labor shortages, which are already increasing at an alarming rate, will worsen.

In summary, there was a time when Davis-Bacon contributed to higher costs and inflation. At that time, in the 60's and 70's, Cockshaw's backed repeal efforts.

But, as we've demonstrated in this article, conditions in construction today are vastly different. For that reason and others we've cited, Davis-Bacon repeal now would be a huge mistake.

Although repeal is not in the industry's best interests, reform of the Act's administration is.

[From Cockshaw's Construction Labor News+Opinion, April 1995]

THE BITTER BATTLE OVER DAVIS-BACON ACT—II

NEW ANALYSIS REVEALS THAT REPEALING LAW WON'T SAVE MONEY

Last month Cockshaw's argued that repeal of the Davis-Bacon Act is not in construction's best interest.

We made a number of points to support that view. One of them attempted to refute claims of those who contend that axing the Act will save taxpayers money.

As respected construction authority William Maloney noted: "In making their cost savings case, repeal advocates have adopted an extremely narrow perspective on Davis-Bacon's impact.

"They have done this by focusing solely on the value of the construction contract.

"That simplistic approach assumes that wage rates are the main determinant of installed costs.

"It totally ignores the influence of productivity—which is largely influenced by the knowledge and skills of the workforce."

To buttress Maloney's argument, we quoted University of Utah economists who probed the impact of repeal in nine states where prevailing wage laws were repealed.

Their conclusion: "The shift to a less-skilled labor force—lowering labor productivity along with wages—have lessened any possible savings associated with repeal."

Now there is more evidence to counter repeal proponents' cost savings claims.

It comes from one of the country's leading statistical analysts and economists, Robert Gasperow.

Gasperow, executive director of the Construction Labor Research Council (CLRC), just completed a review of a study commissioned by the National Alliance for Fair Contracting (NAFC).

EXAMINES THE RELATIONSHIP BETWEEN WAGES, MANHOURS AND FINAL COSTS

Using data compiled by the Federal Highway Administration (FHWA) over 14 years, the study sought to determine the correlation between wages, manhours and highway construction expenditures.

NAFC asked Gasperow to verify that the data and conclusions were based on sound economic principles.

His analysis—including comments about the relationship between wages and final installed costs—is most revealing.

Gasperow stated: "The study's data and findings support NAFC's position that wage rates are but one determinant of highway costs.

"It also documents that there is only minimal correlation between the hourly wage rate paid to labor and the cost of a mile of highway.

"Further, the limited correlation which does exist appears to indicate the relationship is inverse—higher hourly rates tend to equate to lower highway cost per mile."

The veteran economist explains that the amount/cost of any single factor in highway construction—various mixes of equipment, labor, materials and management—reveals little about total cost.

Up to a point, factors are substitutes for each other because they may be exchanged. Similarly, within a factor category, there may be substitutes.

HIGHER SKILLED CRAFTSMEN ARE MORE COST-EFFECTIVE

For example, workers with varying skill levels may be utilized. Although there are higher costs per unit of time for the more highly skilled, these workers require fewer labor inputs.

Therefore, if the gain in output per unit of time exceeds the premium paid to the more highly skilled worker, this becomes a more cost-effective alternative.

The analysis of FHWA data documents the impact on highway costs of utilizing various amounts of labor inputs at varying hourly rates.

Gasperow explains: "It substantiates the lack of correlation between labor inputted into a mile of highway and total cost of project.

"Using higher skilled, higher hourly cost labor substantially lowers the required labor inputs—often to the extent that cost per mile is lower then paying higher hourly labor rates."

The industry analyst's bottom line conclusion: "There is no basis for the contention that lower labor rates result in lower highway costs."

Study data revealed that, in the 26 states accounting for over three-quarters of highway expenditures, the cost per mile is $50,000 less in higher wage states.

This result is despite the fact that rates in higher wage states averaged $17.64 an hour—compared to lower wage states' $9.21 per hour.

The CLRC director noted that a "number of factors" made the FHWA data base "ideal" for this type of analysis.

That's because he rates it as "objective, comprehensive and neutral" (i.e., not designed to evaluate labor costs).

Moreover, the study covers 1980 through 1993 so exceptions and a typical projects reported in a specific state in a specific year have little or no impact upon the findings.

Gasperow's review of the FHWA figures also noted the small portion of highway costs which accounts for labor—21%.

"This suggests," he opines, "that efforts to reduce federal highway expenditures might be better directed toward the other 79% of cost categories."

That aspect aside, Gasperow's analysis, coupled with the evidence Cockshaw's offered last month refutes claims of those who argue that Davis-Bacon repeal will save the taxpayers money.

[From Cockshaw's Construction Labor News+Opinion, May, 1995]

WILL DAVIS-BACON REPEAL SAVE MONEY?

PROBE OF REPEAL ADVOCATES' COST SAVINGS CLAIMS REVEAL THAT STUDY DATA THEY CITE ARE UNRELIABLE

We are constantly amazed at how many in this industry swallow the claims of various groups—hook-line-and-sinker.

That's probably because those who make claims to promote their agenda often contend that a study supports them. Apparently once people hear the word "study," they assume the claims are true.

As Cockshaw's longtime subscribers know, we've exposed many of these "studies" as defective. Some even turned out to be pure fiction.

Now we'll put the spotlight on another study—a 1983 effort by the Congressional Budget Office (CBO). This is the report many continually cite as source for claims that Davis-Bacon Act repeal will reap big cost savings.

For example, in recent testimony before the Senate Labor and Human Resources Committee, Maurice Baskin, general council for the Associated Builders and Contractors (ABC) contended:

"An extremely conservative estimate by the Congressional Budget Office found that the Davis-Bacon Act raises federal construction costs by at least $3.1 billion over five years."

Since most repeal proponents—including many members of Congress—have made similar claims, Cockshaw's asked statistical expert Robert Gasperow to thoroughly scrutinize this government study. He is director of the Construction Labor Research Council (CLRC).

We think you'll find the analysis of Gasperow an eye-Opener. It follows.

COST ESTIMATES MAY BE INCORRECT OR NONEXISTENT

Overall, the 1983 CBO study is a well thought out evaluation of the Act. The problem is that its cost estimates are flawed, Gasperow explains.

In fact, the CBO admits its estimates may be incorrect, or even nonexistent.

But repeal advocates fail to mention this vital point when making their cost savings claims.

Another fact repeal proponents don't reveal is that the study repeatedly notes unquantified benefits of the Act that could offset, or even exceed, perceived costs.

An April 2 CBO update of the cost figures extrapolates the earlier 1983 study's uncertain methodology.

But the update is most revealing for its comments by CBO's Assistant Director for Budget Analysis, Paul N. Van de Water. He admits:

"Any estimate of cost implications of the DBA is uncertain. Very little empirical work has been published on the subject since CBO's 1983 report, and even then there was little consensus as to the precise cost impacts. . . ."

Not only does Van de Water concede that CBO's cost estimates are suspect, he also reveals that "CBO's 1983 report was based on 1979 figures."

Industry analyst Gasperow stresses another fact not cited previously—that the CBO study repeatedly refers to the Act's benefits. For example, the 43-page report's summary section notes:

"The Act's benefits include protecting both the living standards of construction workers and the competitiveness of local

firms bidding against transient contractors who might win federal contracts (by paying) lower-then-prevailing local wages.

"Government contracts are especially vulnerable to such practices because they must be awarded to the lowest qualified bidder.

"Further, by excluding bids from contractors who would use lower wage, less-skilled workers, DBA may aid federal agencies in choosing contractors who will do high quality work.

"Finally, by helping to stabilize wage rates in the inherently volatile construction labor market, DBA may aid the industry in recruiting and training workers.

(This would) "help to maintain the long-term supply of skilled labor."

And although it makes no attempt to quantify these benefits, Gasperow explains, the study concedes that they may equal or exceed the Act's costs.

IS REFORM A BETTER OPTION THAN OUTRIGHT REPEAL?

While not recommending a particular course of action, the CBO report indicates that reform of some sort may be a better option than repeal.

The study's summary section advises: "Adoption of any of these options but repeal would preserve the fundamental benefits the Act was designed to offer—while still saving varying amounts of federal outlays."

Also, contrary to critics' claims, the CBO indicates there is no bias as to union rates in Dept. of Labor's wage determinations.

As CBO's report states: "Union rates tend to be issued for geographic areas and types of construction that are relatively heavily unionized. And non-union rates are used in areas where the non-union construction work is dominant."

CBO ADMITS IT DOESN'T HAVE RELIABLE DATA

As the quotes by CBO official Van de Water revealed earlier, cost estimates of DBA are "uncertain." Adds CLRC's Gasperow:

"Again and again, CBO admits that its analysis of the Act is hampered by lack of good data to use in costs evaluation. That's because sources of data are few and those that do exist rely on a small number of wage observations."

Gasperow also notes that the CBO made no effort of its own to perform data collection. And this short-coming applies to data used by the Department of Labor and other sources.

The industry analyst criticizes other aspects of the CBO effort, stating:

"While the study is open about admitting limitations of its cost data, it is misleading in one key respect.

"In general, the report equates wage rates with construction costs. There is not an equal substitution between labor at various wage scales.

"Higher wages can be offset by higher productivity. And more labor hours are required when lower skilled persons are employed."

The analysis by CLRC's Gasperow—coupled with CBO's admission that its cost estimates are "uncertain"—have exposed repeal advocates' savings claims as flawed.

Those who continue to make such claims do themselves and the industry a great disservice.

LIST OF SUPPORTERS OF DAVIS-BACON

CALIFORNIA

Amelco Electric, Gardena, CA; Ball, Ball & Browsmer, Danville, CA; Brutoco Engineering & Construction, Fontana, CA; Construction Employers Association, Walnut Creek, CA; J.R. Filanc Construction, Oceanside, CA; Association Engineering Construction Employers, Sacramento, CA; Berry Construction, Upland, CA; California Alliance for Jobs, Oakland, CA; Dutra Construction Company, Inc.; Rio Vista, CA; John A. Artukovich & Sons, Azusa, CA; K.E.C. Company, Corona, CA; National Electrical Contractors Association Southern Sierras Chapter, San Bernardino, CA; National Electrical Contractors Association—San Diego, San Diego, CA; Roy E. Ladd, Inc., Reading, CA; Top Grade Construction, Livermore, CA; K.L. Neff Construction, Ontario, CA; National Electrical Contractors Association—Santa Clara Valley Chapter, San Jose, CA; Northern California Drywall Contractors Assoc., Saratoga, CA; Scott Company of California, Gardena, CA.

COLORADO

L.O.S.T. Construction, Inc., Louviers, CO.

CONNECTICUT

ABB-CE Services, Inc., Windsor, CT; Lane Construction, Meridan, CT; L.G. Defelice Inc., North Haven, CT.

WASHINGTON

Air Conditioning Contractors of America, Washington, DC; Crane Rental, Washington, DC; Handon Diving, Washington, DC; Lynn-Phill Construction Company, Washington, DC; Macton Construction, Inc., Washington, DC; Sheet Metal & Air Conditioning Contractors National Association, Washington, DC; Temple Construction Company, Washington, DC.

FLORIDA

Union Contractors & Subcontractors Association, Inc., Lakeland, FL.

HAWAII

General Contractors Association, Honolulu, HI.

IOWA

Heavy/Highway Contractors Assoc., Des Moines, IA.

ILLINOIS

Barton Contractors, Inc., South Roxana, IL; Concrete Contractors Association, Deerfield, IL; Excavating and Petroleum Tank Removal, Carbondale, IL; Illinois Valley Paving Company, Winchester, IL; Illinois Valley Contractors Association, La Salle, IL; Kenny Construction, Wheeling, IL; L.J. Keefe Company, Mt. Prospect, IL; Lake County Contractors Association, Waukeegan, IL; Midwest Foundation Corporation, Tremont, IL; Shappert Engineering, Rockford, IL; Underground Contractors Association, Des Plaines, IL.

INDIANA

Associated General Contractors of Indiana, Indianapolis, IN; CCC of Evansville, Inc., Evansville, IN; Crider & Crider Excavation, Bloomington, IN; Hagerman Construction, Ft. Wayne, IN; Kimes Construction, Inc., New Albany, IN; HEC Steel Service, Inc., Owensboro, KY.

MASSACHUSETTS

Perini Corporation, Framingham, MA.

MARYLAND

Associated Builders, Inc., Hyattsville, MD; Bechtel Construction Company, Gaithersburg, MD; Clipper Steel, Elk Ridge, MD; Eastern Steel Construction, Fallston, MD; Gallo Rebar, Capitol Heights, MD; Hickman Construction, Suitland, MD; James Buch & Sons, Laurel, MD; Mechanical Contracting Foundation, Rockville, MD; Mekco, Inc., Laurel, MD; Mid-Atlantic Steel Contractors, Inc., Ellicott City, MD; National Electrical Contractors Association, Bethesda, MD; O'Connell Construction, Inc., Olney, MD; S.C.C.I., Temple Hills, MD; Wood Steel Company, Inc., Bryans Road, MD.

MICHIGAN

Metropolitan Detroit Plumbing & Mechanical Contractors Association, Detroit, MI; Snowden, Inc., Escanaba, MI.

MINNESOTA

Bor-Son Construction, Inc., Minneapolis, MN.

MISSOURI

Bangert Brothers, St. Louis, MO; Heavy Constructors Assoc. of the Greater K.C. Area, Kansas City, MO; Mechanical Contractors Association of St. Louis, St. Louis, MO; National Electrical Contractors Association—St. Louis Chapter, St. Louis, MO; Painting & Decorating Foundation, St. Louis, MO; Site Improvement Association—St. Louis, Maryland Heights, MO.

NEW JERSEY

Associated General Contractors of New Jersey, Edison, NJ; Building Contractors Association of New Jersey, Edison, NJ; Burris Construction Company, Mount Laurel, NJ; Raytheon Constructors, Inc., Lyndhurst, NJ.

NEW YORK

Ashco Contracting Inc., Delanson, NY; Frank L. Ciminelli Construction Co., Inc., Buffalo, NY; General Contractors Association of Greater New York, New York, NY; Grace Industries, Whitestone, NY.

OHIO

Associated General Contractors of Ohio—Cleveland Division, Brooklyn Heights, OH; Cin-Don Inc., Concord, OH; Construction Employers Association, Brooklyn Heights, OH.

PENNSYLVANIA

Allison Park Contractors, Inc., Allison Park, PA; American Bridge, Pittsburgh, PA; Contractors Association, of Eastern Pennsylvania, Philadelphia, PA; IW Employers Association, Pittsburgh, PA; Joseph B. Fay Company, Pittsburgh, PA; Laurel Contractors Association, Ligonier, PA; Master Builders Association, Pittsburgh, PA; Mechanical Contractors Association, Pittsburgh, PA; National Electrical Contractors Association, Western Pennsylvania, Pittsburgh, PA; Osiris Enterprises, Pittsburgh, PA; Philadelphia Builders Chapter (AGC), Philadelphia, PA; Sheet Metal Air Conditioning National Association, Pittsburgh, PA; Sofis Company, Inc., Clinton, PA.

VIRGINIA

Construction Contractors Council AGC Labor Division, Springfield, VA; Dredging Contractors of America, Alexandria, VA; J.W. Wise Reinf. Steel, Manassas, VA; Master Builders' Association, Inc., Greater Metropolitan Washington, D.C. Chapter, AGC, Springfield, Va; National Erectors Assocaition, Arlington, VA; National Association of Plumbing, Heating, Cooling Constractors, UA Task Force, Falls Church, VA; Sullivan Steel Service, Beaverdam, VA; Vanessa General Builders-VA Ltd., Virginia Beach, VA 23462-4402.

WASHINGTON

Associated General Contractors of Washington, Seattle, WA; Fletcher General, Seattle, WA; Max J. Kuney Company, Spokane, WA.

WISCONSIN

Antigo Construction Inc., Antigo, WI; B.R. Amon & Sons, Inc., Elkhorn, WI; C. Jensen & Son, Inc., Superior, WI; Dell Construction Company, Inc., Eau Claire, WI; Dresel Construction Company, Ltd., Chippewa Falls, WI; Duffek Sand and Gravel, Inc., Antigo,

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SOLVING THE MEDICARE CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mr. McINNIS] is recognized for 5 minutes.

Mr. McINNIS. Mr. Speaker, I would like, during the brief few minutes that I have to address, to talk about Medicare. Obviously, that is the issue of the day. It is obviously the issue of the year. It is an issue that we need to become more acquainted with, if you are not already well acquainted with it.

I would like to very briefly go over the history of Medicare, talk about the question of whether or not Medicare is in trouble, talk about why it is in trouble, talk about what we are doing as far as the solution and what is the best bipartisan solution to do something to solve the Medicare crisis that we have in this country.

Medicare was created in 1965, and it is a product of the Democratic Party, and it was a good product when it was created. Today, if we can reform Medicare, it will return to being a good product.

In 1965, when the Democrats created Medicare, the Republicans helped them. The Republicans voted for it. The Democrats controlled the House.

Is Medicare in trouble today? It is clearly in trouble. There is a nonpartisan group of trustees which oversees Medicare. That group of trustees issued a report in April of this year. By the way, three of those trustees were appointed by President Clinton. That report said in April this year, "If you do not do something about Medicare, this program will be bankrupt in 7 years. This program will cease to exist financially in 7 years. You cannot wait until tomorrow. You cannot wait until next year. You cannot wait until 3 years from now to save this program. You have got to take action today."

Why is it in trouble? There are several reasons, four right off the top: First, people are living longer. In 1965, a 65-year-old gentleman or 65-year-old senior could expect to live 14.9 years more. In just a simple span of 30 years, a 65-year-old person now can expect to live 17.5 years longer.

What is the second reason that Medicare is in trouble? The recipients, the people that benefit from Medicare, are getting more out of the system than they put into the system. On average, an average couple on Medicare draws about $111,000 more out of the system than they put into the system.

We have more retirees than we do in proportion to workers. For example, when Medicare first came about, there were 5.6 workers for every retired person. Today there are only 3.3 workers for every retired person. This spells trouble.

A fourth reason, we have got a lot of fraud in the system, and I can give you examples, and some of the people that are opposing changes in Medicare, if they are honest with you, will also give you examples. The system has grown so massive that fraud is abundant within the system.

Inefficiency is abundant within the system.

We learned in the last few days, and I think it is driven by politics, people that want to maintain the status quo, they want to make all the people of America believe that there is not trouble with Medicare, that we do not need to worry about Medicare, the solution that is being proposed, one is a Republican solution, and they do not talk about bipartisan solutions. It is a Republican solution, and it is going to throw the seniors out in the street.

What a bunch of baloney. Tell those people to get real. Tell them to get their heads out of the sand. We need a solution.

Let me quote from an article called "Medicare Mistake." This is written by a Democrat. Last year he was a Democrat Congressman from Minnesota.

> Today Medicare is facing a financial crisis. Democrats are playing politics instead of coming up with constructive solutions. Democrats in the United States Congress have not only opposed Republican reform initiatives, they have also refused to embrace the savings identified in President Clinton's plans. Democrats moved from being the majority party to being the minority party. This change, however, does not mean that Democrats should also move from being a responsible party to a irresponsible party.

Ladies and gentlemen, if you do not want to help us reform Medicare, you are, in my opinion, being irresponsible. This article was written by a Democratic Congressman from last year.

What I urge all of us in this Chamber to do is join with us next week in this debate. Join with us to find a bipartisan solution, and if you do not have a solution, do not get in the way. Work with us, join with us, and let us save Medicare for every citizen of this generation and let us save Medicare for every citizen of the next generation.

DEVASTATING CUTS IN MEDICARE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Connecticut [Ms. DELAURO] is recognized for 60 minutes as the designee of the minority leader.

Ms. DELAURO. Mr. Speaker, I am really pleased to be here tonight and to be joined by my colleagues to talk about what we, some of us, have been talking about for the last several months, and specifically in the last several weeks, and that is the issue of the devastating cuts that the Republican leadership in this House would like to inflict on seniors in this country with $270 billion of cuts in Medicare.

I think you need to put this issue into some perspective to understand how the special interests today are winning out over the public interest in this Congress. You really just have to take a look at today's newspapers. There really are two very poignant stories about two different groups who came to Washington, to the people's House, I might add, which is what this body is called. We are not only the House of Representatives, we are known as the people's House.

□ 2000

Well, we have two groups who came this week. One group's members got a private meeting with the Speaker of the House. The other group's members got arrested. Yes, my friends, the other group got arrested. When the American Medical Association and its high paid lobbyists came to Capitol Hill, they were given a closed door meeting with Speaker GINGRICH. And, lo and behold, after the meeting with the AMA, it announced that it would reverse itself and support Republican Medicare cuts.

You will note on Tuesday, October 10, in the report of the New York Times, it said "For months Republican plans to curb Federal health care spending have sailed along on a silent wave of interest group approval. But now cracks are showing. The American Medical Association is starting to complain about the impact on care." That was on October 10 in the New York Times.

Well, they had their closed door meeting with the Speaker of the House, and, guess what? It was a flip-flop. And here you have on Thursday, October 12, "House GOP Medicare bill wins over doctors with hidden enticements and the promise of profits."

When happened behind those closed doors? And I will quote to you the AMA representative, I believe his name is Kirk Johnson, in the paper said, "Doctors were promised billions of dollars more than they would receive under the original plan."

In other words, they were bought off by the Speaker, How were they bought off?

Today in the Wall Street Journal the headline is as shown here, that the House GOP Medicare bill wins over doctors with hidden enticements, promise of profits, and the Journal lays out what they call the Medicare sweeteners. These incentives include a provision to make it easier for doctors to set and profit from their own managed care plans known as provider service networks; a limit on payment of damages to some victims of medical malpractice; they would allow beneficiaries to set up medical savings accounts which would place no restrictions on the fees that doctors could charge those patients; and a promise to trim spending reductions in future fee for service payments by undisclosed amounts.

Together, these provisions, once again, amount to a windfall of billions of dollars that the AMA representative crowed about after his meeting with the Speaker. Am I against doctors making a profit? I do not think anyone is against doctors making a profit, no. But I will tell you what we are against. We are against doctors making a profit while seniors get the shaft.

You see, the $270 billion in the Medicare cuts can only come from providers or from beneficiaries. And every time the Republicans cut a deal with the providers, they have to cut more health care for seniors.

Let me tell you, the American seniors are getting the message. They truly are. They understand this GOP shell game. Again, what I want to tell you is what happened yesterday, because it is equally important to find out about these two groups and what happened to them.

When you take a look at the group that came, the National Council for Senior Citizens, they came to Capitol Hill, they did not quite get the same kind of reception that the AMA did. The seniors got no meeting with the Speaker; they received no concessions, no deals. Instead, they were arrested. That is right, there were 15 senior citizens, some in wheelchairs, some with canes, that were arrested yesterday. They were put in handcuffs and they were taken away in a paddy-wagon.

What was their crime? They asked to speak in the people's House. That is what they were asking for, is an opportunity to participate in our democracy. And we have right here the photographs of those who were taken away. You will hear from some of my colleagues in a few minutes that they were there when this happened. You got here Teresa McKenna, age 68, from Falls Church, VA, with handcuffs being put on her. You have Roberta Saxton right over there, who is from Maryland, and she is 67 years old. There she is being handcuffed.

Let me just say that they simply went, this group of seniors, to ask questions of the Committee on Commerce about the Republican plan, what is in it, what does it mean in terms of our lives, and they came to exercise their right as citizens. But they were turned away. The lights were turned off in the committee room and they were taken out to the paddy wagons.

Let me just say that we found out yesterday that daring to ask a question and asking that question, which is the right of every American citizen, that is punishable by a rest.

Mr. Speaker, I want to conclude my remarks, because I know my colleagues want to join in this debate this evening, but when it comes to the special interests, the Republicans, this Congress and the majority in this Congress, they are all ears for the special interests. But when it comes to the people in this nation, they turn a defense ear. That is not what we should be about.

Ms. EDDIE BERNICE JOHNSON of Texas. If the gentlewoman will yield, I really wonder who the Republicans are listening to, and I would like to hear later from members of that committee. Because as I am reading, a Republican Congressman the gentleman from Iowa, Dr. GREG GANSKE, from the Des Moines Register, said,

> I guarantee you that these reductions will be bad for quality health care. Not just for our senior citizens, but also for working families. If Medicare and Medicaid cuts are too deep, hospitals and doctors will shy away from serving the elderly and poor or will try to push costs to the non-elderly, which could further increase the number of uninsured, or the quality of the whole health care system could decline.

Now, that is a Member of this body, who is a Republican and who is also a doctor.

Then from the New York Times, the American College of Surgeons, the American College of Surgeons said today that the Republican proposals would reduce Medicare payments for all surgical services by 10 to 12 percent next year. Cynthia Brown, manager of the College's Washington office, said these cuts would heavily penalize surgeons.

Maybe that is who they might be listening to, just the persons on the money-making end.

I have high regard for any physician that is attempting to practice good medicine. But I do not believe that even the physicians want to make it uncomfortable for our seniors and rob them of quality care just for a paycheck.

Now, according to a poll that was done by Lou Harris & Associates this month, 86 percent of wealthy Americans oppose Medicare cuts to pay for the tax breaks. Americans across the board overwhelmingly oppose using Medicare as a cash cow to pay for the Republican plan to offer tax breaks to the very wealthy.

A recently released Harris poll suggests that the opposition is even stronger among the wealthiest Americans. When the question was asked "Do you favor or oppose cutting the future costs of Medicare to pay for a tax break," 86 percent of Americans with income of $50,000 or more said they did not favor doing this, while only 83 percent of all Americans said they opposed the plan to cut services for our children and our senior citizens for a tax break for the wealthy.

While the tax break for the wealthy is being given attention, the tax break for the working poor has been taken away. It seems to me that we are not listening. Perhaps there are persons inside listening only to selective voices, but they are not listening to the majority of Americans, and this is a body that is of, by, and for the people.

So who are we hearing these quotes from? Selected persons that are making statements we all agree with, or from those persons that simply want to make a plea for the health of their future, and they get arrested?

They are proposing medical savings accounts. Well, we are talking about 80 percent of these people that have worked all of their working days paying into Social Security with the promise and the contract that when they retire and reach their days on a fixed income, they would have available to them a fund that they have paid into for health care.

While Medicaid was essentially passed as a program for our children, almost 70 percent of those dollars are being paid for long-term care for our seniors. And why is that? It is because our seniors do not have the money now. They are very stretched with what is being offered, and we are about to swipe that away from them.

Who are we listening to? Are we the only persons listening to the people of this Nation? I am hearing desperate voices. Why are the Republicans not listening? Because the polls are not made up by us, it is an independent poll. And I hear the question, we want to save our children's future.

Well, if we want to save our children's future, they must have a healthy present. If we do not provide for our children just the basic health care, they will not have a good future. They are being cheated out of the dollars even set aside for them now, because most of it by necessity is going for the care of our senior citizens.

I want to know who, who are the Republicans listening to. They are not listening to America.

Ms. DELAURO. I would love to have my colleague from Illinois, Mr. DURBIN, join.

Mr. DURBIN. Mr. Speaker, to my colleague, thank you for the special order. It is a shame we have to come here late at night with an almost empty Chamber to talk about an issue which is literally on the minds of every American.

We are in the eleventh month of this Gingrich revolution in the House of Representatives. America remembers when it got started, some of the promises that were made.

Do you recall the promise from the Speaker that every amendment considered on the floor would go right up on the Internet so all across America Americans would know exactly what was being debated? There was to be no effort to put things through without clear scrutiny.

Do you recall the promise of open hearings so that every American would know what was going on in the House of Representatives under this new Gingrich revolution? Do you recall the promise of open rules, so that we could have as many amendments offered and have a healthy debate, a deliberative procedure?

Well, you may remember those promises but, frankly, take a look at what is happening with Medicare and Medicaid. A 421-page bill that has been heard one or two days at the most in committee, destined to come here to the floor of the House of Representatives next week, and we hear tonight from the majority leader, Mr. ARMEY, we are going to be given 2 hours of debate.

Well, one would think surely 2 hours is enough. It cannot be that complicated. For 70 million Americans it is very complicated. Medicare is literally, literally, their lifeline, as to whether or not they can obtain affordable quality health care. For my mother, for parents and grandparents of so many Americans, Medicare is more than just another government program. It is a lifeline.

The Republicans want to cut $270 billion out of this program. You say, well, in Federal terms that cannot have much impact. But it will, in terms of the services that are offered to our parents and grandparents, in terms of the payments to the providers, in terms of the expenses which may be shifted to the families of our elderly when the elderly themselves cannot pay.

On the Medicaid side, the story is even more horrific. Half of the payments to nursing homes across America are made by Medicaid. The Republicans are coming on the floor with a proposal that does not protect families of those in nursing homes from having their own assets attacked once the elderly person in the nursing home runs out of money.

It has got a long Federal term; it is called spousal impoverishment. In the State of Texas they brought it to the vernacular, it was the hock-your-home provision. Once grandma or grandpa is in a nursing home and runs out of money, they go back to the family and say maybe you ought to pay now, since they run out of money. The Federal law protects that from happening today. The Republican proposal does not contain that protection.

Is that an important thing to debate for families across America? Is that worth 2 hours of our time at least? You bet it is. Instead, we are going to have this jammed down our throats. And when senior citizens came to this Capitol building and said they wanted to know what is in this bill, they wanted to know the impact it will have, they were greeted by the Gingrich revolutionaries with handcuffs. Sixty-seven and 68-year-old ladies who come into a committee room, irritate the chairman, and they are escorted out in handcuffs? What has this come to?

Frankly, what we are dealing with here is a fact that has been made known by the gentlewoman from Connecticut. If you are a special interest group, if you have a political action committee, if you have the clout, you get a personal meeting with Speaker GINGRICH and a deal. The doctors got it. I guess we should say God bless the doctors. They know how to work this system. But the seniors, obviously, have not figured it out. They still think this is on the square. They think you walk into a hearing room and learn what is in the bill and debate the bill and ask tough, yes, sir, tough questions. They were escorted out in handcuffs.

Thank goodness, the charges were dropped on them. But consider the embarrassment to these people who took time out of their own busy lives at a point in their lives when they are retired to come to the U.S. Capitol here to be arrested.

Now, the Speaker tells us if he does not get his way on this bill, he is going to shut down the Government. He is going to shut down the Government. Well, I have got a bill that I would like him to consider then if he would like to shut it down. If he wants a train wreck, it is called no budget, no pay. It says if Members of Congress are witnesses and part of a train wreck, then as the train crew, they are not going to get a paycheck.

□ 2015

That's right. We close down the Federal Government. We close down the paychecks for Members of Congress starting with the Speaker of the U.S. House of Representatives. If we think we can be that irresponsible, to jeopardize critical programs like Medicare and Medicaid in the Federal Government, we do not deserve a paycheck. That is my bill.

I hope Members on the floor tonight, Mr. Speaker, who are joining in this special order will try to address the central theme here, the central question: If the so-called proposal to save Medicare is so good, so right, and so timely, why are the Republicans hiding it? Why will they not bring it out in the public for us to have a hearing? Why can we have no more than 2 hours of debate on the floor?

I will tell my colleagues why. Because these crazy ideas cannot stand the glare of sunlight. They cannot make it in the court of public opinion. And the bottom line is, Americans know, as sure as I am standing here, we are cutting Medicare for a tax cut for the wealthiest people in this country. It is Republican trickle-down economics. It is good news for doctors in big business, but not good news for grandparents.

I thank the gentlewoman for taking the special order.

Ms. DELAURO. Mr. Speaker, I want to thank the gentleman from Illinois, and it is the question of——

Mr. GREENWOOD. Mr. Speaker, would the gentlewoman yield 1 minute?

Ms. DELAURO. What is before the light of day and what are we going to show to the public so that they can have an opportunity to be heard.

I understand that my colleagues want me to yield. I do have folks that want to have an opportunity, and they have been here for a long time to get to speak, so I want to accommodate them and then I will be happy to entertain your comments.

Mr. GREENWOOD. If the gentlewoman would just yield for 15 seconds.

Ms. DELAURO. Mr. Speaker, I yield to the gentleman for 15 seconds.

Mr. GREENWOOD. My recommendation, and I have done this before, is instead of having the taxpayers pay for an hour of one side of the issues is to engage in debate, to have an actual discussion.

The facts presented about the arrest yesterday, if one iota of what has been said tonight was true, we would be joined together. The fact of the matter is, it is completely untrue. If we would share time over the next hour and a half, Americans could learn the truth. If my colleagues do not want to share time, it is sort of like saying they do not want the truth to be known.

Ms. DELAURO. Mr. Speaker, I appreciate my colleague's comments, and I have the highest regards for my colleague, except that those of us on this side of the aisle have been calling for hearings, for debate. We actually had an amendment on this floor of the House where we said let us go for 4 weeks of hearings.

We have had 6 days of hearings on a highway bill, 28 days on Whitewater, 10 days on Ruby Ridge, 10 days on Waco, and yet we were only allowed 1 day of hearings in this body on Medicare, and I might add, on Medicaid, zero hearings. So that I am pleased that my colleague has come down, but the long

and the short of it is, it is truly disingenuous to come down and ask for time when this is our time to talk about this issue and we have asked over and over and over again.

I would like to really ask, the gentlewoman from Texas [Ms. JACKSON-LEE], who wants to get involved in this discussion, to make her voice heard on this issue.

Ms. JACKSON-LEE. Mr. Speaker, I thank the gentlewoman from Connecticut for her leadership, and I comment as well on the colleague on the other side of the aisle, with great respect for wanting to air fully a matter that really Democrats have been calling for a full airing for months and months and months.

Be it briefly, I am just going to comment and draw the attention of the American public to what I think visually they saw yesterday. I am a little surprised and taken aback that we can explain everything further than what the cameras visually showed, and that was that an elderly citizen—and I think that we have missed the alphabet. Children, c-h-i-l-d-r-e-n, taken care of by Medicaid. And then our senior citizens, s-e-n-i-o-r-s, seniors who have given to this country. We have missed our learning in school. We have them in handcuffs.

Mr. Speaker, I do not know what more we can explain than that this senior citizen, who was handcuffed in the hearing room, was simply trying to express her opposition to the fact that she would be paying higher premiums; that she would not be able to choose a physician that she had developed a confidence in.

Yesterday and the day before was a slam dunk, not for cancer prevention, but I guess for the proliferation of cancer. When we deny women the opportunity for a mammogram right in the Halls of Congress, where we were trying to attempt to reform health care and provide incentives for Medicare and Medicaid recipients, we slam dunked cancer screening, slam dunked preventive activities by refusing amendments Democrats had offered.

Likewise, while this woman was handcuffed, rather than respond to an amendment by the Democrats that offered opportunities for better rural and urban health care, giving incentives to primary care physicians who went into areas that were little utilized, or provided little service in terms of medical care, that too was slam dunked; that too was refused by the Republicans.

So, Mr. Speaker, we have a situation here where my colleague on the other side of the aisle is claiming that there is an explanation to a lady in handcuffs. I do not understand that, because it clearly shows someone who was trying to express their views on Medicare, the opposition, to the hidden and covert Republican plan, taken away by Gestapo-like tactics.

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I am not reflecting on the great policemen we have on Capitol Hill. They were following instructions. But they were taken away when they were simply trying to say give us an understanding, have a hearing and let us have input. Let us not cut $270 billion from Medicare on the basis of giving tax cuts to those making over $100,000.

Mr. Speaker, to the gentlewoman from Connecticut I simply wanted to say to her that this is appalling. This is one that should incense all America. This is not a question of whether we should have a reasonable debate. We had hearings out on the grassy area in front of the Capitol because the doors were closed to Democrats to be able to hear from constituents about these issues.

I think now the point is the Republicans have presented their case under cover of cause. We are here now tonight shedding light and asking the American people to stand up along with us to bring back reality and reason to Medicare reform and health care reform and realize that our children and our seniors, the alphabets, count in America today. And I yield back my time to the gentlewoman from Connecticut.

Ms. DELAURO. Mr. Speaker, I want to thank my colleague from Texas, SHEILA JACKSON-LEE, for her eloquent statement and remarks. She has been very, very active in this area over the last several months.

To shed some further light on what is going on with seniors and the intimidation, I would like to yield time to my colleague, DAVID SKAGGS, from Colorado.

Mr. SKAGGS. Mr. Speaker, I thank the gentlewoman from Connecticut for the chance to participate this evening.

I do not know what may have happened in the hearing room yesterday, it is an unfortunate scene, obviously, but it is, I think, not coincidental that the day before we are to take up floor consideration of this legislation next week, there will be a hearing in a subcommittee of the Committee on Government Reform and Oversight at which the National Council on Senior Citizens has been called to testify.

They have become essentially the favorite whipping group of many who are masquerading a new piece of anti-first-amendment legislation, a gag rule for nonprofits and many other people in this country. The National Council for Senior Citizens have really been the whipping group for their effort to silence people who want to participate in the political life of this country.

Interestingly, the National Council has received a questionnaire, as did previous witnesses called before this subcommittee on the so-called Istook-MicIntosh-Ehrlich proposal, a questionnaire that calls them to account for all of their political activities over the last 5 years, State, Federal, and local, and all of the political activities of any organizations that may be affiliated with them.

Now, Mr. Speaker, just stop and think what that sounds like. At least it brings back memories for me of the early 1950's in this country in which free American citizens were hauled before committees of Congress with the full power and authority, and the chilling effect that that can have if that authority is improperly used, and taken to task for the exercise of their rights, using their time and their resources, their rights under the first amendment to the Constitution of the United States.

Now, we have had a lot of things going on in this place that many of us disagree with this year, but if we start tampering with the lifeblood of this democracy, which is the free flow of information, the full participation in the political life of this country of every American and every group of Americans that has a claim to make, an argument to make, a case to make before their elected representatives in the Congress of the United States, we are in real trouble.

That is the corrective device for this democracy, is the free flow of ideas and information and, yes, indeed, criticism. It can be awkward at times, it can be unpleasant and offensive at times, ideas that we disagree with often are, but when we start to impede that fundamental tenet of free political expression in this country, and that is what is at issue here through the McIntosh-Istook proposal and its application to groups like the National Council of Senior Citizens, we are in trouble. Beware. Stand up for your rights.

Ms. DELAURO. Mr. Speaker, I want to say thank you to my colleague from Colorado, because in this Chamber he has an outstanding reputation for someone who is vigilant about the Constitution and the rights of the people in this Nation. We are all, and everyone should be very, very grateful to him for being that kind of a watchdog.

We cannot really see these constitutional rights erode, because vigorous informed debate and differences in ideas is what makes this Nation great. I share your concern, because for people who are living this every day, the way we have, we are seeing that if the majority does not agree with a point of view, they do not agree with a piece of legislation, it is either not discussed or it is given short shrift, or it is given 1 or 2 hours of debate, or it is taken up in the middle of the night so that there cannot be that free and informed debate on issues that are vital to this Nation's survival.

This in particular, the National Council of Senior Citizens, has been the most vocal group, in fact, about what will happen if we have $270 billion in cuts for Medicare, and $182 billion cuts in Medicaid.

Mr. SKAGGS. Mr. Speaker, if the gentlewoman will yield, it is especially ironic, I think, that a citizens group wanting to present their views, to lobby, if you will, are subjected to this kind of regime and the effort to silence them is being characterized, or caricatured, as lobbying reform. Meanwhile, the real lobbying reform that needs to go on in this place is shunted off as something we simply do not have time for, even though we have already passed it last year twice.

It really gives us reason to stop and think where are the values here? Who is being heard? Whose lobbying is being preferred, I would ask the gentlewoman?

Ms. DELAURO. Mr. Speaker, that is true. We voted that twice last year, and Democrats have brought the issue of lobby reform and gift ban to this House probably five times in the last several months. Each time we are told that there is no time to do it, we cannot take it up. In the one instance where it did come up, it was voted down. It is now going to be postponed until some other time, and when a lobbying group, just in a week, in the face of seniors who were arrested, came in and within 2 days time, within 2 days time, changed their tune and were rewarded for doing that.

Again, Mr. Speaker, I thank my colleague for his vigilance.

Ms. FURSE. Mr. Speaker, if the gentlewoman will yield, not only was I in that committee room, I am a member of this committee and we, the Democrats on that committee, have asked over and over and over again for hearings on the Medicare bill because we are very concerned that there is stuff in there that nobody understands.

We wanted a hearing with the trustees. We hear the Republicans talk about the trustees' report. We asked for a hearing with them. We asked for a hearing with seniors. We thought that maybe we could have the AMA there. We could have everybody there to talk about this bill. But we were refused a hearing.

□ 2030

Now, yesterday before the markup, the markup on a 400-page bill, of which there have been no hearings on that particular bill, a group of senior citizens came into the hearing room, into the markup room. They had respectfully asked, no, I would say they begged for answers.

They said, What is this bill going to do to our health care? They begged. They said, Just tell us, give us some time, talk to us about what is in the bill. And they were a group, some very, very senior.

I would like you to look at this picture here of this lady. In this picture, that police person is not putting a bracelet on that lady's arms. He is putting handcuffs, handcuffs. Her name is Roberta Saxton. She is age 67.

Now, I am a senior. I understand how frightening that must have been.

Well, what happened in that committee room was quite extraordinary and quite horrifying. All the Republicans left the room. The lights were turned off in that room. It was pitch black, except for the lights of some camera people.

We called for the lights to go on again. This was the people's House. This is the place where things are supposed to be out in the open, out in the sunlight. The lights did go on finally. The Republicans returned to the committee and called for arresting of these seniors, seniors like Roberta. There were two people in wheelchairs. There were some who were 90 years old. These were people asking about their health care.

We then had an extraordinary event. The press were asked to—no, they were told by the police to leave the room.

The press are the eyes and the ears of the American public. They were asked to leave the hearing room. And then the police were told by the chairman, I presume, to begin arresting, arresting these seniors. I and four other Members, Democratic Members, went with the seniors, as they were pushed out in wheelchairs with canes, they were there to ask, tell us what is in the bill. And what did they get? They got arrested.

We went with them, some of the Members, just to see that they were all right. These were old people. These were frightened people. These were people, American people.

Well, we know what is in the bill. There are $272 billion of cuts, $272 billions of cuts. What do those cuts mean? Well, obviously, they are not going to mean huge cuts for the doctors because the doctors got a hearing. They got a hearing. The seniors did not.

Now, is it not interesting, why we did not have a hearing? We were told there was no time for a hearing. And yet today in that same committee we had a hearing, oh, there was a hearing, oh, yes, there was time, on the cellular industry. Well, that is fine. That is very interesting. But the cellular industry does not affect every senior in this country, and Medicare does, except it vitally affects seniors like this lady in the photograph, this lady here. You see the photograph. She came to talk to her representatives. She was arrested.

But the special interests were not arrested. The lobbyists were in the room all through the markup. The AMA got a meeting. Why did not the seniors get a meeting? Why did not the Democratic Members get a meeting? We asked for a hearing. Why was the press removed from that room? Why was the public thrown out? Why were seniors in wheelchairs removed?

Well, as I say, I went with them and other Members went with them, because you know what they were there to do. They were there to do their duty. It is the duty of the American people to come to their elected officials and say, Tell us, tell us what is in here.

Well, I guess in our committee we have found that we have lots of time, lots of time for the special interests. But we have no time for the special people, the seniors of America whose Medicare is being cut every minute we sit here and pass this bill with no hearings.

I thank the gentlewoman for allowing me to tell what happened when I was there, what happened to senior Americans who came to the people's House to ask that their questions be answered and instead they got arrested.

Ms. DELAURO. Mr. Speaker, I thank my colleague from Oregon for the eyewitness account and really for her concern and her compassion in accompanying Theresa McKenna and others who were taken away. It is a gesture of the kind of concern and the kind of individual the gentlewoman is and the kind of representative the gentlewoman is, of the interests of the people that she represents and all people who come here who ought to be treated in a very, very special way. Because without the people who are out there in each of our districts, we do not serve in this people's House. We only serve at their pleasure, and we need to keep that very, very much in mind when we are supposed to be doing the people's business in this House every single day.

Mr. Speaker, I would now like to yield to my colleague, the gentlewoman from North Carolina [Mrs. CLAYTON], to join in this discussion. I thank the gentlewoman for her continued interest.

Mrs. CLAYTON. Mr. Speaker, I thank the gentlewoman from Connecticut and thank her for arranging this opportunity so that our colleagues and the Americans can understand what we are really talking about here today. We are really talking about opportunity for all Americans to have access, to have access to express their views. I think yesterday we understood how democracy worked well for some and not well at all for others.

If you have a lot of money and you are very wealthy and influential, you get a hearing, but also you get a great deal, too. But if you are an ordinary citizen and you have faith in your government and come to express redress, they simply wanted to find out what was going on. They wanted to say to the committee how health care is so important. They wanted to know how that plan would enable them to provide for their health care, because many of them, as you know, are people who receive less than $25,000 a year, average $13,000, because they have to make choices, choices whether they will be able to have food or prescriptions. They simply wanted to have an opportunity to redress.

This is a slippery slope we are going on. It is a dangerous prescription for democracy, if indeed we are going to reward those who are willing to support certain legislation with great deals; and, yet, those who want to express their opposition, we reward them by having them arrested. This is a democracy. We should be outraged at that.

We should really be outraged at that, that the average American, in particular senior citizens, people who are going to be impacted more than anyone else simply wanted to have an opportunity to see their government working, this is democracy at its best and at its worst. It works well if you have money. It does not work so well if you do not have money.

Let me just say one final concluding statement. They would have said, if we had listened to them, that they are not statistics, they are people, they are grandmothers, they are aunts, they are grandfathers, they are people we know. They are people who are struggling. They are families in this country who really want a chance to have just an ordinary life. That is not too much to ask of people. And it is not too much to ask of us as legislators to be responsive to those individuals. In fact, in North Carolina there are 999,000 Medicare patients, 985,000 Medicaid recipients.

If you combine that, North Carolina will lose $15.5 billion over a 7-year period. That is a lot of money to pull out of the infrastructure. That is going to affect a lot of Americans. We have not had hearings on that. We are about to vote on something next week that is going to be very, very dangerous.

I want to thank, again, the gentlewomn from Connecticut who has provided outstanding leadership in bringing the clarity of the issues and the impact.

Mr. Speaker, I will include for the RECORD the remainder of my remarks.

Mr. Speaker, yesterday this Congress punished senior citizens who challenged cuts in Medicare and rewarded physicians who cut a deal on Medicare.

Something is wrong with those priorities.

When those who voice their opposition are silenced and only those who surrender support are promoted, we have a dangerous prescription.

The proposed cuts in Medicare is a glaring example of the politics of division and dual standard.

Mr. Speaker, the seniors who visited the Commerce Committee wanted an opportunity to speak about the plan that we will vote on next week, because many of them will not be able to afford health care, will get less quality care and will lose the security of a system that has served millions of Americans well for 30 years.

That is because the majority wants to cut the funds for Medicare by $270 billion.

These cuts go too far, and would not be necessary, if the majority would simply put off their plan to give a free tax ride of $245 billion to the wealthiest Americans.

The cut that is being proposed is roughly three times higher than any previous cut.

This cut will reduce the overall size of the Medicare program by 25 percent—raising the cost of premiums and copayments to each of North Carolina's 999,000 Medicare beneficiaries by more than $2,000, over the next 7 years.

And, when the Medicare cuts are combined with the cuts in the Medicaid Program, Federal health care dollars coming into North Carolina will be reduced by more than $15 billion.

The Medicaid cuts affect North Carolinians of all ages—the elderly, children, the disabled, the poor. There are some 985,000 Medicaid recipients in our State. We would be forced to eliminate coverage for almost half of those Medicaid recipients.

If we had taken the time to listen to the seniors who visited Congress on Wednesday, they would remind us that these are not just numbers. These are people.

These are grandmothers and grandfathers. These are families, struggling to survive in an ailing economy. These are not just faces in the crowd. These are neighbors—people we know.

The Medicare cuts will be especially painful, since more than 8 out of 10 of all Medicare benefits go to senior citizens with incomes of $25,000 or less!

Those who are pushing these plans fought the creation of Medicare in 1965, and now, in 1995, are seeking to do what they failed to do in 1965—cut the comfort of retirement from our senior citizens.

It is estimated that these plans will cost North Carolinians a loss of over $3,000 for each Medicare recipient in North Carolina between now and the year 2002, and a loss of some $900 for each recipient each year thereafter. And while Medicare support is declining, the population in North Carolina is growing.

This year, we have 6.6 million people. Soon, we will have 7.2 million. Thus, more people will be forced to depend on less money for adequate health care.

Medicare beneficiaries will be forced to pay more and get less and they will have far less choice in their health care providers. These so-called savings that will come from Medicare will actually be paid out of the pockets of seniors and working families in America.

Rural North Carolina, where health care is already behind, will be especially hard hit by these cuts.

Medicare spending in the rural areas of North Carolina will be cut by $3.3 billion—a 20-percent cut in the year 2002 alone. Worse, rural North Carolina will lose some of the limited number of hospitals we have.

Because of poverty, rural hospitals lose money on Medicare, while urban hospitals make a small profit. Medicare accounts for between 50 and 80 percent of the revenue of rural hospitals.

The typical rural hospital, under the majority's plan, will lose some $5 million in Medicare funding, over 7 years. That kind of loss can not be sustained.

Rural hospitals already need 5,084 more primary care physicians to have the same doctor to population ratio as the Nation as a whole.

Yet, with the proposed, severe cuts, according to the American Medical Association, the institution that yesterday made the deal, the cuts "will unquestionably cause some physicians to leave Medicare."

We all support the concept of a balanced budget, and acknowledge that some sacrifices must be made; but we should not place the burden solely on those who can least afford it and let those who can afford it get a free tax ride! Where is the balance in that kind of budget?

During the last Congress, the very people who now seek our trust in their Medicare and Medicaid cutting plan rejected every initiative that would have strengthened the Medicare Trust Fund even further.

The fact is that they are using the trust fund solvency issue as a smoke screen.

They are using the Medicare program as a bank for the best off, so that they can fulfill their campaign promise—a tax cut for the wealthy.

If they dropped the idea of a tax cut for the wealthy, they would not need to make such deep cuts in the Medicare and Medicaid programs.

The so-called looming Medicare bankruptcy is more fiction than fact. It is a very convenient myth, but it is not reality.

The fact is that, with the proposed cuts in Medicare, senior citizens will be seriously hurt, while not one penny would be contributed to the trust fund.

This plan will mean tougher times for families and especially for senior citizens—those who have labored a lifetime under the belief that they truly had a Contract With America. They can barely afford health care now.

When the majority adds $2,400 to their health care costs by the year 2002, many will have to choose between heat and health, a warm coat or a trip to the doctor—many may have to even choose between eating and health.

Something is wrong with those priorities.

Ms. DELAURO. Mr. Speaker, I yield to the gentleman from Michigan [Mr. BONIOR], the chief deputy whip, the minority whip. There are not many words to say what kind of strength and deliberation he has brought to this discussion and of the serious cuts in Medicare.

Mr. BONIOR. Mr. Speaker, I thank my colleague, and I thank my colleague from North Carolina for her words this evening and my friend, the gentleman from Colorado [Mr. SKAGGS], for his thoughts on this important issue, the arresting of the seniors who were trying to express their views on an issue that is critical not only to them but I believe to the rest of the country as well.

I am going to demand an apology from the Speaker and the Republican leadership to these seniors. Nothing short of that is in order. It seems to me that that was one of the most disgraceful exhibitions of thwarting democracy that I have seen in my years in this institution.

I was not shocked and I was not surprised because, quite frankly, this whole experience over the last year has been a narrowing of voices in this institution. It started off at the beginning

of this Congress when the Black Caucus was disbanded, the Hispanic Caucus, the Environmental Caucus, the Women's Caucus, and then it continued when they took away our research arm, the Democratic Study Group of the Democratic Party. And then it continued further with closed rules where we could not debate fully the issues at hand. And then it continued further as we took on the most important issue perhaps of this Congress, Medicare and Medicaid both. We got a total of one hearing. There is a narrowing of voices.

Then we read today in the newspaper that the Speaker is going to close the place down because he cannot get his way. He has told the committees to close up shop. I am going to make the deals for you. They are going to come out on the floor of the House with my imprimatur on it or nobody's imprimatur on it.

I would like to talk about a couple back-room deals here this evening, particularly the one that was cut with the AMA, the American Medical Association, recently.

I want to trace that for just a second this evening because it is worth going over. After sharply criticizing the Republican Medicare plan last week for including price rollbacks that will impact on the quality of care, the American Medical Association quickly changed its tune. What caused this change of heart, it was a back-room deal with the Speaker which limits Medicare's planned fee rollback for physicians. In a closed-door meeting which occurred late at night while the committees, by the way, were busy, the Committee on Ways and Means was busy working to pass the Medicare plan, Speaker GINGRICH cut a deal that brought the support, bought the support of the AMA.

The details of this secret deal have remained closed to the public, but according to an AMA official, the deal is worth billions of dollars to doctors. Let me say that again. According to an AMA official, the deal is worth billions of dollars to doctors. In simple terms, the AMA named a price, and the Republicans met it.

Let me trace exactly what happened here over the past week. On Wednesday, the October 4, there was criticism. James Stacey of the American Medical Association is quoted in the New York Times as saying: This Republican Medicare plan causes real problems for the AMA. It would be a major blow to the traditional fee-for-service Medicare program.

Tuesday afternoon, October 10, less than a week later, more criticism. Kirk Johnson, AMA General Counsel, quoted in the New York Times: What we cannot agree to are price rollbacks that will impact on the quality of care.

The reductions were so severe, he said, that they will unquestionably cause some physicians to leave Medicare.

Tuesday afternoon, October 10, the deal is struck. Johnson and the AMA officials meet with the Republican leader in the Speaker's office. The AMA calls the press to the Speaker's office to announce their support for the Republican Medicare plan. On Thursday, October 12, the details emerge. The Wall Street Journal reports on the AMA-Gingrich secret deal. And I quote: "Kirk Johnson, the AMA's general counsel, suggested to several reporters that the improvements would be worth billions of dollars to physicians."

The New York Times quotes Johnson commenting further on the secret deal, and I quote: "It's wrong to suggest that the AMA endorsement was contingent on billions of dollars. There isn't a precise figure. We don't know the amount."

So what we have here is the Republicans and the AMA coming together and refusing to disclose the final details of the deal. What we can be sure of is that doctors got what they wanted while seniors, like the two that we were talking about this evening, were left out in the cold, were taken handcuffed by authorities out of a committee room and were not allowed to speak.

I want to talk about the Speaker's own words, because I think they are instructive here this evening.

□ 2045

On Tuesday, Speaker GINGRICH sealed his backroom deal, as I said, with the AMA, and the deal occurred while the Committee on Ways and Means and the Committee on Commerce were acting on the GOP Medicare plan. But history buffs will no doubt remember these immortal words to live by that were uttered by the Speaker when he appeared before the AMA on March 24, 1993, and I want to quote what the Speaker said. He said, "If I had one plea in mind, it would be for simple honesty. The American people deserve to be told the truth. They deserve to be told the truth by the President. If I had a second plea, it would be for openness." That is what he said. The Speaker said, "It would be for openness. The American people, when you are dealing with their lives, when your dealing with 14 percent of the gross national product, deserve to have an open opportunity to understand who is in the room." Well, Mr. Speaker, the American people did not see what was in the room when you cut the deal that was worth billions of dollars to the docs in the country. They did not see what was in the room when you made a special deal on your medical accounts and, for those who are not familiar with that, these medical savings accounts come at a price as well.

The main advocate for the medical savings account was a gentleman by the name of Mr. Rooney, who has Golden Rule Insurance, and a CBS News analysis of Golden Rule and Rooney and associates' donations to Republican causes are as follows: Gingrich campaign, $45,000; Republican Party, $1,200,000; GOPAC, $157,000. These are the contributions by Mr. Rooney and Golden Rule Insurance Co.

So the deals have been cut. The seniors have been left out in the cold, and as my colleagues have suggested, this is a shameful episode in the history of this Congress.

The thing that just drives me to the wall, quite frankly, is that we are talking about people here who make a very meager amount of money. A report issued a month ago by our Labor Department said that the seniors in this country, 60 percent, I want to repeat this, 60 percent of the seniors in the United States of America have incomes, combined incomes, retirement and Social Security incomes of $10,000 a year or less. Sixty percent of combined incomes of $10,000 a year or less, combined retirement and Social Security.

They are asking, the Republicans are asking those folks to pay an extra thousand bucks out of their pocket while the docs get billions of dollars' worth of deals that have been cut. Mr. Rooney and his insurance company are going to make millions, if not billions, of dollars on this.

Something is wrong in America, ladies and gentlemen, when we are doing that to the most vulnerable of our society, the seniors and the young people who are taking the hit on Medicaid.

Medicaid provides health care for two out of every five children in our country, and that is being cut by $182 billion.

So I thank my friend and colleague, the gentlewoman from Connecticut [Ms. DELAURO], for taking this time and for giving me the opportunity to express my concerns and outrage over what we have seen here in the Capitol in the last several days.

Ms. DELAURO. I want to thank my colleague, the gentleman from Michigan [Mr. BONIOR], for making his comments. Clearly, those children were not in the room. Seniors were not in the room. Working families were not in the room. But Mr. Rooney and the AMA are in the room, and I think you were very clear in delineating how that process has worked here over the last several days.

I might just add one point to what you have said. Our Republican colleagues have said that they are going to save the Medicare Program, and they make reference to the trustees' report of what is needed and what is necessary to save it, and the trustees, what they do not pull out from what the trustees have said is that $90 billion would be the amount of money to take us to the year 2006 and so forth. What is happening with the additional $180 billion?

Mr. BONIOR. It is going to a tax cut that will benefit primarily the most

wealthy individuals and corporations in our society.

Ms. DELAURO. Furthermore, what they will say, our colleagues will say, and probably say here this evening, is that we do not have a plan. Well, first of all, Medicare is a plan, if we can fix some portions of it, which we need to and are willing to, without destroying it, and there are a number of suggestions in which to do that.

Second, in the Committee on Ways and Means there was a Democratic alternative that was put forward. It was for $90 billion to cover what the trustees have talked about, and that was voted down, and that gives me an opportunity to have my colleague, the gentleman from Michigan [Mr. STUPAK], join this debate.

Mr. STUPAK. Two points I would like to make, really, three points.

First of all, you say, no plans. Democrats offered two plans in Committee on Commerce last night. Both were shot down on parliamentary rules only. I offered one plan, only 39 pages long, which cuts out fraud and abuse. We can save the system there. Also, the gentleman from California [Mr. WAXMAN] offered a plan. Never a comment on it. We were just ruled out of order. I defeated one of the parliamentary inquiries on my legislation. Then they brought up another one, because I used the word "hospital," hospital trust fund, which is part of Medicare, because I used "hospital," part A. We have jurisdiction over part B. They ruled me out of order and silenced my plan before we could even have a vote.

The other point I would like to make, the gentleman from Michigan [Mr. BONIOR] mentioned the MSA's, medical savings accounts. You know, even Ross Perot says this is dangerous, go slowly, do not do it too quickly. We offered a proposal to do a pilot program on MSA's. Again, that was defeated.

These figures you mentioned, I say to the gentleman from Michigan [Mr. BONIOR], about the payment due in 1996, $3.1 billion, then again a total over 7 years as we are trying to save Medicare, $15.3 billion. Understand, folks, that comes immediately out of the Medicare trust fund. There will not be a bill to the American people. It is a bill to the seniors who have paid into the Medicare trust fund.

As soon as these seniors sign up for the medical savings account, you have to transfer. Here is a trust fund they are claiming is going to go bankrupt, so let us further bankrupt it by taking out these MSA's, medical savings accounts, before anyone even knows if they work. In the private sectors they have not worked.

As I said, even Ross Perot said do not do it, go slowly, you are playing on thin ice here. You can bankrupt, a spiraling bankruptcy, into the Medicare system before it ever even gets going, instead of needing $90 billion to save the system. If the MSA's come out, we will need at least $105 billion plus. They may work, but do we have to throw all of our health care system, the seniors, health care system, to an MSA plan and try to force them into these medical savings accounts without even knowing if it is going to work? Is Medicare not a valuable program that helps our seniors? Do they want us to gamble with their health care system on a system that is not even tried, a system that will immediately start draining the Medicare trust fund? That does not make sense.

Mr. BONIOR. These medical savings accounts, they are for the healthy and the wealthy, basically. These insurance companies are not going to take care of you if you have got a preexisting condition. They cherry-pick. That is how they make their dollars. So we are going to be providing hard-earned Medicare dollars in our trust fund to people who frankly will not use it, will not need it, and the deductible is $10,000 on this thing.

You know, it is something that we ought not to be fooling around with at this time because of its very nature and who it is targeted for. It is not targeted for the average person who needs it, and it benefits a few insurance companies that basically are going to be cherry-picking.

Ms. DELAURO. That point that you made about the $10,000, that is in the very fine print. An insurance company under these medical savings accounts could charge up to $10,000 deductible, and that is truly incredible with what the seniors would have to go through. But once again, you are taking a look at a special interest that would derive real benefit from this effort at the expense of seniors who are on limited incomes.

Mr. STUPAK. You mentioned earlier, you were talking about the incident that happened on the Committee on Commerce. I sit on the Committee on Commerce. I am a former police officer. I spent 12–13 years in law enforcement. In fact, one of my posts was with Michigan State police at the State capital post. We had to go periodically to demonstrations outside the capital hearing rooms, things like that.

I would say in this picture here, you see a police officer putting what we call flexicuffs on this individual. That is a standard operating procedure.

I want to say that Capitol Police who were put in a tough, a very difficult situation, handled themselves very professionally. They were very courteous.

Not only was I at the committee, but I went down to where this photograph was taken in the basement of the Rayburn Building, as they were loading the individuals in the squad cars to take them to the booking station. I went down to the police captain, police headquarters, where these people were being booked, and observed the procedure. Having been a former police officer, needless to say, I was somewhat interested.

I also wanted to go because I had offered my seat on the Committee on Commerce to one of those seniors who was standing there, and when the commotion broke out, the gentleman from Virginia [Mr. BLILEY], the chairman, sort of adjourned the committee, and my Republican friends all left, and then they turned off the lights so everybody was sort of in the dark.

Then a few minutes later, now they abandoned the committee room, they turned off the lights, a few minutes later they come back in, and they are told they will have to sit down and be quiet or face arrest.

Most Members were standing up, so I offered my seat to the lady standing next to me, Barbara, I forget her last name. She was from Maryland. I went with her. She was quite concerned. She had never been arrested. They were fingerprinted, photographed, handcuffed, actually put in a holding room until later that afternoon they were allowed to bond out before a magistrate. You could not just get an appearance ticket like a traffic ticket, which is an acceptable thing, but because this is a bondable offense, they actually had to be held at the District of Columbia court and bond out later that afternoon.

The police officers again did an excellent job under some tough circumstances. But I do not believe in, having been a police officer and having dealt with civil disobedience in government, I do not believe the arrest was necessary, especially after we abandoned the hearing room, the markup room, if you will, turned off the lights, come back, tell them to sit down.

This lady that I assisted did sit down, and then she faced arrest when she sat down in my chair after I gave her permission.

The part that bothers me, the earlier, a week ago, last Monday, we started this so-called markup, the National Council for Senior Citizens came in with mail bags, invited in by the Republicans, dumped 100,000 mailgrams in front of all of us. This gentleman in the group was allowed to make a speech. There were not supposed to be witnesses, but he was allowed to make a speech as they were dumping the mail. Then they grabbed a handful of mailgrams. As what has happened so often in the past, they were false, fictitious, 75 of them my staff and I went through, and again, being a police officer, I was rather curious. I started to go through them. Two were from people who were deceased. Their family members wrote back and said "deceased," and gave the day they were deceased. One died in September 1994, but they counted them as supporting the Republican Medicare plan. Another five were unsigned. One was addressed

to "contributor." Apparently, this individual contributed to some campaign or something through this organization. So it was addressed to "contributor."

Three of them had written comments on the back, just destroying the Republican Medicare plan. One of them wrote on there, "I do not want to be forced into managed care." Another one said, "I want the Federal employees' health benefit like you have." Another one said, "Why do you take these pay raises? Give us what you have." They were anything but ringing endorsements of the Republican plan.

I think what is going on here is groups who speak up are subject to silence, either through not allowing the groups to have their voices heard or, when they try to be heard, maybe even face arrest. They bring forth mailgrams which people do not exist, they are unsigned, they are in complete opposition.

I am very concerned about the image that is being put forth that all of these people support it. The only ones we hear from are people who are supportive of the plan, or allegedly supportive of the plan, and the other thing that bothers me is when we did tort reform, started out being medical security reform earlier in the committee, there were actually highly paid lobbyists sitting in the top row of the dais while the hearings were going on. They approved the amendments being offered by both sides. These people came in to have their voices heard are not allowed to sit in the committee room, even in my chair. How could lobbyists be allowed to sit at the top of the dais and review the amendments and give their "yes" or "no"?

We need fairness. We need openness, much like the Speaker said. I would invite him or anyone to have that fairness and openness in all committees. Let us no longer do any legislation without hearings.

I thank you for allowing me to say a few words this evening.

Ms. DELAURO. Our time is just about concluded. I want to thank all my colleagues who came out tonight to engage in this discussion.

The long and the short of it is that this is a serious debate. It is one that all Americans ought to be able to have their voices heard. What we have found out is that only some of the voices have been heard. The voices of seniors, the voices of working families have not been heard in this process, but the voices of special interests have been heard.

We need to have a safe and secure Medicare system.

The Democrats have an alternative. They presented that alternative in committee. It was voted down, and open hearings and open debate on this issue have been curtailed to only those who support the majority position or who have a financial interest in what does finally happen.

□ 2100

THE REST OF THE STORY ON MEDICARE

The SPEAKER pro tempore (Mr. FOX of Pennsylvania). Under the Speaker's announced policy of May 12, 1995, the gentleman from Kansas [Mr. TIAHRT] is recognized for 60 minutes as the designee of the majority leader.

Mr. TIAHRT. Mr. Speaker, it is a pleasure to be here tonight. I would like to start by saying that as you would hear on some radio stations by Paul Harvey or his son, now you will hear the rest of the story.

Very soon we will have a tripod over here, so we will be able to show you some of the charts we have brought along. But, basically, I wanted to say that, in plain English terms, the Republican Party has come up with a plan, a specific plan, that will preserve and protect Medicare for our parents and our grandparents.

What is wonderful about this plan is that it will still balance the budget, which will secure a future for our children. No seniors will be forced from Medicare. Seniors will have the right to alternative choices. They will have the right to stay with their current doctor or hospital.

Over the course of the next hour, we hope to talk about some of the specifics of this plan. We also want to address some of the real needs that have been created by this plan running down the wrong path for some time.

I want to start out with a chart that shows what the President's Social Security Medicare Board of Trustees report has said. There are three members of this Board of Trustees that are from President Clinton's Cabinet, and as you can see in this chart here, it says "The fund is projected to be exhausted in 2001."

That means by the year 2002, Medicare is going to have a very serious problem. What is very good about finding this out at this point in time is that we have time to correct the problem. We do not want to let the train get down the path too far, because it could result in a train wreck. Instead, we are able to change the system, and preserve and protect Medicare for our seniors.

This chart shows part A trust fund, and it shows graphically what is going to happen to the trust fund. It starts over on the left side at approximately 1993 and goes over to 2004. Right in the center here is zero, which indicates the balance of the trust fund. Up here is $150 billion, and the bottom is negative $150 billion. As you see, as the path progresses over time, this red line indicates that we will cross the zero line or, in other words, go bankrupt, by approximately the year 2002, again, conforming what was told to us by the President's Board of Trustees.

Now, part of the plan that we have in the Republican Party, many people have said that there are going to be cuts that are going to be put in place, and that these cuts are going to fund tax breaks given by Republicans to their rich friends.

Nothing could be further from the truth, for several reasons. First of all, I want to tell people there are not cuts to Medicare. There are no cuts in the Republican plan. There is limited growth.

But if you look at this next chart, it shows that we start, today, 1995, seniors receive $4,816. Now, that is what the average recipient gets per year under the current plan. Over the next 7 years, in the Republican plan, that grows 43 percent from $4,800 to $6,734. As the title across the bottom says, where is the cut?

Now, this is going to result in a reduction in growth of about $270 billion. That number is very specific. It was chosen for a reason. It was targeted for a reason. The reason is that is what it is going to take to preserve and protect the program.

Now, there have been some other plans that were put forward by the President and by Members of the Democrat Party that were to save less an amount of money, which just prolonged the agony. It did not reform the system or preserve and protect the choices that elderly people will have, and it did not give them the opportunity for options, for alternative plans.

We will talk a little bit more about this later, but it is a very comprehensive plan. It is one that has been long in the making.

I want to give you some of the sponsors of this plan. We heard a lot about the American Medical Association. They are at the top of the list. They do support the Republican plan to preserve and protect Medicare. I have an ad, a copy of an ad that was run by the American Medical Association, and it has a quote from Lonnie Barstow, president of the American Medical Association. I just want to read four brief quotes from this.

One of the things that he says is "This is a defining moment in Medicare history. No one can act without you. Your voice will be like a petal in a pond." He is talking about people, asking them to respond and support the Republican plan. "It empowers patients so they can make their own health care choices." "It recognizes the extraordinary value of physicians in managing and delivering health care." "It removes the redtape and liability barriers that disrupts the patient-physician relationship."

Some of the problems we have had in Medicare is we have people sit right here within the beltway, in the District

of Columbia, not seeing the patients, making medical decisions. We think it is better that decisions remain with the patient and the physician. That is what the Republican plan does.

You can see, we also have some other people that endorse preserving and protecting Medicare. We have the U.S. Chamber of Commerce, the Council for Affordable Health Insurance, the National Federation of Independent Business. We have the National Restaurant Association, we have the Citizens Against Government Waste, and we have the American Small Business Association.

Many groups are concerned about their parents and their grandparents. Really any of us who are going to live longer than seven years need to be concerned about what is happening with Medicare, because it is going to be coming up very soon if we do not do something about it. So that is why we think it is very important that we get this plan in place.

I have some quotes that came out of the Washington Post. Some people do not think the Washington Post is the right newspaper to quote, but on September 15th, this was a lead editorial. It is what the Washington Post has to say about the Republican Medicare plan. These are direct quotes.

"Congressional Republicans have confounded the skeptics," the first one says, meaning we have come up with a plan when they did not think the Republicans could come up with a plan.

"It is credible." You have heard a whole hour before where there is a lack of credibility for this plan. The Washington Post thinks this plan is credible.

"Its gutsy." We are willing to go out and change the problem, preserve and protect the plan.

"It addresses a genuine problem that is only going to get worse." Well, the time to address it is now. I have several others with me here today that are going to be talking with us about the Medicare program, preserving and protecting the Medicare program, and I would like to start with the gentleman from Georgia, Mr. SAXBY CHAMBLISS.

Mr. CHAMBLISS. Mr. Speaker, why are we here doing this today? Why are we talking about Medicare? Why are we talking about reforming Medicare? The reason we are talking about reforming Medicare is because we as a Republican Conference are absolutely, totally and firmly committed to balancing the budget of this country by the year 2002.

It no longer is a question of should we do that; it is simply a question of how we are going to do it, because it is absolutely necessary. It is necessary for our children and our grandchildren, and I say that with particular pride tonight. I talked during my campaign about my daughter and son-in-law, who are trying to live the American dream. They are part of what I came to Washington for, to balance the budget. Tonight I just found out, or late this afternoon, I am going to be a grandfather for the first time. That is exciting to me, to know that I have a more vested interest than ever before in seeing the budget of this country balanced.

One way we have got to do that is to have Medicare reform. As the gentleman from Kansas [Mr. TIAHRT] showed you on this chart up here, and I want to stick this back up for just a second, this is exactly what is going to happen to Medicare. That is not a Republican diagram. That is a diagram that was put forth by the Medicare trustees, the trustees that are in part appointed by President Clinton.

We have a document signed by three Cabinet members of President Clinton's Cabinet that tells us if we do not reform Medicare, that next year, in 1996, the Federal Government will spend more money in Medicare expenses than we take into the Medicare Trust Fund, that in the year 2002, the Medicare Trust Fund will be broke and the only way we are going to be able to pay for current Medicare benefits is out of the general funds of the Treasury.

You can see what it does by the year 2004. If you want your taxes raised by $150 billion in the year 2004, then you ought to be opposed to this plan to reform Medicare. But if you want to protect and preserve Medicare and save it for the senior citizens of this country, then you need to be very aware of the changes that are being proposed and the fact we are going to protect and preserve it.

Now, we have got two choices when it comes to Medicare. Number one, we can put our head in the sand. We can let things go on like they are. We can let this happen to the citizens of this country, or we can reform Medicare. We can make the necessary changes that will protect that system, not only for the folks who currently receive Medicare benefits, but for the senior citizens and junior citizens who will be receiving those benefits down the road.

Now, I was very interested in the comments that our colleagues on the other side have been making for the last hour. They have alluded time after time to the fact that Republicans are not listening. Well, let me tell you, I am not listening in Washington, D.C. I will be honest with you. I am straightforward about that. I am not listening in Washington, DC. I am not holding hearings on the lawn of the Capitol in Washington, DC. I go home every single weekend. I was home all week last week. I was in places like Moultrie, Georgia, like Dolan, Georgia, like Sylvester, like Irwinville, like Willacoochee, like Douglas, talking to senior citizens about their concerns on Medicare and about what we are proposing to do to reform Medicare, to ensure that it is maintained.

I have been sending out questionnaires, not to folks in Maryland and Virginia, but folks in my district, in middle and south Georgia. This is just a sample of the returns that I have gotten from folks in my district that I am talking to on a daily basis, not in Washington, DC, but in places like Macon, Georgia and Tifton, Georgia. And I want to just tell you some of the comments I have heard from those folks.

I picked out just a sampling of the questionnaires. This first one is from Mr. and Mrs. R. J. Otten in Tifton, Georgia. We asked a question about do you understand the Republican plan to reform Medicare and what it does. This is what the Ottens had to say. "This plan would lower the rate of increase for the Medicare budget from 10 percent to 6 percent a year. When the liberal media says Republicans want to cut the Medicare budget, they are lying, plain and simple."

This next response is from Phil and Jo Martin in Lake Park, Georgia, down in Lowndes County. "We will have more options to choose from to provide medical care and save money doing it. It needs to be done and soon," with an explanation point.

This next one is from Dave and Judy Dresner in Macon, Georgia. "It is an honest, credible effort to save a program that is helping folks.

This next one is from Mr. A. K. Garman in Warner Robbins, Georgia. "I believe this problem has been put off for years, and each year of delay only adds to the problem. Get it under control now, or it will never come," exclamation point.

That is the people that I have been listening to. I have been listening to the people in my district who receive Medicare, who are paying funds into the Medicare Trust Fund and who expect to receive those benefits down the road. We have got to do what we are doing, and we are moving in a positive direction.

Now, as these responses indicate, the Republican plan offers several options. Let us make one thing perfectly clear. Anybody, any senior citizen who now is covered by Medicare, will have the right to receive exactly the same benefits they are receiving now under our plan. Pure and simple, if you like what you have got, you can keep it.

If you would rather have something different for those folks who will be moving into the Medicare age over the next several years, you will have an option to choose from several different plans. Those options are going to be there, and without alluding to them, I am going to let my fellow Georgian, Mr. CHARLIE NORWOOD, from the Tenth District of Georgia talk about specifics of the plan, and also I hope he will allude to these arrests that were referred

to earlier by our friends on the other side.

Mr. NORWOOD. Well, Mr. Speaker, I indeed thank my friend from Georgia, and I congratulate him on a new grandchild coming, the first I have heard of that tonight. That will be the most important thing in your life over the next few years. I know that for a fact. I know the gentleman is probably already thinking about the fact that that child arrives in this great country owing $187,000 just for his or her part of the interest on the debt. So, yes, do we need to deal with these problems? Of course we do.

I am pleased to join the gentleman. I know that this is really what would be called a discussion rather than a debate. I hate to use any of my time talking about anything but the details of this new Medicare plan, but I feel forced or I am compelled to say a little bit about myself.

□ 2115

I am new to this. I have been in this town 9 months. I have been in this body 9 months. I have never been in politics in my life. I come from what I think is one of the professions that may be one of the most respected professions in the country, and I am saddened to say that I have moved into one of the professions that is least respected in the country, but then I understand more why today than I did a year ago.

Mr. Speaker, I think probably our first vote in this great body should not be for Speaker of the House. We should take an oath here to tell the truth. Having been on the Committee on Commerce, having been on the Subcommittee for Health and the Environment, I have heard more distortion, more mistruths in the last 2 days than I have heard, I believe, in my entire lifetime.

It is unfortunate that the America people will find it so difficult to find the truth when we have one group, the liberal Democrats, who really do not want to solve the problem of Medicare. They want to make darn sure we do not solve it. That is not what we should be about. We should be working together to solve one of the great problems at the end of this century.

Mr. Speaker, I was sitting in the Committee on Commerce meeting room yesterday morning, and we were informed that there were a group of citizens in the lobby that wanted to come in and be heard, wanted to come in and disrupt our committee meeting, the people's business, and would in no way consider leaving unless they were handcuffed.

They did come into the committee, and they were very disruptive, there is no question about it. The lady came right up to the podium. I was standing right there, and she was yelling and screaming. Not interested in what she was saying, only interested in being disruptive as we tried to do the people's business.

Our chairman was very kind, Mr. Speaker, and was very gentle with this lady. He tried every way he knew how to ask them to leave, because that was not the point in time of the government to be disrupted, because we were going through this bill line by line. Finally, they would not leave and the Capitol Police were brought in and very, very, very gently escorted away.

Mr. Speaker, what is so absolutely distressful about this is there was only one point in that, and that was to be disruptive, to get on television, and show blown-up pictures like we saw in this body tonight in order to misrepresent actually what happened.

This was a senior citizens coalition. This was led by a paid lobbyist. This lobbyist is being paid by American citizens tax dollars. The liberal Democrats have funded them for years. Ninety-six percent of their income comes from tax dollars. Their purpose for being there was to be disruptive, to get on television, and allow people to bring in big pictures here tonight to mislead the public about the facts.

Mr. Speaker, in addition to that, I heard tonight, I do not know how many times, that we have had no hearings; that all we have talked about is to special interest groups. Well, this bill is being marked up by the Committee on Commerce and by the Committee on Ways and Means. We have had over 10 hearings in the Committee on Commerce, of the subcommittee. I was there. I know we had those hearings.

It is true, not many of our liberal Democrat friends bothered to come, but we had the hearings and that was their opportunity to be heard. Ways and Means has had over 30. I think 36 hearings. A lot.

And, by the way, Mr. Speaker, I will be delighted to be corrected tonight if I misspeak or have anything wrong, because I am trying to tell the American people the truth as best I know it. So if I misspeak on anything, I hope my colleagues will jump right in and correct me, because we need the truth to come out.

Mr. CHAMBLISS. Mr. Speaker, if the gentleman would yield for a second. The gentleman is talking about these number of hearings, 10 in the Committee on Commerce, 36 in the Ways and Means. Is the gentleman talking about 30 minute hearings, or hour-long hearings?

Mr. NORWOOD. No, Mr. Speaker, and I thank the gentleman for asking, many of those hearings lasted all day. What I noticed most of all was that the loyal opposition failed to come. We have had all summer to discuss this bill, and we have done that.

I know what my other colleague from Georgia has been doing. I am from Georgia, too. We have been going home and talking to our senior citizens, having time after time town hall meetings.

Mr. TIAHRT. Mr. Speaker, reclaiming my time, I would ask the gentleman, Mr. NORWOOD, who were some of the groups that came to the committee and testified in respect to the Medicare preservation plan?

Mr. NORWOOD. We have tried very hard, Mr. TIAHRT, to hear from all people involved in health care. That means the patient, that means groups represented by AARP, that means the hospital and the hospital administrators. They are involved in health care. They should be involved. They should have some input into this great bill. It certainly means the providers of health care, meaning the physicians. They are involved. This bill affects their lives tremendously.

We brought in people and experts to hear what they felt about it. In addition, we also had senior citizens, who are on Medicare, come into the hearings and speak to us.

The other side talks about special interest groups. A special interest group is when President Clinton puts 500 people in a room who will do exactly what he wants to try to determine the health care of this Nation.

Mr. Speaker, I think we have done this right. We have talked to as many people as we possibly could to have their input. The AMA? Sure. They have had input into this. Of course, they should have had input into this, just as AARP should have had input.

We have been very fair with this. We have met with many, many people, and I think that we have come up with a solution to one of the most difficult problems we have to face in the 104th Congress.

Mr. TIAHRT. Mr. Speaker, I hope my colleagues will stick around for a while. I want to involve the gentleman from Pennsylvania [Mr. GREENWOOD] in the discussion.

Mr. GREENWOOD. Mr. Speaker, I want to thank the gentleman from Kansas, and each of the gentlemen for participating in this and organizing this special order on Medicare.

I, with Mr. NORWOOD, sit on the Committee on Commerce, and together, before the hour is out, we will get into a lot of details, hopefully, about Medicare, but I really want to comment about the previous hour and about yesterday's activities, because I have been sitting in my office just boiling over what we have heard from some of the Democrats.

Mr. Speaker, for the past hour, from I guess about eight o'clock to nine o'clock, we had some very entertaining theater on the part of the Democrats. If there were not so much at stake, I guess the American people might shrug this off as bad theater. But the fact is there is a great deal at stake, and what is at stake is something no less precious than the health of our country's elderly.

Members of Congress are not elected to be entertainers. They are not elected to be actors. But it looks like when

some Members of Congress cannot accept reality, they figure out how to escape reality and create their own reality by creating their own theater. That is what happened yesterday and today in Washington.

Mr. Speaker, Mr. NORWOOD and I went to our Committee on Commerce meeting scheduled to begin at 10 o'clock. The meeting finally did come to order, and it went until way after midnight, while we took amendment after amendment after amendment on the Medicare bill from the Democrats. But when we got there, the lawyers for the committee informed us that they had been informed that a group of protestors was planning to disrupt the meeting and that they would not leave unless they were handcuffed and arrested.

They did that precisely because they wanted to create for the television cameras a visual image of senior citizens being arrested so that somehow that would reflect on the Medicaid bill.

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

Mr. GREENWOOD. I sure will.

Mr. NORWOOD. Mr. Speaker, I would ask the gentleman, the lobbyists that organized this, did the gentleman tell me earlier that this lobbyist is the public relations person for the seniors coalition?

Mr. GREENWOOD. Mr. Speaker, it is even worse than that. I will get to that in 1 minute, however, Mr. NORWOOD.

What happened was, we then consulted with the lawyers and with the Capitol Police and said, well, what do we do if when this meeting comes to order a group comes forward and just is disruptive and refuses to abide by the rules of the House? We were told there is a procedure. The procedure is the chairman should ask the parties if they would please have a seat in one of the seats where the rest of the public sits, because this was a markup where we amend the bill.

Then the next procedure, if they refuse to do that, is to recess the committee and everyone is to leave the room, including Members of Congress, and then the Capitol Police come in and clear the room.

So we said, we hope this does not happen, but if it does, we will do that. We sat down, the chairman banged the gavel, and immediately, if you remember, immediately, on cue, a woman who was formerly the full-time paid political relations director for this seniors citizens group, the senior citizens group, by the way, which last year received in excess of $70 million in Federal funds, something like 99 percent of all its funds were Federal funds, she got up with her script, went around to the front of the room, and reading her script began to scream at the chairman.

Mr. Speaker, she did not want to be heard. She did not have a message. She did not want to listen or have a dialogue or have a conversation. She just wanted to scream and scream and scream.

Mr. TIAHRT. Mr. Speaker, I have a couple of questions to ask the gentleman about that, because we heard earlier that these were seniors that came to the hearing asking to be heard in a very polite manner and were mistreated by the chairman of that committee. The gentleman is telling us that was not exactly how it happened. The gentleman was there?

Mr. GREENWOOD. Unfortunately, it was anything but that. It was political theater. It was scripted. It was planned. It is sort of the latest in political guerilla warfare. You create a media event that works for you on television.

Mr. TIAHRT. Excuse me for interrupting, but this is a group, the gentleman said, that received more than $70 million in tax dollars, which is in excess of 95 percent of their budget?

Mr. GREENWOOD. That is correct.

Mr. TIAHRT. So they are, in fact, using the tax dollars from people, in my case, the fourth district of Kansas, and they are trying to disrupt the plans to preserve and protect Medicare. So that is kind of like trying to push the system into bankruptcy. I am having a hard time understanding what motivation one would have to push Medicare into bankruptcy.

Mr. GREENWOOD. The motivation is a political agenda, of course. And that is, as we all know, after 40 years of the Democrats controlling the House. Republicans were elected in the last election, and I think we were elected, frankly, because the country finally said a $5 trillion deficit is serious. A Medicare program spending at inflation rates that are unsustainable is serious. We have to elect a team that is ready to go in and deal with that.

We are dealing with it. It is a big change for the country. The party that is out now wants to come back in, and if it takes cheap political theater to do it, they will.

Mr. Speaker, the worst of what was done was they used political props. The political props were people. They were little old ladies, many in wheelchairs, whom the young professional staff wheeled up to the front of the room for the TV cameras and turned them just right for the TV. I do not think these little old ladies knew where they were, some of them were that frail, and then the paid professionals left the room so they would not get in the camera's view.

We all left the room, the public left the room, and six times the Capitol Police said to the ladies and gentlemen, "Please, you really need to leave. You cannot interrupt a committee of Congress in session." They refused, because they wanted to be arrested, and, ultimately, they were.

Then, act two of this very bad political theater was acted out on the floor of the House tonight, where Member after Member stood up and pretended that this was somehow a spontaneous event in which just average citizens came forward and wanted to be heard and could not.

Mr. Speaker, it was political guerrilla warfare, and I hope for the sake of the country, and I hope for the sake of the Medicare program that the vast majority of Americans watching tonight and watching this play out can see through it, and see it for the desperate, cheap political theater that it is.

Mr. TIAHRT. Mr. Speaker, let me introduce the gentleman from Florida [Mr. WELDON], a physician who is joining us to enter the discussion on Medicare.

Mr. WELDON of Florida. Mr. Speaker, I thank my distinguished colleague for yielding. I did want to inquire of the gentleman from Pennsylvania, and he basically alluded to the reason at the tail-end of his comments, but I think it is something worth stressing, why would the Democrats do this? Why would they stage an event? Why would they stoop so low as to get frail, elderly senior citizens, who may not have even known where they were, and wheeled them into an event like this? Why are they doing this? And the gentleman answered that, really. They are really desperate.

This is really a desperate team, Mr. Speaker. They know they are on the losing end here. The gentleman from Georgia [Mr. NORWOOD], I think clearly made the case, and the gentleman from Georgia [Mr. CHAMBLISS], as well, that the people in our districts, the people in those hometowns, realize the system is broke. They realize something needs to be done, and they are really looking to us to make the changes, to make sure that Medicare is there for their parents, to make sure that Medicare is there for themselves. And we have a plan that makes sense and that is a rational plan.

The gentleman from Kansas [Mr. TIAHRT] was correct when he alluded to the fact that I am a physician. I made a commitment to the voters of my district when I agreed to run and serve and come here, and that is that I would serve for 8 years, and respect Florida's 8 year limit on service, and then I would go back to my hometown. And my plan is to go back to practicing medicine.

□ 2130

Fully 50 percent of my patients were senior citizens. I had a substantial Medicare practice and, indeed, I have to say, this issue of the importance of Medicare hit home for me in a very personal way about 4 weeks ago, when my father, 75-year-old combat war veteran from World War II, a retired postal worker, had a stroke. Now, fortunately, thank God, it was a small

stroke, and he is looking at making a good recovery. But I am very happy that he has a good health insurance plan in the Medicare system and that will be there for him to provide him the coverage that he needs for physicians and for hospital care to see him through this event so that he can get back to home and return to independent living, as he had before.

And this reform plan, this proposal that we have, I think is an outstanding proposal. I am very happy that both of you gentlemen from the Committee on Commerce that have worked so hard on this program are here to talk about it because it is a good plan.

It allows senior citizens the option to stay in standard Medicare. It allows senior citizens who are already in HMOs that they are happy with to stay in that HMO. It allows physicians and communities to set up provider-sponsored networks so that they can form managed care networks if they want. It also has an option in there for medical savings accounts so that seniors who want to set up a medical savings account time option will be able to do that. There is also an option in there for those people who are approaching retirement and they have much like the insurance plan that they currently have with their employer, if that insurance company offers a product for senior citizens, that they can select that option and stay with that plan and stay with those providers in that plan.

So we have a host of options in this. It has been scored by the Congressional Budget Office as realizing the savings necessary to keep the program solvent and it has been declared by the Clinton administration that the program is going to go insolvent. I think this is an excellent plan.

My hat is off to those members of Ways and Means and Commerce, such as the distinguished gentlemen from Georgia and from Pennsylvania, who have worked very hard, very diligently, I believe, on this. And I think when all is said and done and the American public sees the plan, they are going to like the plan. And they are also going to realize how desperate our opposition really was to resort to the kind of cheap tricks like they did yesterday in the Committee on Commerce.

I think it was a sorry day in the annals of Democrat political history that they had to stoop that low, and I think we have got a good plan. I think the plan is going to pass. I think we are going to have Democrats voting for our plan in the end because they know it is a good plan. I think the public is going to support it.

I very much want to compliment you, Mr. TIAHRT, for putting together this discussion to talk about this very important thing, because this is a very important issue. We need to take the time to make sure that this is properly spelled out to the public and they understand it.

Mr. CHAMBLISS. Very briefly, you make an excellent point. The point being that the folks on the other side that are opposing this plan have stooped to an all time low level.

I happened to be in the chair a little bit earlier in the evening when JIM GREENWOOD came down, after sitting in the office and, as you said, boiling for a while, you came down to the floor. You could have sat up there and just turned your TV off, but you did not do that. You wanted the American people to know the truth.

You came to the floor of the House to engage the folks on the other side of the aisle who were not telling the truth about what happened and how it happened. I would like for you to comment on what reaction you got from the folks when you offered to come down here and engage in debate tonight.

Mr. GREENWOOD. I appreciate the gentleman for commenting about that. I was sitting in my office listening to this absurd, sort of UFO show about what happened yesterday. And I said, I have got to go down to the House and straighten this out. They are telling the Americans things that are just not so.

So I took the microphone. I said, we are going to have an hour between 9 and 10. And how about if instead of Democrats doing an hour and have things their way and then the Republicans do an hour and have things our way, why do we not share time and we can have a dialogue back and forth and maybe the American people who are paying for this might actually learn something instead of getting the propaganda approach. I asked for some time and they refused. They yielded me 15 seconds, which was enough to make the request, and then they said they would not do it.

The issue is, why are they so desperate. And the fact, if you look back just a few weeks, after we had 38 hearings in the Committee on Ways and Means on Medicare, another 10 hearings in the Committee on Commerce, 48 hearings on Medicare, countless hours of hearings, we then said, now it is time. We heard from all the senior citizens groups, all the professionals, all the experts, it is time to do the hard work of drafting the bill.

While we were doing that, day after day, sometimes until 2 o'clock in the morning, crafting the bill, the same folks we just heard from were coming down here and telling you, I will tell you what the Republican bill is going to do. It is going to raise the cost of Medicare thousands of dollars for senior citizens. And then they are going to raise their co-pays. Then they are going to raise the deductibles. Then they are going to push them into managed care. Then they are going to lower the quality of care and take benefits away from them. And we would have press conference after press conference. And the Democrats would say, wait until you see this horrendous plan.

We quietly, carefully went to work putting together a plan that, as has been said, does not raise the cost of Medicare for anyone. Co-payments are the same; deductibles are the same, still pay 31 percent of the premium in part D. Taxpayers pick up the rest. Benefits package is exactly the same. If you want to stay where you are, you can stay where you are. New opportunities in managed care and Medisave accounts.

So we got the bill all put together very carefully and introduced it, and the Democratic staff took it and looked at it. And I could just see the Democrats huddling around and saying, OK, all that bad stuff is in here, right? All those horrible things we said they are going to do to seniors, tell us what to say. And the analysts must have said, well, they did not do that. They did not do those terrible things. So now what are we going to do?

The Democrats say, what are we going to do? We have to destroy their plan because if we do not destroy their plan, they will succeed and they will save Medicare and they might get reelected or something and we will not take the House back. So what do they have left? Cheap political desperate theatrics. If Americans fall for that, if Americans cannot see through that kind of ridiculous, childish, adolescent behavior, this country is in trouble. But I do not think it is.

Mr. NORWOOD. Mr. Speaker, we need to talk a little bit about the specifics. I think that, if there is anything good that has come out of the Committee on Commerce markup over the last 2 days, at least we have the Democrats admitting that part A of the trust fund is in fact going bankrupt in 7 years. That is the best we can get out of them.

They will admit that the hospital part of the fund, that paid for by payroll taxes, is doing broke in the year 2002. They say to us, however: Well, you do not need to save $270 billion because part B, which is the part paid basically for physician services, is just great. It is fine. It is doing super.

Well, patients today pay 31.5 percent of their part of the premium in part B. Guess who pays the 68.5 percent? The Treasury, the American people. That is subsidized. We are glad to do that as long as we can. We want to help people as much as the other side does. But, my colleagues, I will have to tell you, the part that comes out of the Federal Treasury, that 68.5 percent, is growing unbelievably out of control.

And think of this: That Treasury that they never considered that this country can ever run out of money, that is the Treasury that owes $5 trillion. This is the Treasury that borrows a trillion dollars every 4 years, if we do not change what they are doing.

We are going to be borrowing a trillion dollars every 3 years when we hit

the 21st century. The price of medicine is going to continue to go up as long as we do not go into this program and we rework it, as we have.

So it is not fair to say that the part B part of the trust fund does not have just as serious a problem as the part A part of the trust fund.

Now, I think if I could only have one message go out of here tonight, it would be this: We are going to offer senior citizens many choices and we want to hit all those choices. But the thing I would like for my mother-in-law to hear and remember more than anything else is that, if you like Medicare as it is today, part A, part B, Medigap, messing with HCFA, if you like all of that, you can stay with it. You do not have to do one thing to change that. Is the co-payment going up? No. Is the deductible going up? No. It is going to be exactly next year like it was last year, if you make that choice.

Now, I believe many seniors will look at the different great options that we are going to give them, and some are going to take different choices. But any senior citizen who wants to stay on Medicare precisely as it is today can do so without any increase in cost.

Let me conclude one thought about that. I think that it is wrong for us to stand here and not say to senior citizens, that 31 percent that you pay for your premium in part B, it is going up. It is going to increase.

It has doubled over the last 7 years under the present Medicare plan. It has gone from around 20 bucks up to 46 bucks a month. I will stay here right now and tell anybody who wants to know, it is probably going to go up in the neighborhood of about $90 a month by the year 2002. But that has nothing to do with our reforms. That increase in the part B premium is going to occur whether we reform Medicare or whether we leave it exactly as it is today.

So in general, and I know it is someone else's time, but in general, anybody who wants to keep Medicare as they have it today with no increased cost in part A and an increase in your premium cost in part B because of inflation, then you can stay right there.

Mr. WELDON of Florida. Mr. Speaker, I just want to clarify a couple of the points that the gentleman made. The deductible right now, that stands at $100 per year per beneficiary.

Mr. NORWOOD. Yes.

Mr. WELDON of Florida. That is going to stay the same.

Mr. NORWOOD. That is correct. It is not going to increase.

Mr. WELDON of Florida. Now, the co-pay, that is the 20 percent that Medicare does not cover. So Medicare is going to continue to cover the 80 percent, and it is not going to decrease at all; correct?

Mr. NORWOOD. Exactly as we do it today.

Mr. WELDON of Florida. Now, the premium that we are talking about for the average senior right now I think that is at $46.

Mr. NORWOOD. Per month.

Mr. WELDON of Florida. Okay. The Clinton administration was talking about letting that increase to about $75 per month over the next 5, 6 years, as I understand it, and his attempt to balance Medicare. And what will the Republican proposal be doing?

Mr. NORWOOD. Our proposal increases that $7 a month.

Mr. WELDON of Florida. Only $7 more a month.

Mr. NORWOOD. Seven dollars per month.

Mr. WELDON of Florida. That is as I understand it. I think that is an important point worth stressing here, that we are not going to be raising co-pays, and we are not going to be raising deductibles. Actually what we are planning on doing with the Medicare premium basically is the same thing that our Democrat President over in the White House is proposing doing. That is to let it increase gradually with the cost of inflation.

This is one of the reasons why I think this reform proposal is really an excellent proposal because for those seniors on a limited budget who are very dependent on making sure that they have good quality medical care because they have heart disease, they have arthritis, they have diabetes and they have to make sure they get in to see the doctor every month or every 2 months or every 3 months, they are trying to get by on the Social Security check.

We are not going to be putting increased burdens on those seniors. We are going to be making sure that the resources are available for them so that they can continue to see their physician. We are also going to be giving them that continued freedom of choice so that if they are happy with their practitioner that they will be able to continue to go see the doctor that they have been comfortable with for many years. I think that is extremely important.

I know that in my practice, when I took care of seniors, I knew that it was important to them to be able to know that, if they got sick and they were in the emergency room, that their doctor was going to be there for them and that they were going to have their Medicare to pick up the tab. They were not going to be bankrupted by an excessively large medical bill that they could not afford to pay. Our proposal, the Republican proposal that we are putting forward, preserves that for senior citizens.

□ 2145

I think it is a good plan. I think it is a well-balanced plan. I think it was a real sorry state of affairs to see how desperate our opponents were in trying to score political points to do what they have done with this cheap political shot.

I think the gentleman from Pennsylvania [Mr. GREENWOOD] really revealed something when he came down here to the floor and said, "Let us have an open debate and let us really debate the issues," and I would put forward to members of the minority party who may be watching these proceedings that I would be delighted to appear on the floor of this House with the Members gathered here today and debate those people openly and fairly. Let us have an open hour where we can really exchange issues and really talk about this plan because this is a good plan. This is a plan that I think meets the needs of our seniors. It is a well-balanced plan.

We did take input, as the gentleman from Georgia [Mr. NORWOOD] said. We did take input from the seniors' groups. I know I went back to my district and I met with AARP people three times, and I showed them our product. They were afraid of change. I have to say there was some concern in the room. But they understand that something has to be done to preserve this program, that it is going to be insolvent and that it is starting to go insolvent next year.

So they know some changes need to be made, and they believe that this is a good proposal and it is something they can live with and that will help to make sure Medicare is there for all seniors in the future.

Mr. GREENWOOD. That is the thing that has been so astonishing is the comment that somehow we have not been listening to the seniors on this. I know I have had meeting after meeting after meeting with seniors in all the senior centers. I have had big town meetings for the whole county to come. I have had a senior citizen advisory committee, and despite the fact there is this constant barrage of scare tactics coming out of Washington, we call it "Mediscare," the Democratic Party had a great leader who said, "We have nothing to fear but fear itself." Now we are seeing that they have nothing to offer but fear itself. That is a pretty sad state of affairs.

Despite all the fear-mongering that is going on, everytime I have been able to take our bill and sit down with senior citizens one at a time, five at a time, 200 at a time and walk through what we are offering, they all go, "Oh, that sounds great. You mean I can stay where I am, and you guys are not going to cut Medicare?" They keep saying, "You are going to cut Medicare." The chart shows we are not going to cut Medicare. We are going to increase the expenditures for the average citizen from over $4,800 a year where it is now over the 7 years to $6,700 a year plus for a senior citizen. That is a lot of money. That will buy a lot of health care. That is a 40-percent increase.

What we are not going to do is we are not going to continue to waste money in the program, so the inflation rate is 10 percent a year. If we can hold the inflation rate to 5 percent a year, every senior citizen in the country knows what 5 percent a year, they would like to get that on the CD's back home after all these years. Five percent is a pretty good inflation rate. That is plenty of money.

The theory the other folks keep putting out, you know, if I find a television for sale for $500 and it is in one store, I go to another store, it is $400, I guess I ought to spend $500 for the same TV; otherwise, I am getting cheated out of $100. I think seniors are better shoppers than that.

Mr. TIAHRT. I would like to explore some of the details, and I yield to the gentleman from Georgia to cover some of the details in the Medicare plan that we have to preserve and protect cover Medicare.

Mr. CHAMBLISS. You have been one of the leaders in devising this plan. I sort of know the highlights of it. I would appreciate it if you and the gentleman from Georgia [Mr. NORWOOD] who serve on the committee, would pitch in. As I understand it, what we are going to do, No. 1, we are going to offer every senior citizen the same Medicare program they have got right now. We have mentioned that a couple of times. That is an absolute.

Secondly, we are going to provide what is called a provider service network, where hospitals and physicians will be able to get together and form a group, and they will be able to offer certain services to individuals. They will be able to sell those services to any group out there.

Mr. GREENWOOD. If I may, what will happen, the Medicare program would pay a figure, let us say $5,000, for each senior citizen in that community right to the hospital and doctor network. That would be, we would basically be paying the insurance premium for that. In exchange for that, the hospitals and doctors and surgeons and specialist say, "We will meet all the health care needs of the seniors who sign up in our program." It is a great idea. It is innovative.

You know, the hospitals and doctors like it because they leave the insurance companies out of the deal and save some money that way for them. The insurance companies are not wild about it, but it makes it competitive.

Mr. NORWOOD. The networks may be just a group of physicians who are offering part B. It may be a group just of hospitals that are offering part A. Or it may be a combination of physicians and hospitals who get together and achieve the efficiencies that medicine could have done for years had it not been for the Justice Department up here. It is going to be a great move in the right direction, cut the middle man, lower the costs, and let people be involved in their health care with their doctor, not with HCFA.

Mr. CHAMBLISS. Is that going to cost senior citizens any more money than what they are paying today?

Mr. GREENWOOD. No. it is probably going to save them money. My mom and dad have chosen in our area, where we have managed care programs already, they have chosen to obtain their Medicare benefits through the managed care program. You know what happened to them, they are saving a thousand dollars each a year because they do not have to buy the Medigap policy anymore. They have got a prescription drug program now which seniors know in regular Medicare you do not get, and they have no copays and no deductibles; it is a great deal for them. They like it. They are happy there, and there is going to be an opportunity for seniors, and the other great thing is that we are setting this thing up so the seniors can get into the kind of plan, try it out, if they are happy and love it and their doctors are the best doctors in the community, great. If they decide they do not like it, in any given month——

Mr. NORWOOD. Every 30 days.

Mr. GREENWOOD. They can just walk out and go back to Medicare.

Mr. NORWOOD. Go back to what they have got right now.

Mr. CHAMBLISS. If they like it or try it and do not like it, they can go back. You alluded to HMO's, health maintenance organizations as being in effect right now in your area. Is that another option that we are going to broaden under our plan?

Mr. GREENWOOD. Yes. What we are doing, we are increasing between 5 and 10 percent the financial incentives for the managed care companies to go and aggressively market their product. So what they will be doing is going to the senior centers, advertising on television, saying, "If you come to our plan, get your Medicare through us, we will get you a prescription drug program with maybe a $2 copay. If you come to ours, we will give a membership in the gym." It will be very competitive.

Mr. NORWOOD. The marketplace comes into this. The marketplace is going to bring these costs down.

Mr. WELDON of Florida. What about the issue of fraud and abuse? I know that is a very, very important one for the seniors in my district, many of whom have complained very bitterly about seeing tremendous amounts of that going on, people being billed for hospital stay when they were not in the hospital, people going in for lab tests and being charged twice for that lab test. Do we have some provisions in our bill that will deal with that problem once and for all and get some real, or get a real handle on the fraud and abuse issue?

Mr. NORWOOD. I do not know if once and for all is correct. A crook is a crook and is going to continue to be a crook. But in general, we are tightening that up tremendously.

It was very interesting to me in the markup yesterday that we were talking about that in the Medicare program, 10 percent of that goes to waste, fraud and abuse, and the number is debatable about how much money is lost every year, but is between $18 billion and $20 billion a year, and to me it appears that the operators of HCFA are incompetent. It just set the other side on fire for us to say how dare we call them incompetent.

They have for years let waste, fraud and abuse go ahead at about a 10 percent level. And when asking the director of HCFA, "Well, when are you going to solve this problem," he said, "Well, maybe in another year to two we will come up with a plan." Well, we have come up with a pretty darn good plan now. The gentleman and I will do this together, but we have got a task force being set up that is basically funded by those who abuse the system, and the penalties go back into the system to fund this task force.

I think probably most of all, we are going to involve the patient with their bill. We do not even do that very well. A lot of times they may be charged for that second lab test, but the poor patient does not know it. They do not receive the bill. We are going to insist that HCFA and that crowd send patients a copy of their bill as they pay them.

Can you imagine? I cannot understand why in the world we would never have done that before.

Mr. CHAMBLISS. You do not mean the Federal Government is going to have to respond to the patient?

Mr. NORWOOD. I think they are going to have to tell people what they are spending money for so the patient can have some input into areas that are wrong. Maybe they are honest errors. It does not matter. It is still part of that $20 billion. We have got to root that right out of this system.

Mr. GREENWOOD. The bill raises significantly the penalties for any health care producer that is guilty of fraud. We are going to involve the patients, as the gentleman from Georgia [Mr. NORWOOD] said, because what the Medicare beneficiary gets to do is look at the bill and the Secretary of Health and Human Services is directed to set up a system whereby if the senior finds out that there has been fraud or abuse in the bill, gets to share in it and proves it, and there is a rebate, gets to share in the profits or in the differences.

But what is more important really here is you cannot depend on the Federal bureaucracy to weed out, to look at every single doctor bill for 37 million Americans. As Americans seniors

move into these managed care companies, then all of a sudden the managed care companies have a real financial incentive to find the waste, fraud and abuse. If they do not, it is out of their pocket, not Uncle Sam's pocket.

Mr. TIAHRT. One question I would like to approach the group with, I heard the charge earlier in the previous hour the savings we are going to get from the provisions we have to preserve and protect Medicare are going to go toward tax cuts for the wealthy. Have we put provisions in there to prevent the savings from Medicare to go to pay for tax cuts for the wealthy? I do not think that it is true. Could we respond to that?

Mr. NORWOOD. I would very much like to respond to that. Earlier this spring, we had a tax reform tax bill.

In my view, what that was, it was a tax rebate. The 103d Congress raised the largest amount of taxes ever raised in the history of the United States, $260 billion.

What we have said, as the 104th Congress, because the people at home said it to us, "We do not like that tax increase. We think you should cut spending to manage your affairs up there, not keeping taxing us." Our tax reform bill puts $245 billion back into the hands of families for them to keep. None of this discussion yet has anything to do with Medicare. What we are basically saying is that young families who have an income of $25,000 and they have a couple of children at home, their tax liability goes to zero.

□ 2200

We are saying to families that have an income of $30,000 a year, a couple of children at home their tax liability is cut by 50 percent. Now I am not sure when I am going to get to the rich, you stop me when I get to the rich, but I do not believe I have gotten to the rich yet.

The whole tax reform thing is giving people back their money from the tax increase from the 103d Congress. This money that we are saving, particularly from Part B, is going back into a lockbox. It is going back into the Federal Treasury. That is where the money came from to start with. We are putting it back into the Treasury.

Mr. GREENWOOD. Mr. Speaker, a very important point has to be made here. If we recall in the first 100 days of this Congress, the first three months-plus, we paid for those tax reductions. The way we did it is we reduced by $180 billion over the next seven years the discretionary spending for all of the Federal bureaucracies. That was hard. We made the tough choices, and that is how we funded the tax reduction for the families and so forth.

Then, on top of that, we reduced the cost to the Federal Government of the welfare program in our welfare reform bill. Putting people back to work and making them less dependent, we saved another $80 billion. We saved every penny which we planned to offer back to the American people in tax reductions.

Mr. WELDON of Florida. Let us suppose we did not have our tax cut for families with children. Would the Medicare plan be solvent then?

Mr. GREENWOOD. Absolutely not. The Medicare Part A, the hospitalization, the bigger piece of the pie, is already paid for by wages, a tax paid by employers and employees. Well, today we are in okay shape, because we are going to spend less money today, in October of 1995, than we are going to take in. But beginning next year, we start to spend more than that tax takes in. In seven years, we are out of money. So if we do nothing, even if we do not have the tax break, that does not solve the problem.

Mr. WELDON of Florida. You are saying if we did not give families with children, the most heavily taxed group over the past 40 years in this country, an issue that is contributing to the breakdown in the family in the United States, the heavy tax burden on those young families with kids, if we took that tax break away from them, the Medicare plan would still be insolvent and we would still have to have this bill to try to protect and preserve Medicare?

Mr. GREENWOOD. That is absolutely correct. I think most of those young families want that tax reduction and need it.

This will be the final thing I will say tonight. There are some Americans out there who say "I am not taxed enough. You ought to tax me more, Congress." My answer to them is write a check, put it in an envelope, make it out to the United States Treasury, and send it in. If you do not feel you are paying enough, send some more in. A lot of families are struggling and need help.

Mr. CHAMBLISS. The tax you are referring to, the Medicare tax that currently is in existence, goes into a trust fund. It is a fund that is set aside to solely pay for Medicare benefits and nothing else. That is why there is no relationship between tax reform and Medicare, there is simply no relationship. That is trust money.

Mr. TIAHRT. If we can wrap this up this evening, I would like to say in plain English, we finally have a specific plan that will preserve and protect Medicare for our parents and our grandparents. It is a realistic plan, it is up front, there is no fine print. It allows the right to select alternative options, the right to stay with your current doctor, your current hospital. It attacks waste, fraud and abuse. There is real accountability for physicians. It is a long-term solution, and Medicare is guaranteed to survive. This is not just politics as usual. This is a real plan that is going to work.

I want to thank those who participated tonight, the gentleman from Florida, Mr. WELDON, the two gentlemen from Georgia, Mr. NORWOOD and Mr. CHAMBLISS, and also the gentleman from Pennsylvania, Mr. GREENWOOD.

I think this has been very enlightening for the American public as we have come to a conclusion here, refuting all the arguments that you heard in the first hour. We have a good plan, and we are going forward with it. I thank the American public for the time.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. EMERSON (at the request of Mr. ARMEY) for today after 12:30 p.m., on account of medical reasons.

Mr. BILIRAKIS (at the request of Mr. ARMEY) for today after 1:30 p.m. and the balance of the week, on account of attending his son's wedding.

Mr. BALDACCI (at the request of Mr. GEPHARDT) for today before 4 p.m., on account of personal business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SKAGGS) to revise and extend their remarks and include extraneous material:)

Mr. SKAGGS, for 5 minutes, today.
Mr. WISE, for 5 minutes, today.
Ms. KAPTUR, for 5 minutes, today.
Mr. OWENS, for 5 minutes, today.
Mr. SANDERS, for 5 minutes, today.

The following Members (at the request of Mr. MCINNIS) to revise and extend their remarks and include extraneous material:

Mr. RIGGS, for 5 minutes, today.
Mr. MCINNIS, for 5 minutes, today.
Mr. WELDON of Pennsylvania, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. SKAGGS) and to include extraneous matter:)

Mr. MARKEY.
Mr. REED.
Mr. OLVER.
Mr. CLEMENT.
Mr. HAMILTON.
Mr. BONIOR.
Mr. BARCIA.
Mr. JOHNSON of South Dakota.
Mr. CONYERS.
Mr. LIPINSKI in two instances.
Mr. MFUME.
Mr. KENNEDY of Rhode Island.
Mr. NEAL.

Mr. POSHARD.
Ms. WOOLSEY.
Mr. DURBIN.
Mr. PALLONE.
Mr. LAFALCE.

(The following Members (at the request of Mr. MCINNIS) and to include extraneous matter:)

Mr. ROTH.
Mr. DUNCAN.
Mr. GILMAN in two instances.
Mr. WELDON of Pennsylvania.
Mr. HYDE.
Mr. RAMSTAD.
Mr. EHRLICH.
Mr. MCKEON.
Mr. FIELDS of Texas.
Mr. GUNDERSON.
Mr. MYERS of Indiana.

(The following Members (at the request of Mr. GREENWOOD) and to include extraneous matter:)

Miss COLLINS of Michigan.
Mr. BENTSEN.
Mr. WARD.
Mr. SAXTON.
Mr. RIGGS.
Mr. BARCIA.

ADJOURNMENT

Mr. GREENWOOD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 2 minutes p.m.), the House adjourned until Friday, October 13, 1995, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1516. A letter from the Secretary of Defense, transmitting notification that the Department of Defense is providing disaster relief assistance to St. Maarten as the result of Hurricane Luis, pursuant to 10 U.S.C. 404(c); to the Committee on National Security.

1517. A letter from the Inspector General, Department of Defense, transmitting a copy of the Army Audit Agency's report of the Superfund financial transactions for fiscal year 1994, pursuant to 31 U.S.C. 7501 note; to the Committee on Commerce.

1518. A letter from the Chairman, Federal Trade Commission, transmitting the Commission's 79th annual report covering its accomplishments during the fiscal year ended September 30, 1993, pursuant to 15 U.S.C. 46(f); to the Committee on Commerce.

1519. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Army's proposed lease of defense articles to the United Nations for Rwanda (Transmittal No. 02-96), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

1520. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the accession of Belgium to the project to establish an organization for continuous acquisition and life-cycle support [CALS] within NATO (Transmittal No. 12-95), pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

1521. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification that the Department of State intends to provide a physical security training course to Albania under the auspices of the Antiterrorism Assistance Program [ATA], pursuant to 22 U.S.C. 2349aa-3(a)(1); to the Committee on International Relations.

1522. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Army's proposed lease of defense articles to the United Nations for use in Rwanda (Transmittal No. 01-96), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

1523. A letter from the Assistant Attorney General, Department of Justice, transmitting a draft of proposed legislation to allow removal of suits against the United States and its agencies, as well as those against Federal officers, and to allow removal of suits against Federal agencies and officers that are brought in local courts of U.S. territories and possessions; to the Committee on the Judiciary.

1524. A letter from the Secretary of Transportation, transmitting the annual report for 1994 on the relative cost of shipbuilding in the various coastal districts of the United States, pursuant to 46 U.S.C. app. 1123(c); to the Committee on Transportation and Infrastructure.

1525. A letter from the Chairman, National Transportation Safety Board, transmitting a copy of the Board's response to OMB's request for information regarding agency operations in the absence of appropriations, pursuant to 49 U.S.C. app. 1903(c)(7); to the Committee on Transportation and Infrastructure.

1526. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to revise the procedures for providing claimants and their representatives with copies of Board of Veterans' Appeals decisions and to protect the right of claimants to appoint veterans service organizations as their representatives in claims before the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

1527. A letter from the Secretary of Health and Human Services, transmitting a report on the results of a demonstration to determine the benefits and costs of establishing and maintaining a uniform cost reporting system for Medicare hospitals, pursuant to Public Law 100-203, section 4007(c)(4) (101 Stat. 1330-54); jointly, to the Committees on Ways and Means and Commerce.

1528. A letter from the Secretary of Energy, transmitting a draft of proposed legislation entitled "The Energy Policy and Conservation Act Amendments Act of 1995"; jointly, to the Committees on Commerce, Resources, and Banking and Financial Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. STUMP: Committee on Veterans' Affairs. H.R. 2353. A bill to amend title 38, United States Code, to extend certain expiring authorities of the Department of Veterans Affairs relating to delivery of health and medical care, and for other purposes; with amendments (Rept. 104-275). Referred to the Committee of the Whole House on the State of the Union.

BILLS PLACED ON THE CORRECTIONS CALENDAR

Under clause 4 of rule XIII, the Speaker filed with the Clerk a notice requesting that the following bills be placed upon the Corrections Calendar:

H.R. 782. A bill to amend title 18 of the United States Code to allow members of employee associations to represent their views before the U.S. Government.

PUBLIC BILLS AND RESOLUTIONS

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

By Mr. WELDON of Pennsylvania (for himself, Mr. BLUTE, Mr. BOEHLERT, Mr. ENGLISH of Pennsylvania, Mr. FRANKS of New Jersey, Mr. GILMAN, Mr. HORN, Mr. HOUGHTON, Mr. LATOURETTE, Mr. LAZIO of New York, Mr. LOBIONDO, Mr. MARTINI, Mr. METCALF, Mr. MCHUGH, Mr. RIGGS, Mr. SHAYS, Mr. SMITH of New Jersey, Mr. WALSH, Mr. WELLER, Mr. YOUNG of Alaska, Mr. PETRI, Mr. NEY, Mr. LAHOOD, Mr. GILCHREST, Mr. QUINN, Mr. LEWIS of California, Mr. TORKILDSEN, and Mr. REGULA):

H.R. 2472. A bill to amend the act of March 3, 1931 (known as the Davis-Bacon Act), to revise the standards for coverage under the act, and for other purposes; to the Committee on Economic and Educational Opportunities.

By Mr. COYNE:

H.R. 2473. A bill to authorize funding within the Department of the Interior to implement the plan of the Steel Industry Heritage Project, and for other purposes; to the Committee on Resources.

By Mr. DURBIN (for himself, Mr. LEACH, Mr. POSHARD, Mr. LIGHTFOOT, Mr. JOHNSON of South Dakota, and Mr. ROEMER):

H.R. 2474. A bill to amend the Internal Revenue Code of 1986 to provide a 2-year extension of the tax incentives for the use of alcohol as a fuel; to the Committee on Ways and Means.

By Mr. JOHNSON of South Dakota:

H.R. 2475. A bill to amend the Federal Meat Inspection Act to require that imported meat and meat food products containing imported meat be labeled imported, and to require that certain eating establishments serving imported meat inform customers of that fact; to the Committee on Agriculture.

By Mr. STUPAK:

H.R. 2476. A bill to amend title XVIII of the Social Security Act to provide for commonsense reforms of the Medicare Program; to the Committee on Ways and Means, and in addition to the Committees on Commerce, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. VUCANOVICH:

H.R. 2477. A bill to designate the Nellis Federal hospital in Las Vegas, NV, as the "Michael O'Callaghan Military Hospital", and for other purposes; to the Committee on National Security.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. METCALF:

H.R. 2478. A bill for the relief of the Sara, Jade, and Jordan Hutchings; to the Committee on the Judiciary.

By Mr. ROSE:

H.R. 2479. A bill for the relief of James A. Strickland; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

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

H.R. 29: Mr. MARTINI.

H.R. 109: Mr. SMITH of New Jersey.

H.R. 249: Mr. ACKERMAN.

H.R. 262: Mr. TORKILDSEN.

H.R. 263: Mr. DIXON.

H.R. 310: Mr. TORKILDSEN.

H.R. 351: Mr. GOSS and Mr. SENSENBRENNER.

H.R. 359: Mr. GOSS, Ms. MCCARTHY, and Miss COLLINS of Michigan.

H.R. 460: Mr. ENGLISH of Pennsylvania.

H.R. 491: Mr. BILBRAY.

H.R. 497: Mr. GIBBONS, Mr. TAYLOR of North Carolina, Mr. PORTMAN, Mr. HORN, Mr. CASTLE, Mr. MILLER of California, Mr. BLUTE, Mrs. MORELLA, and Mr. KENNEDY of Massachusetts.

H.R. 528: Mr. HAMILTON, Mr. PAYNE of Virginia, Mr. FUNDERBURK, Mr. BARR, Mr. WHITFIELD, Mr. ENGLISH of Pennsylvania, Mr. HUTCHINSON, Mr. TRAFICANT, Mr. ROGERS, Mr. BACHUS, Mr. BAESLER, Mr. GOODLATTE, Mr. CHRYSLER, Mr. MCCRERY, Mr. HILLEARY, Mr. BUYER, Mr. SOLOMON, Mr. EWING, Mr. FOGLIETTA, Mr. NEY, Mr. LINDER, Mr. MURTHA, Mr. BARCIA of Michigan, Mr. BURR, and Mr. DUNCAN.

H.R. 580: Mr. HEINEMAN.

H.R. 598: Mr. KIM, Mr. WICKER, and Mr. HANSEN.

H.R. 739: Mrs. ROUKEMA.

H.R. 911: Mrs. JOHNSON of Connecticut and Mr. TORRES.

H.R. 941: Mr. MENENDEZ and Ms. JACKSON-LEE.

H.R. 1078: Mr. WATT of North Carolina.

H.R. 1083: Mr. YOUNG of Alaska.

H.R. 1094: Mr. MILLER of California.

H.R. 1114: Mr. SENSENBRENNER.

H.R. 1256: Mr. MANTON and Mr. NADLER.

H.R. 1279: Mr. DOOLITTLE, Mr. MOORHEAD, Mr. HANSEN, Mr. HUTCHINSON, Mr. TAYLOR of North Carolina, Mr. COMBEST, Mr. BARRETT of Nebraska, Mr. DAVIS, Mr. MCKEON, and Mr. HILLEARY.

H.R. 1488: Mrs. VUCANOVICH, Mr. GOODLATTE, Mr. LEWIS of Kentucky, Mr. KLINK, Ms. DANNER, Mr. BUNN of Oregon, Mr. MCINNIS, Mr. HUNTER, Mr. RICHARDSON, and Mrs. CUBIN.

H.R. 1499: Mr. DELAY, Mr. EHLERS, Mr. WICKER, Mr. STEARNS, Mr. SAXTON, Mr. WELDON of Pennsylvania, and Mr. HORN.

H.R. 1560: Mr. PALLONE.

H.R. 1576: Mr. FRANKS of New Jersey.

H.R. 1749: Mr. TORKILDSEN.

H.R. 1756: Mr. TORKILDSEN.

H.R. 1787: Mrs. THURMAN, MR. SHAW, Mr. OXLEY, and Mr. KLUG.

H.R. 1889: Mr. SABO and Mr. RANGEL.

H.R. 1946: Mr. LIPINSKI, Mr. STENHOLM, Mr. BALLENGER, Mr. ROSE, Mr. BURR, Mr. WOLF, Mr. PAXON, and Mr. FUNDERBURK.

H.R. 2026: Mrs. MINK of Hawaii, Mr. PETE GEREN of Texas, Mr. PETRI, Mr. HASTINGS of Washington, Mr. PALLONE, Ms. VELAZQUEZ, Mr. TATE, Mr. ARCHER, Mr. STOCKMAN, and Mr. BAKER of Louisiana.

H.R. 2092: Ms. RIVERS, Mr. TORRICELLI, Mr. LINDER, Mr. BONILLA, Mr. PACKARD, Mrs. ROUKEMA, Ms. LOFGREN, Mr. KIM, and Mr. DIXON.

H.R. 2162: Mr. STOCKMAN and Mr. BAKER of Louisiana.

H.R. 2182: Mr. BEREUTER.

H.R. 2200: Mr. HANSEN, Mr. RADANOVICH, Mr. DEAL of Georgia, Mr. LEWIS of Kentucky, and Mr. WARD.

H.R. 2205: Mr. BARTLETT of Maryland.

H.R. 2216: Mr. ROHRABACHER and Mr. ROMERO-BARCELO.

H.R. 2223: Mr. ACKERMAN, Mr. PALLONE, Mrs. MALONEY, Mr. BROWN of Ohio, Mr. ANDREWS, Mr. HOKE, Mr. MCNULTY, Mr. ROSE, Mr. MEEHAN, Mrs. LOWEY, Mr. LOBIONDO, Mr. ABERCROMBIE, and Mr. PICKETT.

H.R. 2242: Mr. MARTINI.

H.R. 2244: Mr. CHRISTENSEN, Mr. ZIMMER, Mr. POMEROY, Mr. BAKER of Louisiana, Mr. INGLIS of South Carolina, Mr. RAMSTAD, Mr. STOCKMAN, Mr. ISTOOK, Mr. SENSENBRENNER, Mr. DORNAN, Mr. DEUTSCH, Mr. BONILLA, Mrs. KELLY, and Mr. FOLEY.

H.R. 2245: Ms. DELAURO, Mr. DELLUMS, and Mr. OLVER.

H.R. 2281: Mr. DEFAZIO.

H.R. 2283: Mrs. MYRICK.

H.R. 2310: Mr. BONO and Mr. MASCARA.

H.R. 2333: Mr. COLLINS of Georgia, Mr. RAMSTAD, Mr. DEUTSCH, Mr. ZIMMER, and Mr. RICHARDSON.

H.R. 2338: Mr. FILNER.

H.R. 2341: Mr. LINDER.

H.R. 2357: Mr. ROEMER, Mr. LEACH, Mr. VENTO, Mr. MINGE, Mr. LIGHTFOOT, Mr. POSHARD, Mr. BARRETT of Nebraska, and Ms. DANNER.

H.R. 2443: Mr. ZIMMER and Mr. TORRICELLI.

H.R. 2468: Mr. LAZIO of New York and Mrs. WALDHOLTZ.

H. Con. Res. 26: Mr. BARRETT of Wisconsin.

H. Con. Res. 50: Mr. ABERCROMBIE and Mr. STUPAK.

H. Con. Res. 60: Mr. MCCOLLUM and Mr. MCDERMOTT.

H. Con. Res. 79: Mrs. MORELLA.

H. Con. Res. 91: Mr. WELDON of Pennsylvania and Mr. ROYCE.