HOUSE OF REPRESENTATIVES—*Wednesday, January 31, 1996*

The House met at 11 a.m. and was called to order by the Speaker pro tempore [Mr. RADANOVICH].

DESIGNATION OF THE SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
January 31, 1996.

I hereby designate the Honorable GEORGE P. RADANOVICH to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Reverend Joe Voss, Valley Center Assembly of God, Valley Center, KS, offered the following prayer:

Lord, we pause at the beginning of this session to humbly bow our hearts before You. We acknowledge Your lordship and Your majesty and our utter dependence upon You.

From the beginning of creation, You have moved the hearts of kings like a river. So move the hearts of this House, and the great Nation they represent. Lord, move our hearts to submit under Your hand and to seek Your wisdom from above. Give us that wisdom that You declared is first, pure, and peaceable and gentle, willing to yield, full of mercy and good faith, without partiality and without hypocrisy.

Lord, forgive us for the times we have walked outside of this wisdom. Be merciful to us as a nation and forgive us our sins, both against You and one another.

Help us to be a light to the world, to do justly, to love mercy, and to walk humbly with our God.

We ask this in the precious name of our Lord and Savior, Jesus Christ. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

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

Mr. DIAZ-BALART led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one if its clerks, announced that the Senate agrees to the amendments of the House to the amendments of the Senate to the bill (H.R. 2353) "An Act 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.".

The message also announced that the Senate has passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 40. Concurrent Resolution to commemorate the sesquicentennial of Texas statehood.

The message also announced that pursuant to Public Law 103–227, the Chair, on behalf of the Republican leader, appoints Mr. JEFFORDS as a member of the national education goals panel, vice Mr. GREGG.

The message also announced that in accordance with Public Law 81–754, as amended by Public Law 93–536 and Public Law 100–365, the Chair, on behalf of the Vice President, appoints Mr. HATFIELD to the National Historical Publications and Records Commission.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. RADANOVICH). The Chair will recognize Members for an unlimited number of 1-minute speeches.

WELCOME TO REV. JOE VOSS, VALLEY CENTER ASSEMBLY OF GOD CHURCH

(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, today the House was opened in prayer by my friend and pastor, Joe Voss. Joe is from a tough neighborhood in St. Louis. As a teenager, he was sent to a correctional school for boys, but thanks to Salvation Army officers, Major Froeberg and Clarence Harvey, who is currently a Divisional Commander here in D.C., Joe turned his life around.

He went to Forest Park Community College and graduated from the Salvation Army Seminary in Chicago in 1970. Joe married Connie 25 years ago and they have a 21-year-old son, Joey, and a daughter who is 18, named April.

But the real story is what Joe and Connie are doing today. He has just finished heading up a building program for a new sanctuary without borrowing money. Instead of mortgage payments, Joe and the members of Valley Center Assembly of God are investing in young boys and girls, many from single homes, through a scouting program called Royal Rangers and Missionettes.

They are not only working with the teenagers in their church, but also reaching out to the gangs in Wichita. They have even reached out to those trapped by prostitution, by drugs, and by alcohol through their "Christ in the Streets" program.

Joe has exchanged pulpits with black congregations in our community, allowing them to come into Valley Center Assembly of God, while he goes to other community churches. Some would say that this is innovative for a church to reach outside its walls. Joe would simply say it is changing the hearts and minds of America one soul at a time.

Welcome to the House, Pastor Voss.

CONGRESS SHOULD STAY IN SESSION AND WORK

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

Mr. EDWARDS. Mr. Speaker, a moment ago we put our right hands over our hearts and pledged allegiance to our flag and the Nation for which it stands. I would like to challenge every Member of this House today to take another pledge, a pledge that we will not go home in February for a month, a pledge we will not take a paid vacation as Members of Congress, while this Nation is on the brink of defaulting on its good faith and credit for the first time in two centuries.

Mr. Speaker, I think every Member of Congress tomorrow who would vote to recess, when we are on this brink, are playing Russian roulette with the American economy and average working people's lives whose mortgage rates will go up and veterans who will not receive their paychecks and the widows of veterans who will not receive their pensions.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Anybody who votes to go on recess tomorrow should volunteer not only to give up his or her paycheck for the month of February. They should volunteer to explain to 44 million senior citizens why on March 1 they may not get their Social Security checks and Medicare recipients will not get their checks. We should stay here and work.

PROTECT CALIFORNIA'S FRUIT AND VEGETABLE INDUSTRY

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

Mr. CALVERT. Mr. Speaker, the rumor going around the California agricultural community is that USDA Secretary Dan Glickman is out to ruin California's multibillion-dollar-a-year fruit and vegetable industry.

Why would Secretary Glickman want to destroy California's Agricultural industry? Only he knows.

Bill Clinton will get the blame—conventional wisdom says this is a no brainer—costing Clinton the November election.

An independent study by University of California, Riverside, Boston University, Cornell University, and Oregon State University states that USDA has not used good science.

Allowing pest-ridden Mexican avocados into the United States is a recipe for disaster. They will bring in fruit flies, stem borers, and seed weevils. The invasion of these pests will destroy California's crops for generations to come.

Secretary Glickman, use common sense. Don't allow pest-ridden Mexican avocados into our country. It is bad policy, based on bad science.

LOAN GUARANTEES

(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, let us see if this makes any sense. Uncle Sam borrows money from Japan and Germany and then gives that borrowed money to Russia. Russia then sells nuclear technology, fighter jets, tanks, and submarines to Iran and China. Military experts say that Iran threatens the gulf and that China, as we speak, threatens to nuke Taiwan.

If that is not enough to float your boat, the White House wants to guarantee part of a $9 billion loan, another one to Russia, $9 billion.

Mr. Speaker, did anyone ever stop to think that America with these policies just may be aiding and abetting our enemies?

Beam me up, Mr. Speaker.

If we can guarantee any loans for anybody, it should be for the people in the United States of America.

CASTRO'S THREATS AGAINST DISSIDENTS' YOUNG CHILDREN

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

Mr. DIAZ-BALART. Mr. Speaker, since the time of the visits of two of our colleagues to Cuba a few weeks ago, dissidents and independent journalists there are facing increased repression. Dissident leaders Miriam Garcia, Mercedes Parada Antunes, Leonel Morejon Almagro, Pedro Brito Hernandez, and many others, have reported being the victims of increasing repression. But perhaps the most spine-chilling example of Castro's new wave of brutality is the way in which Vicky Ruiz, a member of the dissident umbrella group Concilio Cubano, is being threatened.

State security has not only repeatedly threatened Vicky Ruiz's physical safety, but Castro agents have also told her that, if she does not stop her human rights advocacy, her young children, a 9-year-old girl and a 6-year-old boy, will be physically assaulted, as will be her 13-year-old nephew, who also lives with her in the same house.

I, Mr. Speaker, have personally heard her plea for help sent by telephone. All human rights groups, international organizations, our Government, and all governments have a duty to immediately condemn these acts of cowardly brutality with all vehemence, and to intercede on behalf of Vicky Ruiz and her young family.

STOP JEOPARDIZING AMERICA'S CREDIT

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

Mr. DOGGETT. Mr. Speaker, as so many Texans gathered yesterday in Austin to honor Senator Ralph Yarborough, I was reminded of his urging that we ought to put the jam on the lower shelf so the little people can reach it. How appropriate those words are this morning.

Speaker GINGRICH wants to put all the jam up there on the top shelf so that those who are sitting comfortably on the top ladder can reach up there and get the tax breaks and the crown jewels. Those that are down there on the bottom rung, working families, they reach into the cupboard and they find it bare. All they get is a notice for raised taxes under this Republican economic plan.

Mr. Speaker, meanwhile the Speaker is talking about getting this country into a jam of a far different type: Defaulting on the full faith and credit of the United States of America, the kind of idea we would have only heard on the crackpot circuit a year ago. Well, it is time to stop jeopardizing with these political shenanigans the future of working families across America.

PRESIDENT CLINTON AND BIG GOVERNMENT

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

Mr. BALLENGER. Mr. Speaker, last week President Clinton said this was the end of the era of big government. And this week, the President says that he established a record of remarkable consistency.

Mr. Speaker, let's review the facts. President Clinton is responsible for the largest tax increase in American history. He tried to take over one-seventh of the U.S. economy by socializing the Nation's health care system. Last year, the President submitted four budget plans, none of which balanced, all of which had $200 billion deficits as far as the eye could see. And only until very recently has the President submitted a balanced budget, but even that puts off the tough choices for future politicians and spends $326 billion more on failed Washington programs.

If this is the end of big government, I must be in political fantasyland.

Mr. Speaker, let's cut through the double-speak see that, in reality, Bill Clinton has become big government's little buddy.

Mr. Speaker, I submit the following for the RECORD:

[From the Washington Post, Jan. 31, 1996]

CLINTON SAYS RECORD SHOWS "REMARKABLE CONSISTENCY"

(By Ann Devroy and John F. Harris)

President Clinton said yesterday his declaration last week that the era of big government is over was not a departure from the philosophy he brought to the White House three years ago and said he will show voters this year that he has compiled a record of "remarkable consistency."

Clinton's comments came in an Oval Office interview a week after a State of the Union address in which he embraced many of the limited-government themes sounded by congressional Republicans. Despite his advocacy of a federal overhaul of health care earlier in his administration and recurrent charges by his critics that he has moved across the political spectrum with the polls, Clinton said his basic approach to the presidency has not changed.

"I believe I've given the American people a coherent view of the world," he said, adding: "Just because I'm not for big government doesn't mean I think we should have a weak government or that there's nothing for government to do."

Clinton said that while he hopes other Democrats share this vision, he will not make recapturing Congress for the Democrats a primary goal of his 1996 campaign. Such an appeal based solely on party, he said, would be "self-defeating."

On welfare reform, Clinton said he has not given up hope that a compromise bill acceptable to him will be approved this year. But he set a new price for his signature on a welfare system overhaul, asserting that the Senate proposal he indicated he would support last fall will have to be changed for him to support it now. He called on Republicans to send him a revised bill that would contain fewer cuts in funding for food stamps, provide child care for welfare recipients who

work and preserve current protections for disabled children.

One of Clinton's major campaign pledges in 1992 was to replace welfare "as we know it," but he must reconcile that with his veto of a Republican welfare plan earlier this year because it was too hard on children. Since the veto, Republicans have been debating among themselves how to revive the issue. One alternative they have discussed is to agree to unite behind the Senate version, which was adamantly opposed by House Republicans.

That way, some Republicans argue, Clinton would have to sign the bill—as he earlier indicated he would do—hereby angering liberals in his party, who think the Senate bill amounts to an abandonment of the party's traditional commitment to the needy.

Clinton's comments yesterday appear to add a new hurdle to getting any version of welfare overhaul through Congress this year. Some argue it is an academic discussion anyway, because Republicans have deep disagreements over whether to try for a deal, how to proceed and whether a more limited measure like the Senate version could make it through the House.

In the interview and later talking to reporters, Clinton said any new version sent him should "at least reflect" understandings on improvements reached between him and congressional Republicans during their marathon balanced-budget talks at the end of 1995.

"We reached an understanding," Clinton said, that "we should do more" on child care funding, food stamp proposals, funding that covers Social Security disability payments to children and provisions affecting the children of legal immigrants.

Republicans disputed Clinton's description of the talks and his call for using them as a basis for new legislation. Tony Blankley, spokesman for House Speaker Newt Gingrich (R-Ga.), said the welfare discussions were in the context of Republicans taking less than real reform in order to get more of a real balanced budget. Without the balanced budget, he said, the equation doesn't hold up.

"It's not going to happen," he said of legislation rewritten to reflect the president's newest specifications. Adding new requirements now to the one version he did embrace "offers a flavor of the kind of two-step he did in the Oval Office last month," moving the goal posts as the game proceeded, Blankley said.

Administration officials are vague on what precisely Clinton and the Republicans reached understandings about. But one senior official said Republicans agreed to add back about $4 billion of the $26 billion in cuts they proposed for food stamps, and were no longer seeking to make the program a block grant. On child care, they did not object to adding $2 billion in spending and to allowing women who work 20 hours a week to meet the work requirement to keep benefits.

On Social Security disability payments, the Republicans, officials said, did not object to loosening requirements to allow more traditionally disabled recipients to retain their benefits, while removing alcoholics and others. The two sides also "threw out a number of ideas" on how to loosen the GOP requirement that legal immigrants not be eligible for most welfare benefits, an official said.

Clinton was relaxed and voluble for most of the interview, becoming more intense only when defending himself when asked if he has been inconsistent in his approach to government. He was joined in the Oval Office by a handful of senior aides, including senior adviser George Stephanopoulos, press secretary Michael McCurry and communications director Don Baer, none of whom joined the discussion.

Regarding the 1996 campaign, Clinton said he has gotten a good reception to the conciliatory tone of his State of the Union speech and said seeking common ground with Republicans would be part of his election-year message.

But asked if he would ask voters to give him a Democratic Congress to help accomplish second-term goals, Clinton said, "The American people don't think it's the president's business to tell them what ought to happen in the congressional elections."

Presidents have been only modestly successful in recent elections in getting voters to link their presidential votes to congressional votes by party. George Bush, when he was elected in 1988, saw his party lose seats in Congress, as did Clinton in his 1992 election. But the reelections of Richard M. Nixon and Ronald Reagan, in 1972 and 1984, saw their Republican Party make double-digit gains in congressional seats.

"The evidence that the president's been successful making that kind of argument to the American people is not very heavy," Clinton said.

He added, "I think it ought to be obvious to people that Speaker Gingrich would like to have a Republican president and it's obvious to people that I would like to have more Democrats in the Congress, but I think what the American people want to know is: What are these people saying, how's it going to affect me, and then I'll make a decision about how I'm going to vote." The president said he would "make my case" about what he wants to do in a second term. "I hope it will embrace a lot of the people that are running for Congress in my party. But to tie the two things together I think would probably be self-defeating."

Asked about his changes in governing philosophy since he took office and to reconcile his first speech to Congress in 1993 with his State of the Union address last week, the president flushed and rejected the premise that the different themes showed a different philosophy.

In 1993, he began his speech by saying, "Tonight I want to talk to you about what government can do because I believe government must do more," and went on to outline a "package of jobs investments of over $30 billion to put people to work now, to create half a million jobs: jobs to rebuild our highways and airports, to renovate housing, to bring new life to rural communities." Last week, he twice proclaimed, "The era of big government is over."

Clinton said the two speeches are inconsistent "only if you have that kind of selective quotes."

"I've worked very hard to work out a coherent philosophy that is different from either just letting the market run the world and America, or pretending that the government can solve all the problems," he said. "I have worked on it very hard for years and years and I believe that there's a remarkable consistency in what we have done."

CONGRESS SHOULD BALANCE THE BUDGET IN THE RIGHT WAY

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

Mr. OLVER. Mr. Speaker, as American workers and families struggle for economic security, the 104th Congress has an obligation to help. First, this Congress must protect the credit and good name of our Nation. Congress should pass clean legislation to avoid default on our debt now, this week.

Next, we should raise the national minimum wage so working families can survive without Government assistance. Then we should provide workers with portable health insurance and guarantee that no one can be denied health coverage due to a preexisting condition.

We should balance this budget, but only in a way that protects our parents' pensions, provides education and job training, keeps our streets and schools safe, and protects our environment.

Mr. Speaker, Americans are skeptical that their Government can do anything to make their futures brighter. We should prove them wrong.

BALANCE THE BUDGET

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

Mr. METCALF. Mr. Speaker, the interest on the debt this year is $235 billion; that is more than the deficit. In other words, Government spending is really less than Government income, if we do not count the deficit.

We are paying interest on a debt that Congress overspent, the result of Congress overspending for decades. It has resulted in this disgraceful deficit, and the budget we now begin this year, the interest on the debt will exceed the huge defense budget. Interest on the debt costs $1,300 for every American. That is $5,200 for a family of four. Think what $5,200 would do for the standard of living of each American family.

We have a moral responsibility to balance the budget and a moral responsibility to protect the American dream for our grandchildren.

DEBT CEILING

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, for the first time in the history of the United States, the President and Secretary of the Treasury are sitting in consultation as to what to do if this Nation defaults on its debt. What a crisis. Not in World War I, not in the Civil War, not in World War II did we ever sit to determine what we would do if we default on the debt.

What an irresponsible act, Mr. Speaker, that we in a couple of days will not be able to pay our Social Security benefits to those who are living on the margin of life. This includes our benefits to the veterans, and, yes, our

military pay to active duty military, particularly to those in Bosnia. I have been there, to Bosnia, Croatia, and the former Yugoslavia, to Germany and Italy, where our men and women are serving. I say to my colleagues that they are committed, but we will not be able to pay them.

In addition, we will have working men and women who will see interest rates on their credit cards go up, as well as student loans, mortgages, and unemployment.

Join me in supporting a privileged resolution that I will offer. We will not go home until we pass a bill creating a clean debt ceiling.

Mr. Speaker, I rise today to urge this House to stop playing games with the full faith and credit of the United States and pass a clean debt ceiling extension.

If the debt ceiling is not extended or is sent to the President in a form that he cannot sign, the repercussions will be devastating. Already, the leaders of our European Allies are warning of an international financial crisis should the United States default on its debt payments. Bond rating agencies are raising alarm that our Nation's triple A bond rating is in jeopardy.

An actual default would cause interest rates on Treasury Bonds to rise, making a balanced budget almost impossible to achieve. Home mortgage and business borrowing rates would increase, slowing economic growth.

In the past, many clean debt limit extensions have been passed in a bipartisan manner by this House. It was the right thing to do then, and it is the right thing to do now.

Because of the devastating effects of a default, I plan to offer a privileged resolution to keep this House working until a clean debt ceiling is sent to the President.

I urge my colleagues on both sides, do the right thing. Vote for my resolution, pass a clean debt ceiling extension and preserve the full faith and credit of the United States.

REVITALIZING AMERICA'S MANUFACTURING SECTOR

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

Mr. FRANKS of New Jersey. Mr. Speaker, today, along with Representatives JACK QUINN, PAUL MCHALE, and MARTY MEEHAN, I will introduce legislation aimed at revitalizing America's industrial sector. Our bill encourages businesses to reclaim old, abandoned industrial sites known as Brownfields and redevelop them into sites of economic activity. The bill will help bring jobs and much needed revenue to blighted areas across the country.

Our bill complements State Brownfields initiatives by removing existing Federal barriers that inhibit site cleanup and impose threats of liability on prospective buyers. Importantly, however, our bill does not compromise public health or environmental quality. Also, our legislation creates a Brownfields IRA which will serve as a key resource to businesses by allowing tax-free contributions of up to $5 million which can only be used for Brownfield site remediation costs.

I urge Members to cosponsor this bill and help revitalize our country's urban industrial centers.

PASS A CLEAN DEBT CEILING NOW

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

Mrs. KENNELLY. Mr. Speaker, this past Sunday, there was a large, black headline in the Washington Post. "Default," it said—with an exclamation point. It was a frightening story, depicting the cascading effect of a U.S. Government default from worldwide currency markets to home mortgages.

Fortunately, it was a story that has not yet come true. And more and more Members are now saying publicly that they do not think it will come true.

But the question remains: If no one wants a default, and if everyone understands that the debt limit must be raised, and if a majority of the House and Senate are willing to take the tough but necessary vote to do so—why have we not done so yet?

Lifting the debt limit should not be a matter of politics, but of governance. Ensuring that it is done should not be a question of partisan leverage, but of leadership.

As the sponsor of critical legislation to pass a clean debt ceiling, I urge my colleagues to cosponsor this bill. I further urge them to sign the discharge petition that would bring this legislation to the floor. And above all, I urge: Pass a clean debt ceiling now.

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HOW FAIR ARE OUR TAXES?

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

Mr. STEARNS. Mr. Speaker, I rise today to bring to my colleagues' attention a Reader's Digest article in the February issue entitled, "How Fair Are Our Taxes?" The results should not be surprising. Simply put, and I am quoting from the article, "Americans at every income level think we are overtaxed." Furthermore Americans, according to this poll, think a family of four should bear a maximum tax of 25 percent. And that is not just Federal income tax, that is all taxes at all levels.

I remind my colleagues, the Reader's Digest is a publication which is fair. They conclude clearly that a large majority of Americans, nearly 70 percent of those polled, regard the tax burden as unfair.

Mr. Speaker, my colleagues, we need to act now to reduce the tax burden for Americans. Not only is reducing taxes a matter of fairness, but a matter of economic opportunity for America and a matter of shrinking the Federal bureaucracy.

DEFAULTING ON THE DEBT

(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, last month, House Republicans shut down the Government to try to blackmail the President into signing their extreme agenda. Now, they are at it again. This time, the crowd that brought us two Government shutdowns is threatening to destroy our country's credit rating by defaulting on our debt.

If Republicans have their way, the United States will default on our financial obligations for the first time in our history. Think about that—for 220 years our country has paid its bills and now that is about to change because extremists in this Congress would rather force a Government default then compromise on their right wing agenda for America.

Two hundred and twenty years is a long time and much has changed. Once America was led by Madison and Jefferson, who became known as the Founding Fathers of our democracy. Now, we are left with GINGRICH and DOLE, who seem intent on becoming the deadbeat dads of democracy.

PASS A CLEAN DEBT CEILING EXTENSION

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

Mr. PALLONE. Mr. Speaker, again I wanted to comment on the possibility of the default on March 1. I find it incredible that the Republican leadership first attempted to shut down the Government on several occasions in the past few months in order to try to enforce their radical agenda and essentially hold the Government hostage because the Democrats would not agree to major cuts in Medicare and Medicaid, environmental protection, and education.

Now, realizing that the American people could not support the Government shutdown and that they were losing the support of the American people, they decided they would leave the Government open again, and now they are moving toward this default. They are jeopardizing the credit rating of the

United States which, as of March 1, there is a real possibility that this Government would default.

What they are saying is, that is OK. We will go home for 3 weeks. We will adjourn after tomorrow. We will come back at the very end of February, just a few days before March 1. And if you do not go along with our radical agenda and cut Medicare and cut Medicaid and do the other things that we want to you to do, based on our ideology, then we are going to default.

I think it is a terrible way to operate. We should put a stop to it.

A FRIGHTENING STRATEGY

(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, I read with interest of the remarks of Albert J. "Chainsaw Al" Dunlap to the Republican freshman caucus. Mr. Dunlap earned his nickname by firing thousands of employees at various companies, most recently Scott Paper Co.

American workers and voters, take note.

Mr. Dunlap's frightening strategy involves firing loyal employees, ignoring impacts on communities, and maximizing profits to stockholders and the corporate elite—like Mr. Dunlap.

Two years of firing employees made Chainsaw Dunlap a very rich man; he pocketed about $100 million, much of it in stock gains that would be untaxed under the Republicans' flat tax scheme.

Along the way, he fired 20 percent of hourly workers and 50 percent of managers, barred community activities, and reneged on charitable commitments. But as the chairman of Wharton's management department noted, "Dunlap didn't create value. He redistributed income from the employees and the community to the shareholders."

Let us hope that the Republican revolutionaries who listened to Dunlap do not buy into his prescription that people are as disposable as Scott tissue as long as the bottom line spells money for the wealthy

FINANCIAL CREDIBILITY

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

Mr. STUPAK. Mr. Speaker, the United States faces a major threat to its financial credibility from the new majority, which is playing politics with the Nation's credit and refusing to raise the Nation's debt limit. Their tactics hurt all Americans, just as Americans were hurt by the expense and inconvenience of two Government shutdowns.

But the issue involves more than finances. The credibility of this very Nation is hurt by such tactics. We approve spending measures for Social Security, for education, for the environment, for the defense of this Nation, and then we tell America that we are simply not going to pay our bills. Whatever happened to the fullfaith and credit of this country? What ever happened to one's good word.

Republicans may try to fool the public by suggesting that raising the debt ceiling will somehow cap future spending, part of their agenda to reduce spending on Medicare, or Medicaid, the environment, and education, but the new majority should be honest with the American people. The debt limit must be approved to pay for current spending, not future spending. We must be responsible and protect our Nation's finances and reject this destructive extremism by passing a clean resolution to raise the Nation's debt ceiling.

OREGON ELECTION RESULTS

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

Mr. BROWN of Ohio. Mr. Speaker, yesterday for the first time in 34 years, voters in Oregon elected a Democrat to the U.S. Senate. Despite being outspent over 3 to 1 and largely from Washington special interest money, Democrat RON WYDEN was elected to replace Republican Bob Packwood. Why? Because Oregon voters are sick and tired of Speaker GINGRICH shutting down Government in this country, not once but twice, and voters are sick and tired of Speaker GINGRICH threatening over and over to force our Nation into bankruptcy, all because the Speaker wants his extremist agenda enacted into law in this country.

People all over the country are rejecting this kind of thinking. They are rejecting cuts in Medicare to give tax breaks to the wealthiest individuals in this country. Voters are rejecting cuts in student loans and cuts in environmental programs in order to give tax breaks to the largest companies in America. That kind of extremist thinking is not what the American people want. Let us have a balanced budget that protects Medicare, protects the environment, and does not give major tax breaks to the wealthiest people in this country that do not need it.

ARTIFICIAL DEFAULT

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

Mr. GIBBONS. Mr. Speaker, the Republicans in this Congress, in the House of Representatives, are trying to force this Government into an artificial default. This is not a new power that the Congress suddenly possesses. It is something that has been embedded in the Constitution since the founding of this Government.

The power to force a default has always been there, but in all of the 200-plus years of the history of this country, it has never been used by either political party, except the Republicans are now attempting to use it to force a default.

The consequences of a default are unthinkable. It is so drastic that no one has really ever actively played a scenario as to what would happen.

I hope our Republican colleagues will relent and give the American people an opportunity to pay their debts when they come due and to allow the Government to function in a normal manner.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. RADANOVICH). 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.

REMEMBERING CHRISTA MCAULIFFE AND THE CREW OF THE "CHALLENGER"

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. MORELLA] is recognized for 5 minutes.

Mrs. MORELLA. Mr. Speaker, a decade after the *Challenger* exploded, Christa McAuliffe is still fulfilling her mission, inspiring young people to look skyward with curiosity about science and outer space.

On January 26, 1996, the Christa McAuliffe Elementary School in Germantown, MD, honored their namesake by devoting a day of activities to her memory. In keeping with the wishes of Christa McAuliffe's mother, the students and teachers worked with a shared sense of purpose to remember the teacher-astronaut in a dignified manner. "Christa, This One's For You and the Challenger Crew," was the theme for the day.

Under the expert guidance of teacher Bettie Shortt, the children in the Head Start Program made a mural of the *Challenger*. The kindergartners listed Christa McAuliffe's character traits and elaborated on each one.

Team leader Lynne Barrett asked the first graders to read an important book about the *Challenger* flight. Students then discussed why Christa McAuliffe was important. Each second grade teacher selected a subject and prepared a 45-minute lesson. The subjects included: Astronauts, the Space Shuttle, the Moon, Planets, and Christa McAuliffe. Teacher and team leader for the second-graders, Susan Gougeon made sure that the classes were rotated so that each class was afforded

the opportunity to participate in all of the relevant lessons.

Peggy Duffy asked each third-grader to make a symbol to put into a goal quilt, keeping in mind that "Christa McAuliffe set a goal and went for it." The finished quilt was hung in the school hall and was "quite a display," according to Dr. Edith Rohrbacher, the assistant principal.

The fourth graders viewed the film, "The Dream is Alive," and then discussed the concept of being part of a team. The fifth graders wrote essays. One of the fifth grade classes will correspond with Christa McAuliffe's mother. Jean Withee and Kristin Dillman deserve credit and praise for their outstanding efforts as team leaders for the fourth and fifth grades.

Mr. Speaker, I am proud of the winning combination of students and faculty at the Christa McAuliffe Elementary School in Germantown, MD, for it is my understanding that the day set aside to remember the *Challenger*, was a huge success. I congratulate Principal Eugene Haines and the entire McAuliffe Elementary School on their ambitious program, and I wish them continued success in all of their future educational challenges and endeavors.

As Keith Geiger, President of the NEA, stated: "Christa taught us about living life to the fullest. Because she reached for the stars, she made the world a brighter place for all of us."

As a member of the Committee on Science that has under its jurisdiction our space program and as somebody who is a former educator myself, I commend the school. I hope that the *Challenger* tragedy becomes a symbol for future generations to adopt the kind of theme that the Christa McAuliffe School has, and that is, reach out and touch the future.

THREATS OF DEFAULT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. BROWN] is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, a lot of us in this institution are troubled by the threats to force the Nation into default, the comments made throughout the year by Speaker GINGRICH and the gentleman from Texas, Mr. ARMEY, majority leader, that if they do not get their way on the balanced budget or if they do not get their way on a host of things that are they are going to shut the Government down.

We heard those threats throughout 1995. Unfortunately, come November once and then in December a second time, they made good on their threats because they did not get the kind of, exactly the kind of balanced budget that they wanted. And they went ahead and shut the Government down. What that meant to lots of American families that depended on services from the Government, what it meant to people that work in Government, what it meant across the board to this country.

Now the threats, in a lot of ways, Mr. Speaker, are even more serious, because those threats are to force the Nation into default, again, if Speaker GINGRICH and the gentleman from Texas, Mr. ARMEY, majority leader do not get their way with the balanced budget. At the same time as we move toward this default on March 1 or February 29, the Congress is going to recess today or tomorrow for 2 weeks and just go home and forget about it, when default can be imminent, when they are threatening default.

The gentleman from Texas is with me who knows more probably about what default will mean to veterans, has been a leader on these issues, what exactly it will mean to an awful lot of veterans in this country in addition to all the other problems that the first default in the history of the United States of America in 220 years would mean.

Mr. Speaker, I yield to the gentleman from Texas [Mr. EDWARDS].

Mr. EDWARDS. Mr. Speaker, I know this issue of defaulting on the good faith and credit of the American economy and our Government debts is an issue that a lot of folks back home do not necessarily relate to themselves personally. But I would like to specifically address what the default on March 1 could do to men and women who put their lives on the line for our country.

I am very grateful to have the opportunity to be the ranking Democrat on the Subcommittee on Hospitals and Health Care of the Committee on Veterans' Affairs. So on a regular basis I have a chance to go out to our VA hospitals and see those men and women who were combat injured and put their lives on the line.

Let me quote from Jesse Brown himself, a very distinguished combat veteran who was very seriously wounded in service to our Nation. He said that veterans and their families have suffered enough. They should not be the victims of a battle they cannot even fight. The battle that Secretary Brown is talking about is the game of Russian roulette that is being played with the American economy in threatening to shut down our Government once again and to default on our debt.

Let me just put this in real terms, to how a Republican pushed default on our debt, especially if we are going into recess and get a paid vacation for the next month and only come back 4 days before the March 1 default, let me talk about how this would affect real American veterans: 2.2 million veterans with service-connected disabilities may receive bad checks March 1. More than 300,000 survivors of veterans who died from service-connected causes may receive bad checks.

To be even more clear on that, what that means is that widows of combat veterans who died in service to our Nation may receive bad checks, in effect, hot checks on March 1 from the VA.

□ 1140

Nearly three-quarters of a million poor wartime veterans or survivors may receive bad checks. Also, $140 million a month in education program funds, G.I. Montgomery College loan funds would not go out to veterans on March 1 and for each month thereafter, if the leadership of this House does not keep us here for the month of February, and have us deal directly and honestly with the debt default issue. Hardworking VA employers and employees, people who try to take care of our veterans and hospitals all over this country, once again will not be paid for their work. That will have a devastating impact on the quality of people we can attract to work in our VA hospitals.

The bottom line to all of this, Mr. Speaker, I would say to the gentleman and to our American veterans, is they need to understand that this complex, convoluted discussion of default is something that affects America's veterans, it affects 44 million senior citizens receiving Social Security checks, including many that are on SSI, that receive checks because they are disabled, in wheelchairs, and need that check to pay for their bills.

This is a real issue, a terribly important one that affects real families. It is devastating, most importantly, to America's working families, those people who are working hard to pay their bills and put their children through college. Their mortgage interest rates could go up after March 1. The money they borrowed to keep their farm alive or to expand their business or keep their business alive, that they have struggled so hard to support for years, those costs could go up.

Mr. BROWN of Ohio. Mr. Speaker, I would say to the gentleman, that simply does not have to happen. In 220 years it never has happened in this country, through the Civil War, through World War II, through the burning of the Capitol.

THE IMPACT OF GOVERNMENTAL DEFAULT, AND URGING SUPPORT FOR THE FAN FREEDOM AND COMMUNITY PROTECTION ACT

The SPEAKER pro tempore (Mr. RADANOVICH). Under a previous order of the House, the gentleman from Ohio [Mr. HOKE] is recognized for 5 minutes.

Mr. HOKE. Mr. Speaker, before my colleague, the gentleman from Ohio, leaves the floor, I want to shock him, if I can get his attention. If I can get the

gentleman's attention, I want to shock him with the disclosure that I, in fact, am in at least partial agreement with the comments that he just made regarding the debt service, or, I am sorry, the debt ceiling and the extension of the debt ceiling. I would certainly not characterize the shutdown of the Government as, first of all, having been the responsibility of this Congress, but was, in fact, the responsibility of the President.

I also think that the impact of a shutdown of the Federal Government is very, very different from the impact of a default on the full faith and creditworthiness of the U.S. Government. But notwithstanding those differences I, in fact, agree with you that the creditworthiness of our country should not be tampered with and that, in fact, the impact that such a thing might have would be far-reaching.

Mr. Speaker, I had not specifically thought about the impact it would have on veterans, but you can be darned sure that it would have a tremendous impact on every single person who holds any kind of obligation bearing interest on any debt in this country, including mortgages, including car loans, including student loans, et cetera, et cetera. Nobody knows this better than somebody from northeastern Ohio, where we were thrown into a default situation some two decades ago in the city of Cleveland.

And not only is there an economic consequence from this, but there is also a psychological stigma. It is a stigma that we have suffered under for some time, and only recently dug ourselves out of in the past 5 or so years.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. HOKE. Mr. Speaker, I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Speaker, I thank my friend, the gentleman from Cleveland, Ohio. When he talks about the prospective default, never before have I heard political leaders in this country that are responsible leaders with titles like Speaker of the House and majority leader of the House make threats about default similar to the threats that were made about closing the Government down.

You can say it was the President's fault that the Government shut down, but the fact is it was written on the sleeve of the Speaker and lots of other leaders that "If we do not get what we want, we are going to shut the Government down. If we do not get what we want, we are going to force a default." That kind of discussion, those kinds of statements, send all kinds of uncertainties and tremors through the financial markets, something that is not good for the country, something that makes the United States look weak rather than strong, something that, frankly, scares a lot of people in this country.

Mr. HOKE. Reclaiming my time, Mr. Speaker, just to recap, and we will agree to disagree, but I really reject your characterization of the reason that we got to the situation we got to. It clearly was a result of the President's absolute refusal to negotiate in good faith what he had said he would, in fact, negotiate in good faith. I think it probably suffices to say that we will just disagree on that.

Mr. Speaker, in any event, I think that there are real consequences that have to be thought about in a very, and I only have a couple more minutes, and I actually did not want to talk about this, I wanted to talk about something completely different, so I am not going to yield any more time, but I do agree at least in that respect.

Mr. Speaker, what I want to talk about this morning for the probably 3 minutes that I have remaining is football, good, old National Football League football.

I think it is particularly appropriate, since the Superbowl was just on Sunday, to remind my colleagues that it was in 1961 that Mr. Pete Rozelle came to the U.S. Congress and he asked this Congress to give a specific benefit not only to the NFL but also to the NBA, to the NHL, and to major league baseball, with an exemption from antitrust laws that would allow them to bundle all of their broadcasting rights and take them from each city and put them in one package and sell them.

This resulted in a bill called the Sports Broadcasting Act of 1961. It was passed in the House, it was passed in the Senate, it was signed into law by the President. I can assure you this was not something instigated by the House and Senate, I can assure you it was instigated by the NFL and other pro leagues.

What did they ask for? What was it they were asking for? What would they get in return? They said if they got this, it would allow them to be financially stable. What they would do in return is they would protect communities and they would protect fans.

I would ask the question, Mr. Speaker, do you think that fans and communities have, in fact, been protected over the past 35 years by the NFL, or in fact, have they taken this market power that came as the result of the Sports Broadcasting Act of 1961 and have they used it as a bludgeon to exploit, extort, and legally blackmail cities to compete against each other in order to not lose their franchise?

The 1961 act, by the way, Mr. Speaker, was followed by the 1966 act, and the 1966 act is the act of Congress that specifically, and Mr. Speaker, I see I am out of time, but I want to take more time later to explain the problem we have here to my colleagues, and then to ask for their support for the Fan Freedom and Community Protection Act that now has 40 cosponsors in the House, and to support that.

SUBSTITUTION OF SPECIAL ORDER TIME

Mr. DOGGETT. Mr. Speaker, I ask unanimous consent to substitute my name for that of the next Democrat who is up.

THe SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

URGING REPUBLICAN MEMBERS TO SIGN DISCHARGE PETITION TO AVOID GOVERNMENTAL DEFAULT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. DOGGETT] is recognized for 5 minutes.

Mr. DOGGETT. Mr. Speaker, before my colleague, the gentleman from Cleveland, OH [Mr. HOKE] leaves, I appreciate his comments about governmental default. I would just offer the gentleman from Ohio [Mr. HOKE] the opportunity to come down here in the well and join over 150 Members.

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

Mr. DOGGETT. No, I will not yield. Mr. Speaker, we do not need any more of this crybaby nonsense around here. The question that I was asking the gentleman from Ohio is, that in the event that he feels, and I do commend him for his comments on default, he feels as strongly about it as he said, then I would ask him to come down and join the over 150 Members of this House who have already signed on a discharge petition so that today, if we could get a few more signatures, we could vote to avoid this problem of default and go ahead and resolve the debt limit right now.

Mr. Speaker, if the gentleman wishes to respond to that, I would be glad to yield to him briefly to do that.

Mr. HOKE. Mr. Speaker, I thank the gentleman very much. I appreciate the gentleman yielding.

Mr. Speaker, I would say to the gentleman, no, I will not join. I will tell him why I will not. Because that particular piece of legislation gives another $500 billion of additional extension on the debt ceiling, a half a trillion dollars. I think that is absolutely dead wrong. It is the kind of license that he and the other lovers of big government in this Congress on the other side that are now in the minority want. I refuse it. I reject it.

Mr. DOGGETT. Mr. Speaker, that is interesting to hear, since it was a limit that was already in the Republican reconciliation bill. You have already voted to do that two or three times here. But now you feel a need to have a crowbar to highjack the Government, to pressure the President, to threaten the future of this country by waiting until a few days before we enter the first default in the 200-plus-year history of this country. It is that kind of

political shenanigans that the people of this country are rejecting.

Mr. Speaker, I heard on the way over here this morning that there was another low in the temperature in Embarrassment, MN. They had gotten down to minus 40 or minus 50. That may be a low in terms of the temperature, but you know, I have not seen a low like we have here in this House this morning.

Just look around. You will not find many Members on the floor. Why is that? Because after a 5- or 6-day weekend that we just celebrated, the Republican leadership does not have one piece of legislation on this floor for the Congress to act on today. They think work is not only a four-letter word, but a dirty four-letter word. What is this Congress doing, if here, even before the lunch hour, we cannot get about working and dealing with the critical problems that this country faces?

I will tell you, Mr. Speaker, all the news from the north end of this country is not cold news, because I see a report here from the State of Oregon. Our distinguished colleague here in the House, the gentleman from Oregon, Congressman RON WYDEN, is now Senator RON WYDEN, because the people of Oregon had an opportunity to consider this proposal to let Medicare wither on the vine, to consider the proposal to have unilateral disarmament on our environment, to consider the mistaken priorities of this House Republican leadership, and they voted "no," and in favor of sending a Democrat to the U.S. Senate.

Mr. Speaker, last week the Senate came within one vote, one vote, of passing the very kind of adjustment in the debt limit to protect the full faith and credit of this country, the same type that I asked the gentleman form Ohio [Mr. HOKE] to come down here and sign, along with over 150 Democrats, to not threaten the creditworthiness of our country. One vote. And now Senator RON WYDEN will be over there to cast a vote for fiscal responsibility.

I commend and congratulate him, Mr. Speaker, but I particularly commend the people of Oregon for speaking out against this extremist agenda and doing what they have the power to do, and that is hold their public officials accountable, and replace a Republican with a Democrat, and a very progressive and responsible Democrat, to do something about the tragic circumstances which this extremist agenda has placed the country in.

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

Mr. DOGGETT. I yield to the gentleman from Texas.

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

Mr. Speaker, I am disappointed that some Members on the Republican side of the aisle would not walk those 45 feet it would take to sign a discharge petition so we would not default on our debt, so that on March 1 we could pay Social Security recipients their checks, and veterans, and even soldiers serving in Bosnia now will not get paid if we do not do something about this debt problem.

Mr. Speaker, I would like to ask the gentleman a question. If he and I were in business and we were within 30 days of our company going bankrupt, and we took a 26-day vacation and went to Hawaii and got a paid vacation and said, "We will come back 4 days before our company goes bankrupt," what do you think the stockholders of that company would do to you and me?

Mr. DOGGETT. Mr. Speaker, I think they would throw out the management of the company. That is exactly what the people of the United States are going to do if we continue to have the kind of shenanigans that have been going on here. It is time to protect the full faith and credit of this country.

THE DANGERS OF THREATENING DEFAULT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. SMITH] is recognized for 5 minutes.

Mr. SMITH of Michigan. Mr. Speaker, I think it is very dangerous to keep threatening a default of this country. I think the Democrat Members would be well served to look at the real financial situations. No. 1, if Secretary Rubin or the President of the United States default on our debt, and that is, not pay principal, not pay interest, they both should be impeached. What we are talking about is 1½ percent of existing revenues coming into this Government to totally satisfy the interest and principal; so to play these political games, to scare the American people, to try to convince Wall Street that something disastrous is going to happen I think is a very dangerous, a very dangerous commentary, because it does have, what you say does have an effect on people in trying to understand and believe what is actually going to happen.

We talked about a director of a company or a manager or a CEO of a company being fired. If there was a manager of a company that took the actions of Secretary Rubin last June and July, developing the plans on how he is going to come up with additional cash flow to meet those needs, and at the same time proclaim to the Nation that there was going to be a disastrous danger of default, interest rates would be going up across the country.

Let us look at what Mr. Rubin just did the day before yesterday. He sent out a memo to the Veterans Administration, to Social Security, and what he said was if people call in and ask if they are going to get their payments, telling them that there is a problem, we might not have enough money to pay Social Security payments, to pay veterans' payments, to pay civil service retiree payments. What a tremendous disaster, to threaten people, to scare people, when it is absolutely untrue, uncalled for.

What this administration has done so far is they have reached into the trust funds, they have reached into the Federal financing bank, they have reached into the exchange stabilization funds, to the tune of $20 billion for the Mexican bailout. Now they are reaching in again for another $3.5 billion, to say that they are going to have additional money to pay this out. They are saying they do not want to go any further, because they think they can blame everything on Republicans now.

Mr. Speaker, I ask the ladies and gentlemen of America to take some time to study this budget, to study the reality of the consequences. Fifty percent of the spending of the United States is now in the hands of the President. Article 1, section 8 of the Constitution says that Congress has the control over spending, Congress has control over borrowing. Now the President has taken control over welfare spending. He has said, "No, we are not going to cut that spending." Somehow, if we give a hang for our kids and our grandkids, and for the future economy of this country, we are going to have to somehow have a real, honest balanced budget.

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

Mr. SMITH of Michigan. I yield to the gentleman from Ohio.

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

Mr. Speaker, I did not have an opportunity to respond a little earlier to the gentleman, but I wanted to point out that in the Budget Reconciliation Act, in the balanced budget agreement that the President vetoed and that all of my colleagues on the other side of the aisle voted against, and that I did vote for, that did extend the debt ceiling, there was a very good reason for it; because, in fact, in that situation what we did is we balanced the budget of the Federal Government. We actually set the glide path so we could bring back fiscal responsibility and fiscal integrity and fiscal authenticity. But that is something that my colleague, the gentleman from Texas, refused to agree to and would not agree to, and did not agree to.

Mr. SMITH of Michigan. Mr. Speaker, I think we should mention that the President has now vetoed two debt limit increases. There is not a Member on this floor that has ever voted for a clean debt limit increase. I pause, because is it not sad that they are doing so much political rhetoric, yet all of the debt ceiling increases that have been used over the years have been used over the years to put in the Kemp-Roth, the Gramm-Rudman, the tax increases?

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

Mr. SMITH of Michigan. I yield to the gentleman from California.

Mr. ROHRABACHER. Mr. Speaker, I thank the gentleman.

Mr. SCHUMER. Mr. Speaker, the gentleman has made some statements.

Mr. ROHRABACHER. Excuse me, I think I have the floor.

Mr. SMITH of Michigan. Mr. Speaker, I yielded to the gentleman from California.

Mr. ROHRABACHER. I have asked for someone to yield to me on the floor during debate and they have not done it. I would like to express some thoughts about some of the thoughts expressed earlier when your side controlled the floor. Unfortunately, it looks like I will not have time to do that, after being interrupted.

THE LOOMING DEFAULT CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, it is good that we are here this morning in vigorous debate, and hearing my colleague, the gentleman from Michigan, who serves as the chair of a 130-person panel from the Republican Conference, it is interesting that he would say that we on this side of the aisle are frivolously representing to the American people that this is not a crisis.

I beg to differ with my colleague, and I respect him, Mr. Speaker, but we have strong differences by the very fact that he made a statement that said that if this was to delay tax refund payments, to not allow tax refund payments into the spring or next year, it did not matter to him. So we do have a decided difference about the reality of what is going on today.

I would simply like to draw the American people to not a frivolous discussion that my colleagues have been raising here, but one that is very serious. As I understand, it has been commented on by Wall Street representatives, commented on by individuals outside of the Beltway who truly will feel the impact.

Let me call upon some of their names, Mr. Speaker. Those who live on the margin and receive their Social Security payments, by a default of this Government, they will not receive it. It sounds like I have said this before, but it is the seriousness of this issue. Veterans will not get their money, retirees, and our existing military personnel in Bosnia, will not get their money. We will be seeing some $965 million of payments to veterans that have been diminished by all of this.

□ 1200

We know this, as I see my colleague from New York had the opportunity to chair a Democratic Committee on Banking and Financial Services hearing yesterday. He called upon the Republican chair to have a hearing to get the facts on what a default would cause and what would happen.

Unfortunately, they did not join in this hearing. I think some letter came to Mr. SCHUMER that said, we will do it next week. That puts us some 10 days away from default.

Mr. SCHUMER, I would like to yield to you, if I might, just to provide us with some insight on that hearing.

Mr. SCHUMER. I thank the gentlewoman for yielding to me.

It was a great hearing. One point that came up time and time again, and the gentleman from Michigan is misstating and misleading on this issue, it is true that clean debt ceilings have not come before us. It is also true that when there was a division, both sides agreed what should be done with the debt ceiling.

Not once, not once, I say to the gentleman from Michigan, as when Bush was President and the Democrats had Congress, or Reagan, President, and the Democrats had Congress, did one side say, unless you are doing it our way, we are not going to approve the debt ceiling. Not once. The bottom line is, these are bully-boy tactics which were never used before.

Yes, there has been agreement with the debt ceiling put on ABDC, but it was bipartisan, et cetera. I thank the gentlewoman for yielding, because that is a grave misstatement of the facts.

Ms. JACKSON-LEE of Texas. I think your point is very well taken. I think it is important, as Mr. SCHUMER indicated, that any time that we have not had the passing of a clean debt ceiling or lifting of such, it has been bipartisan; but more importantly, let me state that all of the economists will confirm, we have never, never, never defaulted on payments that the American people must make and that this Nation must make on their behalf.

We must understand, this Nation must understand, that the creditworthiness of this country is based upon its ability to pay its debt. The alternative: Sell all our gold. The other alternative: Do not pay any tax refunds.

The President of the United States will not stand on those alternatives. That is a crisis.

Has any other Western civilization nation or any other nation defaulted? Yes, four of them in the past 100 years, and they have not done so since 1970. Places like Argentina, Stalinist Russia. Is that the kind of company we want to keep to ensure that we have a nation that can be respected internationally and have the economy stable?

Do we want to default? Do we understand that the Republican majority is saying to us, we are going to leave tomorrow, not come back, and take us to the brink of March 1, when we have not passed a clean debt ceiling in order to prevent default. That is the crisis which we face; and my colleague from Michigan, who, as I said, I respect, is clearly on the wrong road if he thinks he can bring the American people to the brink of default and we not constantly get on the floor of the House and explain it.

We will not leave here tomorrow, and I will offer a resolution that we not have a recess so that we can continue this, and that we not go home while we are without the responsibility or the action of making sure that we can pay on our responsibilities and our debt on March 1.

DEMOCRATS SO-CALLED SCAMS ARE SHAMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. MICA] is recognized for 5 minutes.

Mr. MICA. Mr. Speaker, and my colleagues, I come to the floor this morning to talk about two scams that have been perpetrated by both the administration and the other side of the aisle.

The first scam is what I call the Clinton shutdown and the charges that were made about balancing the budget and about getting our Nation's finances in order. It is part of a scare scam, and it is pretty clever. It says, that Republicans will hurt the elderly, the environment, education.

In fact, if we just take a minute and look at the facts involved here, in the area of Medicare, we have heard it over and over: Republicans are going to cut it. In fact, over the next 7 years we will add $724 billion in spending.

Medicaid, we will add $348 billion in spending. In education and job training and student loans, we will add $25.7 billion in spending. But we hear it over and over.

What they do not in fact tell us is that part of this argument is about the bureaucracy. EPA has 6,069 employees in Washington, DC. That is almost as many as a dozen years ago, a total of 18,000. I am not talking about the 12,000 outside of Washington, but 6,000 in Washington, DC.

Education, we have 3,322 employees in Washington, D.C., out of a total of 4,876 employees. A total of 358,000 Federal employees. These are not defense; these are not civilian defense. These are part of that bureaucracy within just earshot of the Capitol building. That is what this debate is really about.

Now, my colleagues, a second scam comes before us, and the second scam is this: If the Republicans do not continue taxing and spending and driving this Nation into debt, then we will not be able to pay our Social Security recipients, and they have even said, Mr.

SMITH said, we are not going to be able to pay our veterans.

This administration, which has just gotten through robbing the Federal retirement trust funds, now is engaged in the second scam. They can pay welfare payments to illegal aliens, they can pay medical benefits better than we have for our veterans, but they cannot pay Social Security.

They can pay for bilingual education for illegal aliens. They can find $50 billion to bail out Mexico. But, in fact, they cannot pay Social Security and our veterans.

So the President is making these choices. The administration is making these choices. They can even pay AmeriServe, or whatever the name of the President's volunteer, so-called volunteer program, which pays volunteers for the first time in the history of this country and gives them an array of perks that would make any veteran blush.

These are the choices that we face. I will say again, the greatest threat facing our senior citizens today is that we get this mess in order.

We debated here about extending the debt limit of this country for 34 days, and we needed $67 billion. We are going into the hole at the rate of over half a billion dollars a day, and they want to continue this tax-and-spend policy; and they say that in fact we cannot pay our senior citizens Social Security checks. Well, that is their choice, because they have other choices, and that is what this debate is about, whether the debate deals with in fact balancing the budget or extending the debt limit.

So we are in fact here today. Let me tell my colleagues, I chair the Subcommittee on Civil Service, and let me describe the mess we inherited: 35 of 39 Federal retirement trust funds have unfunded liabilities in the trillions of dollars. Now they have spent the last number of days robbing what little remains, what shred remains, so now they are threatening our senior citizens. That is what this is about.

Mr. SMITH of Michigan. Mr. Speaker, will the gentleman yield?

Mr. MICA. I yield to the gentleman from Michigan.

Mr. SMITH of Michigan. Let me just say that I asked the Congressional Research Service whether Secretary Rubin could legally withhold trust funds. They said their first review of the law said, no, it would be illegal to withhold trust fund payments for any trust fund where there is a surplus coming into those trust funds. I have written Secretary Rubin the day before yesterday asking him to give us the reasons why he thinks he can do this.

Mr. MICA. Finally, my colleagues, let me say that the President, after this Congress and this new majority did its job and came forward with 12 funding bills, the President never came up with a balanced budget proposal until January 6, 1996.

TIME FOR RESPONSIBILITY IS NOW

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized for 5 minutes.

Mrs. SCHROEDER. Mr. Speaker, this debate, I think, for people at home is very frustrating, except I think the people are a lot smarter than those of us in the Chamber, and they see right through it. They know what is going on here. They see people saying, we are not going to pay our bills.

Now, that has never happened. There have never been elected representatives that have come in and said, we are not going to pay our bills. That is not anything that anybody respects in America. Try that as a family. Furthermore, if you know you are just about to go into bankruptcy, you know you are just about to run up against that brick wall, you go on vacation for 3 weeks.

Mr. BUNNING of Kentucky. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHROEDER. Well, let me finish, if you do not mind, because I do have a few things to say. I have asked others to yield and they do not. I remember the days when we used to yield, but I guess that seems to be over.

I sit here and on one hand, I get depressed because people come to me and they say, why are you leaving? And I say to them, why are you staying? Why are you staying? This place has just fallen to its new, all-time low. Never in the history of this Republic, during several wars, during depressions, during anything, have people stood up here and refused to pay the bills and said, OK, we will just take the full faith and credit of this great Nation, this Nation that has the best credit rating on the planet and we will just shove it off the cliff because we want our way. Never has it done that. I am embarrassed to be here.

The good news is, the reason some of my colleagues are staying is because today in Oregon we know that the people are waking up and the people are saying, this is outrageous. We just saw a race where one person who spent $1 million more than the other lost. That says the people are saying, we have to pay our bills and we want this Government to pay theirs, and we do not want people playing fast and loose with the credit rating of this country.

I have a question and my question is, if we know that March 1 is a very serious date, why are we leaving and not having any votes until February 27? Why are we having the French Prime Minister in here, the guy who is dropping nuclear tests all over the Pacific that most people and most countries are outraged about? Why is he coming here to give a speech? We have time to do everything in the world except deal with the one basic responsibility we have, and that is to pay our bills.

Everything that is being discussed and everything that has already been committed to, this is not new spending; this is stuff that has been committed to. I think if we listen real closely and we are real quiet, we can hear the rest of the world laughing at us.

I think that we ought to stay here, we ought to get started on this debt issue. We should not be running toward being a defaulting Nation or a deadbeat Nation.

I just find it absolutely outrageous people saying, look, we are either going to be deadbeats or you are going to do it my way. It is like saying to Visa, "I am not going to pay my bill unless you come paint my house, take care of my kids, walk my dog, and do anything I ask you to." I do not think that is how it works, and I think we all know that is not how it works.

So I guess I am basically saying, remember, this is about paying our bills. We have had over 200 years of history where people in this Chamber have never, never used that as a leverage or a gun at the head of a President or anyone else. That should be done. Those things were decided upon; that happened, and we should pay those bills just like every other American.

To play with the credit rating of this Nation we love is every bit as bad as desecrating the flag, as desecrating any other thing. I think it is really about patriotism. I cannot think of anything worse that we could do to our country at this moment than just trampling all over the credit rating and make this country be a deadbeat.

Think about what other countries are going to think. They are going to think, hey, if we default, we default. We could have National Default Day.

That is not what we were about, I thought. I thought we were about responsibility. I thought that is what Republicans were about, responsibility.

I listen to all of this with 23-plus years of experience, sitting on this floor, and it saddens me greatly. Every single thing that the President has been asked to do, he has come forward with a proposal. It ends up, they do not like what he did, so they want it still to be their proposal.

We do not have tantrums. Let us move on. Let us pay our bills and let us not be deadbeats.

PRESIDENT HAS NOT KEPT HIS PROMISES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. ROHRABACHER] is recognized for 5 minutes.

Mr. ROHRABACHER. Mr. Speaker, this President has kept all of his promises? I mean, who is kidding whom? This President was the President who campaigned vigorously across America 4 years ago, and what were the issues? He is going to end welfare as we know

it, and now we see him vetoing and threatening to veto any piece of legitimate welfare reform.

What was the second thing that he campaigned on? That he was going to balance the budget; he is a new Democrat. This President is not a new Democrat, he is just like the old Democrats and the fact is, it is the old Democrats and his philosophy that have gotten America in the position it is in today, that we are going to have to make these tough choices or we will go broke.

Now, earlier I heard criticism of how this body is functioning and how much work we are putting out. I happen to have been here, and this is my eighth year as a Member of Congress. We have done more since the Republicans took over a year ago legislatively than in the entire 6 years that I served before the Republicans took over.

□ 1215

The reform efforts before that were thwarted time and time again.

Let me cite just one example. Our country is going broke, we are being told now we have to borrow more and more money from our children, and we cannot even put any type of restrictions on spending in that process. But let me give one example of a reform that has actually cost the American people tens of billions of dollars since I have been a Member of Congress, and how the other side thwarted our attempts over and over again to get even a vote on the floor. It was mentioned earlier by the gentleman from Florida. Should illegal aliens be consuming scarce dollars when we are going to the poorhouse, we are having to borrow from our children? We tried to get that reform so illegal aliens would not be encouraged to come into this country to consume scarce dollars. We could not even get a vote on it.

Mr. HAYWORTH. Mr. Speaker, if the gentleman will yield, I just wanted to make a point.

We heard the gentlewoman from Colorado make the statement, we should pay our bills. I could not agree more with that, but the question becomes this: Are we willing to rob future generations to pay the seemingly endless bills of today? That is the bottom line on this issue.

Mr. ROHRABACHER. There is nothing standing in the way of a balanced budget, there is nothing standing in the way to bring to an end this policy that we have had of having to increase the debt limit over and over and over again because we are nowhere in sight of a balanced budget. There is no one standing in the way except the President of the United States.

The other side had a chance. For 2 years the President controlled both Houses, or his party, controlled both Houses of Congress and every executive department and every executive office. All of those were controlled by the liberal Democrats who control the Democratic Party, and what did we get? We got no reform. We got no reform at all.

What do we Republicans get now, after working as hard as we possibly can, passing more reforms in a shorter period of time? We get criticism that we are not working hard enough, when in reality we all know it is the President of the United States that is standing in the way of these reforms, it is the President of the United States standing in the way of a balanced budget, it is the President of the United States who is putting the burden of higher and higher debt onto our children. That is what the problem is.

I am proud to be a Member of this body. I am proud to be a reformer in this Republican effort and NEWT GINGRICH's effort.

Mr. MICA. Will the gentleman yield?

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

Mr. MICA. Mr. Speaker, we on this side, I think, were foxed before by the President because he promised to come up with a balanced budget. He never did. Now they are telling us the responsible thing to do is raise the debt limit without any guarantees, to continue taxing and spending. We were betrayed before.

The alternative is the President's budget, which they are afraid to really even bring on the floor today. It has in it $210 billion in additional spending. That is more than 1 entire year's deficit that we are running now. Then another surprise, $66 billion in taxes.

They are saying we cannot pay our senior citizens or our veterans, but in fact we are going to make choices and we are going to pay if we do not make some changes here; our illegal aliens, we are going to pay volunteers for paid volunteer programs, and we can dig up $50 billion here or there for Mexico. We cannot make these wrong choices again.

REPUBLICANS ASKED TO PASS CLEAN DEBT LIMIT

The SPEAKER pro tempore (Mr. RADANOVICH). Under a previous order of the House, the gentleman from California [Mr. MILLER] is recognized for 5 minutes.

Mr. MILLER of California. Mr. Speaker, there is a lot of revisionist history going on here on the other side.

First let us understand something. The demand was that the President would submit a 7-year CBO-scored balanced budget. The Republicans came saying, "He won't do it, he won't do it." He did it. They called off the negotiations. Apparently they were not serious about that.

They spent 50 hours at the White House. The leaders of the legislative branch, Senator DOLE, Speaker GINGRICH, and the President of the United States, first time in history, high-level negotiations, at the 50-hour point after conferring on a number of topics, the President put down a budget that was CBO-scored, 7 years, balanced the budget, and the Republicans said the meetings are off. Why did they do that? Because apparently they cannot stand success.

So now they want to up the ante, and what they want to suggest is what they are now prepared to do is to jeopardize the credit rating of the United States of America, to put this Government into default, and to potentially cost American families billions of dollars because they want to play fast and loose with the debt of this country and the debt limit.

They should not be allowed to do that. They should not be allowed to cost the American people billions of dollars by leaving town tomorrow. I guess they are going to stay to hear Jacques Chirac, the Prime Minister of France, and they are going to listen to him and then they are going to leave for 3 weeks and come back, apparently on the 26th or the 27th, 2 days before the debt limit expires, and play brinksmanship with the White House or with themselves.

Or really what they are doing is, they are going to play brinksmanship with the American people and their families. Because of the speculation and going down to the wire, people in the bond market will make decisions, the price of bonds will go up or they will not go up, and all of the American families that have automobile loans, that have adjustable rate mortgages on their home, that have a credit card whose interest rate is tied to indexes, who have home loans that are tied to indexes, all of those people will immediately be disadvantaged because the Republicans decided they want to leave town for 3 weeks.

I guess they want to leave town for 3 weeks because their program is not working. Someone just said they will not put the President's budget on the floor. No; the Republicans will not put the President's budget on the floor. That was the decision today. That is why we are doing 5-minute special orders, because they do not have anything to put on the floor, except we have this huge backlog of business to do.

We have not done the 1996 budget. The 1997 budget is supposed to be getting underway. We have not dealt with the appropriations bills. We have not dealt with the farm bill. We have not dealt with the Endangered Species Act, we have not dealt with the Clean Water Act, we have not dealt with regulatory reform, but yet the Republicans want to go home.

If your children did this, you would say, "Eat your vegetables first before you get dessert." If a corporation did this who was contemplating going into

chapter 11 and they said, "We're going to leave town for 3 weeks, we'll get back to you on the day before the default," they would be fired. But somehow the Republican-led Congress can decide that we are just going to take 3 weeks off so Mr. DOLE can go campaign in New Hampshire and in Iowa, and the deficit be damned.

That kind of cavalier attitude is going to cost American families billions of dollars. It is going to cost this country its standing in the credit markets of the world. That should not be allowed.

It was the same cavalier attitude that led to the tragedy of shutting down the Government, to deny American taxpayers the benefits of the Government for which they were paying and to jeopardize the financial stability of governmental workers and their families. It was unfair, it was rude, it was reckless, and it turned out it was repudiated by the American public; repudiated again as late as yesterday in the Oregon election where the citizens of Oregon chose not to go with an extremist attitude, chose not to go with an extremist agenda but rather to try to go with a constructive individual who is interested in working for change, to bring about real change as opposed to extreme rhetorical charges and rhetorical comments about change.

Mr. Speaker, this Congress should stay here, it should do its work and get its job done. If Mr. DOLE wants to run for President, let him resign as the leader of the Senate and get on with his campaign, and let the American public get the benefit of us meeting the debt limit on a timely basis, on a clean basis, without threats of blackmail, without threats of taking hostages, without threats of shutting down the Government. That is the way we ought to do business.

This obstructionism, this extremism ought to be brought to an end. Maybe the Oregon election will help bring that to an end. Maybe the Oregon election will get these people to understand that their agenda is being repudiated as being anti-American and American family.

BOEHNER SEES NO PROSPECT OF DEFAULT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BOEHNER) is recognized for 5 minutes.

Mr. BOEHNER. Mr. Speaker, there has been an awful lot of talk about the credit of the United States of America. Over the last 15 years, the Congress of the United States has consistently used the statute to increase the debt limit to move their agenda, the congressional agenda, through the White House and into law. We have seen this over these past 15 years by Democrat Congresses.

Over the last year, Republicans in Congress have felt pretty strongly about the need to bring fiscal responsibility to Washington, DC. We have accumulated some $5 trillion worth of debt that none of us in this room are ever really going to pay off. Our children and our grandchildren are going to pay that off. We are imprisoning our children and our grandchildren by our irresponsibility over the last 25 to 30 years.

So now is the time to do something about it. The President of the United States wants us to give him a clean increase in the debt limit. He wants to put more debt on the backs of our children. What we are going to insist is that we make a down payment, a down payment on saving the future for our children and theirs, a downpayment on moving us toward a plan to bring fiscal responsibility to Washington.

Our friends on the other side and the White House are making this big issue about whether we are going to default. Well, there is going to be no default, not now, nor is there going to be any default in the future. We believe that the debt limit is being handled by the Treasury, probably not in a way that I would do it, but it is being handled.

But I have to tell Members the frustration amongst Members on both sides of this Capitol about the refusal of the President of the United States to deal honestly with trying to bring fiscal responsibility to Washington is excessive. We sat through 6 weeks of meetings at the White House over trying to find some agreement on balancing the budget.

I have got to tell Members, looking back over those last 6 weeks, nothing really happened other than we were diddled with. We were props for the cameras at the White House, because the President of the United States in fact made hardly no movement toward any honest effort to balance the budget. Oh, yes, the President wants to agree on some numbers but never agree on the policies that would actually get us there. He wanted to do the same thing the politicians from both sides of the aisle over the last 30 years have done to the American people, and that is to sell them out.

We are not going to get into a debate with the President about balancing the budget unless it is real. We are not going to do to our children and theirs what has gone on in this town far too long. So if we are going to have a plan to balance the budget, it is going to be with real numbers, it is going to be with real policies that will move us toward actually balancing the budget.

But the President has refused. Negotiations and discussions have stopped. So what we are going to do this year is that we are going to make attempts to get down payments on our plan to balance this budget. One such down payment will come as we bring the debt limit extension to the floor of the House the last week in February.

The President has said that he needs a debt limit extension by March 1. The President will have a debt limit extension by March 1. There is no threat, let me repeat, no threat that this country will default on its debts now, nor is there any threat in the future that we will default on our debt. There is not going to be any default.

But we are going to have a down payment on this debt limit. The Balanced Budget Down Payment Act that we passed last week to extend to the Government funding authority for those six departments or appropriation areas that had not been funded continued that process. We are seeing funding for these agencies reduced over what we spent last year. We are seeing grants by agencies, that have been agreed to by the House and Senate, not allowed to make new grants.

□ 1230

If you look at that one-third of the budget which is discretionary spending, we expected to save about $23 billion this year. These are real dollars, less spending this year than what we spent in the last fiscal year, and if we continue on this course with continuing resolutions for the balance of this year, we expect to save $29 to $30 billion in real spending.

This is a downpayment for our children's future, and it is the right thing for our kids and theirs.

BRING UP A CLEAN BILL TO EXTEND THE DEBT LIMIT

The SPEAKER pro tempore (Mr. RADANOVICH). Under a previous order of the House, the gentleman from New Jersey [Mr. PALLONE] is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I listened to what the previous speaker, the gentleman from Ohio, said, and I do have the utmost respect for him. But I just do not understand how he can say some of the things he is saying based on what has been happening in this House in the last year.

The only reason that we can wait until March 1 before we go into default is because the Secretary of the Treasury, Mr. Rubin, has been doing things basically since November 15 when the debt ceiling expired to try to prevent the Nation from going into default, and he has been criticized by the same Republican leadership for doing that.

I think it should be understood by the American people that the default was a possibility on November 15, because the Republican leadership refused to bring up a clean bill to extend the debt limit, and in fact, some of the Republican leaders have actually called for the Secretary of the Treasury's impeachment because he has been doing what he has to do in order to avoid default.

Now we see the leadership get up and say, oh, there is no problem until March 1; trust us, we will extend the debt ceiling when it comes to March 1. If you are going to do it, why not do it now? Why send us home for 3 weeks after tomorrow and basically risk the possibility that sometime before March 1 that it is not going to happen, or why suggest that you are going to load up this debt ceiling bill with all kinds of budget items that reflect your own ideology, come back here February 26 or 27, just a couple days before this March 1 deadline? There is no question that what the Republican leadership is trying to do here is to hold this Congress hostage just like they did with the Government shutdown. They said, "We are going to shut the Government down. If you do not go along with our budget, which is cut Medicaid, cut Medicare, cut environmental programs, cut educational programs, if you do not go along with this, we are going to shut the Government down." They did that several times.

Now they are doing the same thing again. They are saying, "We are going to send you home so you cannot sit here and debate this or try to come to a reasonable conclusion on this. We are going to bring you back 2 or 3 days before this March 1 deadline, default deadline, that we have engineered essentially because we have not passed a clean debt ceiling, and we are going to then force you to our own ideology, to these same budget cuts. It is only going to be a down payment." Now it is not going to be the full-blown cut in Medicare, Medicaid, environmental programs, education, student loans. It is just going to be a down payment on that.

I maintain it is the same thing. It is the same hostage environment. It is the same idea if you do not go along with our plan, then we are going to hold the Government hostage, either shut it down, or now, send it into default.

How can sending this Government into default or decreasing or destroying the United States' credit rating possibly be the responsible thing to do? If I listened to the previous speaker's statements, he basically was saying in a somewhat, it seemed to him logical sense, we do not have to worry about this, because it is more important how the down payment and how these budget cuts that he has proposed, than it is to preserve the Nation's credit rating. That does not make any sense.

The responsible thing is to preserve the credit rating. If the Nation goes into default, our budget situation, our financial situation is in critical condition. We are going to have higher interest rates. We could have a possibility where other countries, central banks in other countries or pension funds, decide they want to start selling our Government bonds. We do not know what our securities are going to be worth. We do not know what the impact is going to be of the higher interest rates not only on the Government but also on individuals who may have their mortgage rates go up or other interest rates that they have to face or their car payments or whatever. The potential, the real potential, exists for an economic downturn not only in this country but around the world.

We are going to risk that? How could that possibly be the responsible thing to do?

I would maintain over and over again that this Republican leadership has gone haywire. Some of us on the Democratic side have described them as a bunch of crackpots. No one, no one who is involved in the Nation's finances would ever suggest that it makes sense for us to threaten default, to even use it as a tool of Government policy. It makes no sense at all if you are concerned about the Government, if you are concerned about the economy, if you are concerned about where this country is going in terms of creating jobs and making it possible for us to have an economic upturn rather than an economic downturn.

Let me tell you, this is not pie in the sky. We have already heard statements from some of the leading credit rating firms. Moody's, I think a week or two ago, came out and said the possibility of a default or the effect on the credit rating could be devastating to the Nation's economy. We have had statements this morning in our Democratic Caucus. We had statements from various Department heads who pointed out what the impact would be. Donna Shalala, Secretary of Health and Human Services and Welfare, she said that if we do not pay our bills March 1, $26 billion in Social Security payments are threatened, $1 billion in veterans' payments are threatened, civil service payments and survivor annuities.

These are people that are going to be negatively impacted, the little people, by this Republican default.

REPUBLICANS ARE WORKING TO BALANCE THE BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. JONES] is recognized for 5 minutes.

Mr. JONES. Mr. Speaker, I was home the last couple of weeks, and I represent eastern North Carolina, the Third District. I am a freshman, and I campaigned with a promise to the people of my district and the people of America that I would work with my colleagues to balance the budget.

I had to come to the floor when I hear some of these scare tactics of not meeting our obligations as a government and letting this Government default. That is such an outrageous statement, and the people in my district do not believe that.

I am a little bit tired, from Medicare to default, that we are going to let the Government default, we are not going to take care of our senior citizens.

I want to make just a couple of comments. My father served in the U.S. Congress for 26 years. He was a Member of the other side, a Democrat, and many times we would talk about in the late 1980's why the Congress did not balance the budget. And several times he would make the statement to me, "Well, WALTER, you know, we could have chaos if we do. Programs would be cut. People would feel threatened." I would say to my father, "Father, I don't understand if we don't balance the budget, we also are going to have economic chaos," and that is what this debate is all about.

When we know the General Accounting Office, the GAO, says that in 17 years without a balanced budget, working people will pay 80 cents out of a dollar. People are not going to stand for that. We have got to deal with these problems now, and putting our heads in the sand is not going to solve these problems. We have got to deal with the problems now.

I just could not sit in the office and hear this debate go any further.

I yield to the gentleman from Arizona.

Mr. HAYWORTH. I thank my friend from North Carolina. I listened with great interest. I am sure the gentleman from Florida did as well to hear our friend from New Jersey kind of rhetorically gloss over the actions taken by the Treasury Secretary.

Quoting my friend from New Jersey now: Secretary Rubin has been "doing some things" to keep this Government in business.

Mr. Speaker, what the Secretary has been doing is raiding the pension funds. What the Secretary has done, and this is the fundamental part of this debate, are we so in love with government that we fail to live up to our responsibility? For, as my friend from North Carolina points out, the ultimate economic disaster, what unleashes chaos on the world markets is runaway spending of the type we have seen for the past 4 decades.

The real question is not doing some things, like raiding the pension funds and using that as really the epitome of the examples of what has gone on here for the last 40 years. The key is to change things now.

How? With positive economic initiatives for the future that deal with growth, growth that emphasizes the freedom of the marketplace; that is the essence of the debate, not to be in love with government, but to love every generation, our seniors and generations yet unborn, to end business as usual, end this runaway spending, restore true fiscal integrity.

Mr. JONES. I yield to the gentleman from Florida.

Mr. MICA. I thank the gentleman for yielding.

This really does concern me, because it is again another scare tactic. We saw the scare tactic with Medicare, the comments about Medicare dying on the vine.

In fact, the President's own commission said that this program was going to die on the vine if we did not do anything. God forbid we should give seniors another choice. You just take this is full of waste, fraud and abuse, and everybody is dipping their bucket into it and profiting from it except the seniors it is to serve. So here again we are scaring the seniors that we are not going to be able to pay their checks, using them as pawns, giving them only one choice, but in fact we, the President and this administration, will make a choice, and the choice is also in these budget figures. They want to pay illegal aliens. They want to pay people not to work.

Now this has not worked. We have seen the mess it has created in our society, and it is related to crime, it is related to our juvenile problem, it is related to teenage pregnancies, and you can do all you want, put them in uniforms or do whatever you want to do, I am telling you, unless you make people responsible and people to work; they want to pay people not to work, but they do not want to pay the senior citizens when this bill comes due. They do not want to pay our veterans; they would rather pay volunteers in a volunteer program with better perks and benefits than pay our seniors and our veterans.

So this is what this debate is all about, really. We have got to get a grip in this Congress.

We came here as the new majority. We said we were going to do things. We cut a quarter of a billion dollars out of our legislative appropriations. They talked about cutting here. They talked about congressional accountability. We passed it. We live under the same laws. We passed gift ban, lobbying reforms, things they talked about and dreamed about for years and never did a darn thing about.

THE MEANING OF OUR CURRENT DEBATE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. SCHUMER] is recognized for 5 minutes.

Mr. SCHUMER. Mr. Speaker, we just had an election in Oregon, and we saw what happened. The Democrat won a seat that had been held by a Republican for a very long period of time. And so today all the pundits and prognosticators have been asking what does that election mean. Why did it happen?

Well, anyone who listened to the debate in the last 10 minutes, in the last half hour, on this floor knows exactly why it happened. It happened because a group of extremists have taken over this House.

I would admit and say that in 1994, Republicans appeared to be the more centrist party. Democrats appeared to be too far over to the left, and Republicans won. And in a short span of a year, folks, you have ceded the center ground to us by doing all sorts of things that most people regard as lunatic, and probably at the top of the list is the idea of letting us default.

But I would say one other thing about Oregon. Oregon is going to be the predecessor of what is going to happen in the 1996 elections. Oregon foretells the 1996 elections.

Yes, the Republicans had, the Republicans had much more money. Many would argue he was more attractive, better looking, smoother and suaver, but you know what, the voters of Oregon said no more of this extremism, no more of sending people who are so far to the right that they are not where the American people are, to this body.

And if anything shows how crazy things have become here, it is their idea that we should default. I have heard the other side talk on and on about balancing the budget. Well, guess what, President Clinton has submitted a balanced budget. He has done it in 7 years. He has done it with CBO numbers.

First, the Republicans said we want him to submit a balanced budget. He did. Then they said no, that is not good enough, 7 years. He did. Then they said that is not good enough, CBO numbers.

You know what the dirty little secret is here, there is a group of 80 or 100 extremists on that side of the aisle who really do not want a balanced budget. They just want as deep a tax cut as possible. And so they say President Clinton is not telling the truth, but everyone knows that is that he submitted a balanced budget. It just does not have as much tax cuts as you guys want, and you gals want.

Well, ask the American people. They want it. But that is not the point here today. They want fewer tax cuts and fewer cuts in Medicare and Medicaid. But nobody wants America to default.

It is interesting, I see all of my colleagues here, they do not talk about what default is. The gentleman from Ohio [Mr. BOEHNER] got up, and he said we will never default. And then the next guy gets up and says, oh no, we will never default if the President submits to our balanced budget. That is blackmail. That is blackmail. You know that, the gentleman from Arizona, you want him to say, "I will go for a balanced budget that you attach what you want." You do not want to negotiate with him.

□ 1245

You want to say balanced budget plus ABC, Mr. President; take it or leave it, or we will cause disaster to the American people.

Well, gentlemen, learn your lesson. Your great theory was let the Government shut down, and that would bring the White House to its knees and you would get what you want by bullying tactics. It failed. You looked miserable. You had to retreat with your tail between your legs. And what do you do now? You come up with even a more ludicrous theory, and that is that we should let the Government default.

You know, I believe each of you does not think the Government will default, because maybe he will back off. Maybe you will back off. Well, when I was a teenager there was this game that certain people played called chicken. They each get in cars at one end of the highway, and they would rev up the engines to x miles per hour, and whoever swerved first was the chicken. And you know what? If no one swerved, there was a big crash. And that crash will mean nothing compared to the crash that will occur if no one swerves here.

So you are playing with fire, and you should have learned your lesson. What I would do, since my words are rather strong and maybe we can get a debate going again, I would yield to the gentleman from Arizona, but only please for 30 seconds, so I might have the chance to answer.

Mr. HAYWORTH. I am so grateful to my friend from New York for yielding. There goes the time right there, so your noble experiment has failed.

Mr. SCHUMER. Let the RECORD show I did not know my time was about to expire.

COMPROMISE ON BUDGET NEEDED NOW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. GILMAN] is recognized for 5 minutes.

Mr. GILMAN. Mr. Speaker, I think our goals are all similar, having a balanced budget. We are pleased to hear the President in his State of the Union Message adopt the call for a balanced budget and challenge the Congress to make certain we have a balanced budget.

None of us wants to put the Government in default. We want to have a good debt measure. We want to have a good balanced budget adopted before we leave the Congress for any recess period. But we do need cooperation. People are willing to negotiate across the table. Too often in the process it has been finger pointing and one party or another walking out of the negotiating area.

I think the American public wants to see us get down to work, develop a balanced budget, and develop a clean debt ceiling measure, and I think most of us in the House would like to see that happen. But that means good intentions by all parties and the willingness

to stop the finger pointing, and an intense desire to bring these problems to a halt by finding a proper solution.

I am pleased to yield to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. I thank the gentleman very much. I think we should all really tone down our rhetoric, if we could. I have to say, I use a lot of descriptions of my friends, but let me say to my friend from New York, telling us that we are a bunch of extremists and you now are centrists, does not further the debate. You must have used the word "extremist" five or six times. We will let the American people determine who is in the extreme and who is in the center and who most closely reflects their point of view.

I do not accept the notion that we Republicans closed down the Government. I heard that this morning as well. I believe it was the President of the United States and his refusal to act that resulted in the shutdown of the Federal Government. In fact, if we indeed were putting pressure on the President to do certain things, you might say that we came to the point where we had to put him in a position of shutting down the Government himself before he would come forward with even a semblance of a balanced budget plan. If you remember, the President did not feel compelled even to put a balanced budget plan on the table.

So what we are talking about, all of these things, whether you are talking about default or closing the Federal Government, all these things, I do not believe we are doing. We are doing what is responsible and putting the President in the position of saying he will have to make the decision in terms of default or shutting down the Federal Government.

One last point. In order to achieve his objective, his objective is opposite from what he ran on. He ran on a balanced budget, he ran on changing welfare as we know it, but now he is willing to shut down the Government, he is willing to default, rather than come forward with an honest discussion and negotiation of how we get to a balanced budget.

Mr. GILMAN. I yield to the gentleman from Arizona.

Mr. HAYWORTH. I thank my friend from New York, and thank him for coming to this floor and responding in measured tones to some of the shrill rhetoric we heard this morning. I have one comment in particular about blackmail. The record will show in our discussions with the White House, the new majority has moved some $400 billion in the direction of the White House, and the White House has responded with only incremental efforts to reach some sort of consensus.

Therein lies the rub here, because, again, in the wake of the rhetoric, I would simply make this statement: The only thing extreme on this floor is the extreme good sense the new majority is showing in trying to put our fiscal house in order. As my friend who chairs the committee so vital to international relations understands, it is fiscal responsibility, not only in our own financial markets, but internationally, that builds and expands the full faith and credit of the United States. And after almost a half century of runaway deficit spending, now trying to put our house in order should be paramount.

So let the record reflect that this new majority has moved in the direction of trying to reach some sort of consensus. But as everyone in any business knows, a bad deal is not the answer. No deal may be better than a bad deal.

Mr. GILMAN. I thank the gentleman from Arizona for reflecting on how important our economic status is, not only domestically, but internationally.

CONGRESS SHOULD BE WORKING ON SUBSTANTIVE ISSUES, NOT DISCUSSING GOVERNMENT DEFAULT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York [Mrs. LOWEY] is recognized for 5 minutes.

Mrs. LOWEY. Mr. Speaker, yesterday I visited with some high school students in Ryenek High School and we were talking about the Endangered Species Act. They wanted to know what the Congress was doing. They wanted to know how the debate was proceeding.

I also visited with students in another school to talk about education and what the Federal Government was doing or could do. It is hard for me to believe, Mr. Speaker, that it is almost 5 minutes to 1 in the afternoon. We are not working on the Clean Water Act or education, the Endangered Species Act or Head Start. We are here on the House floor because the Republican leadership cannot get their act together, and we are debating whether we should shut the Government down or not, whether we should allow a default of the Federal Government.

Mr. Speaker, a default of the Federal Government should be unheard of. It should not even be discussed, to even put in question the credit of the United States, to even think that we would talk about adjourning to just before the brink of March 1 when the Government could default.

Mr. Speaker, I appreciate the effort to be bipartisan, and I do so hope we could. Look, I think it is a fair debate to talk about the programs, to talk about what is efficient, what is not. That is what AL GORE's reinventing government was all about. In fact, the Government is 200,000 positions smaller because of President Clinton and AL GORE's reinventing government program. We have already reduced the deficit because of courage in 1993 by $500 billion. We have already done that. Now we know that the deficit was cut in half this year. It is $160 billion rather than $300 billion when the President took office. So we have already done some things.

No one ever thought in my district when I went home it was the subject of conversation that we would ever, the Congress of the United States, led by the Republicans, would shut down the Government. Twice. In fact, if that had not happened, I am sure no one would even believe, anyone in their right mind, that we could even think about the United States Government defaulting, putting our credit at risk.

That is unheard of. I was on the phone the other day with the head of the National Cancer Institute. Because of the Government shutdown, six cancer drugs were not released. In fact, the Geological Survey could not release maps to businesses that wanted to build projects. In fact, the SBA could not make loans to small business.

We are still trying to figure out what the impact of shutting the Government down was. I know it is difficult for NEWT GINGRICH and the Republican leadership, because they are a group of freshman that feel that it is their way or no way. I have always worked in a bipartisan way. I saw my colleague the gentleman from New York, BEN GILMAN, was here before. I wish my colleague from North Carolina, WALTER JONES, Jr., was here now, because I would have liked to have applauded his father, who was the chairman of the Committee on Merchant Marine and Fisheries on which I served.

We did all kinds of good things on that committee. We passed the Coastal Zone Management Act, we worked to preserve Long Island Sound, we passed an ocean dumping bill. There is a lot of work that has to be done in the Congress of the United States for my constituents and for the country. We should be working on these issues at 10 minutes to 1, not talking about a possible default of the Federal Government.

The President put a balanced budget on the table. Now, originally I heard day after day the Republicans saying "We need a balanced budget, we need a balanced budget. We need it scored by the Congressional Budget Office." I apologize to all our constituents. They probably may not be aware of all these details. But the President did put a balanced budget on the table, scored by the Congressional Budget Office. Now the Republicans are saying "That is not good enough."

Well, let us bring that bill to the table. Let us bring that balanced budget on the table. We can agree on $711 billion. Let us vote on it. Let us balance the budget and move forward and get to work.

I am very worried about how we are going to educate the next generation. I visit our schools. We can do so much more. It is legitimate to talk about what is the Federal role, what kind of investments can we make. There was an article just this week on the success of some boot camps. Can we invest in more boot camps so we can ensure our kids can get that education?

Let us not talk about default. That is an outrage. Let us get to work at 1 o'clock.

U.S. MONETARY POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. DINGELL] is recognized for 5 minutes.

Mr. DINGELL. Mr. Speaker, the House will be adjourning shortly until February 6. Mark Twain would have greeted that news with great joy and said that during that period of time the Republic was safe.

The fact of the matter is the Republic is going to be in greater danger during that period. As the first Secretary of the Treasury, Alexander Hamilton, found, the one thing that was important for him to do as the Secretary of the Treasury was to assure the credit of the United States. This was something which had not existed prior to that time. In consequence, the currency, the full faith and credit of the United States, and, indeed, the economic promises and commitments of this country, meant very little.

Alexander Hamilton set in place a tradition and a history and a culture which during those years since his tenure have been manifested by two things: First, that the United States paid its debts when due; and, second, that the United States' credit was regarded as the best in the world.

Today as we sit here, credit rating agencies are reviewing the credit of the United States to see whether in fact the credit of the United States should continue to be AAA or whether in fact it should be reduced to some lower number.

During the time that we have been discussing the budget, we have been talking to our Republican colleagues about that matter, they have been stressing that there were two purposes that they were going to carry out to assure that the President agreed to their stand with regard to a balanced budget.

The first was to bring a Government shutdown. That has happened not once, but twice. The American taxpayers, American business, American industry, American citizens, have undergone substantial hardship. Our foreign trade has been impaired. The programs upon which business, industry, ordinary citizens are dependent, have all been hurt. Checks by the Government to its contractors have been delayed and withheld. Losses of employment amongst Government contractors have occurred.

Federal employees have been laid off. Federal employees have been paid for not working.

□ 1300

That need not have been done. Indeed, with wise fiscal management, no party in control of a legislative branch of government would permit a situation of that kind to obtain.

We have seen the consequences of that: new trucking unable to be certified, businesses unable to send delegations abroad to promote sale of U.S. commodities and goods and services, Americans incapable of bringing in foreigners to see things like the automobile show; our monuments to the success of that unfortunate policy.

We are now looking at February 29. What will happen on February 29? On February 29, the United States will go into default on its obligations. At that time, the credit of the United States will be reduced in the eyes of all on that sole event. It need not happen.

Never before in my memory in this body, or indeed in the history of the United States since Alexander Hamilton was the first Secretary of Treasury, has that sort of event occurred.

We are going to adjourn here shortly then until February 29. We will probably do so without having addressed the question of the debt ceiling. Let us look a little bit at what happens to this country if a default occurs.

My Republican colleagues are feeling very, very macho about this matter, because they are now able to say they have a tool which they can use which will force the President to do their bidding. Well, the President has not been forced to do their bidding by the shutdown of the Government. Indeed, the only persons who have been hurt have been the United States and the people of the United States.

The President has done his best to see to it that the country is run during those periods of time. But we have wasted billions in paying salaries to people who did not work. We are now paying people who are not able to work effectively because their agencies are not fully funded, even though we are paying them. But let us look ahead to see what will occur.

A BALANCED BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. VOLKMER] is recognized for 5 minutes.

Mr. VOLKMER. Mr. Speaker, I yield to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, interest rates will rise. Prices of U.S. Government obligations will fall. Interest rates will rise on municipal bonds, State securities, and private debt, corporate and individual.

Prices of bonds will drop. The securities markets, both stocks and bonds, will fall. The credit rating of the United States will be impaired. Employment will rise. Home mortgages will be thrown into disarray. Homeowners will find the value of their real estate declining. Pension funds will be impaired by reason of the loss of the value of their equity and the loss of earnings. Perhaps high unemployment in this country and around the world will occur because of a significant breakdown in the world money markets and the world currency markets.

Mr. Speaker, I urge my colleagues on the Republican side, if they are going to play with fire, to burn only themselves, but be careful of what they do.

Mr. VOLKMER. Mr. Speaker, reclaiming my time, I have been listening to some of the debate that is going on over here, and it is really amazing to me that we have adults here masquerading as Congressmen that will not accept the responsibility for their own actions.

I can remember back when my children were young. One of the things that I tried to teach them was if they take an action, do something, to accept the responsibility for what has been done. But what we find here among the Republican majority is that they will not accept the responsibility at all for shutting down the Government. They want to blame it on somebody else.

Mr. Speaker, I have known of people that way. They do things and they think of all kinds of reasons to blame somebody else for what has happened to them instead of accepting responsibility for their own shortcomings.

Come March 15, I want to see the President continue this Government in those areas that expire by March 15. There is only one group that can do that, and that is the majority in the House. Senator DOLE cannot even do it on a continuing resolution. It is an appropriation that has to originate in the House. Only the Republicans can originate a bill of appropriations. If they do not do it, like they did not do it in December, they did not do it, and, for not doing it, the Government shut down. The same thing happened in November. When they did not do it, the Government shut down.

That is all it amounts to, folks, and now they tell us that all this big fight is over a balanced budget, that the President has not submitted a balanced budget. But the President has. And not only the President, the Democratic Coalition submitted a balanced budget that is a lot better than the Republican balanced budget.

The Congressional Budget Office tells us that the Democratic Coalition budget, by the year 2002, that Federal debt is $66 billion less under the Democratic Coalition budget than under the Newt

Gingrich Budget. No, they will not take that.

Know why? I will say why, Mr. Speaker. Because it does not have a tax cut for the wealthy in it. It does not have a tax cut at all. Some of us believe that we should not be cutting taxes until we see a balanced budget. All I am doing and my colleagues are doing in these balanced budget resolutions is estimating that by the year 2002 there is going to be a balanced budget.

There is not one person in this world that can guarantee that there is going to be a balanced budget. So let us wait until we get to a balanced budget, then we will do tax cuts. They say: Oh, no. We want the tax cut now. We want the tax cut now.

What that tells me is that they really want a tax cut more than they want a balanced budget. That is what it tells me. They are more interested in seeing a tax cut. Let us wait and see the debt limit. I hear talk now that the gentleman from Texas [Mr. ARCHER] is going to put some of those tax cuts on the debt limit. That tells me something. That tells me that that tax cut is really important, more important than the credit of the United States.

That is what my colleagues are taking a risk with doing, by doing that. It is more important than the balanced budget. It is the most important thing of all among the whole area, this whole year, is the tax cuts. That is what the Republican majority really wants.

Mr. Speaker, it is not really the balanced budget. If they wanted that, they could have had that a long time ago. We gave that to them, the Democratic Coalition. CBO says, yes, it just does not have the tax cut. And if they really want a debt limit increase, I suggest that they pass a clean one. Once they do not, the Senate will add all kinds of amendments. If my colleagues add some, the Senate will add a bunch more, and we will not have it done.

TRIBUTE TO RONALD REAGAN

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Arizona [Mr. HAYWORTH] is recognized for 60 minutes as the designee of the majority leader.

CONGRESS MUST WORK TOGETHER TO END DEFICIT SPENDING

Mr. HAYWORTH. Mr. Speaker, we were to use this time for a special occasion that appears on the calendar in a few days, and we will get to that in a few minutes. But after hearing the rhetoric bandied about this floor this morning and on into the afternoon, I think it is important to make several points.

First and foremost, when we talk about credit and credit ratings, when we talk about abdication of responsibility, Mr. Speaker, the problem is this: For too long those who have come to this Chamber have always found a reason to say yes; have always found a reason to spend more and more of the American taxpayers' money.

For almost a half century, it has been fact in this city, in this Chamber, that it is always easier to say yes. It is always easier to say, oh, gee, we should be able to find some money for that. To that extent, we have now spent ourselves to almost $5 trillion of debt.

No, Mr. Speaker, the ultimate abdication of responsibility is not facing up to this problem and saying, let us work together to change these ways. The ultimate abdication of responsibility would be to continue to heap debt upon debt upon those who have no voice in this Chamber, for they are generations yet unborn.

We have heard a lot about bipartisanship. Let me congratulate the President and his budgeteers for something they did a couple of years ago, something called generational accounting, where the President asked his budgeteers to take a look at Government as it exists today and extrapolate what it would cost the average American taxpayer if nothing changed. The President's own budgeteers said, if nothing changes, the average American 25 years from now will surrender 82 percent of his or her income in taxation to some level of government, to some governmental entity.

Today the American taxpayer, the average American family, pays more in taxes than on food, shelter, and clothing combined. Yet, our friends would come here and say, gee, if you want to make the Government work, we will just take more or hang on to more of people's hard-earned money, and we will get our act together.

Yet the inescapable fact is, for every dollar raised in taxes for years, this Congress has spent $1.59. Now it is supposed to be different. My distinguished friend, the gentleman from Michigan, quoted Mark Twain. Mark Twain also said this: "History does not repeat itself, but it rhymes."

Yes, momentous decisions await us in this Chamber. Yes, the American people deserve the best. Yes, the American people deserve a Government that will allow pro-growth policies by letting people hang on to more of their hard-earned money and at the same time deliver a one-two punch, not only allowing Americans to hang on to more of their money but, yes, curtailing the levels of spending.

It is only extreme in the sense that it makes extremely good sense.

Mr. Speaker, with that I yield to my friend from California.

Mr. ROHRABACHER. Mr. Speaker, I think it is important to realize that, when we say 80 percent of people's income will have to be taken from them in taxes in the future in order to pay for government if we leave the situation the way it is, let us remember what that 80 percent will mean. That 80 percent will not be providing those future generations with services. What we are talking about is leaving future generations to pay a majority of their income simply to pay for the interest on the debt that we have left them.

Mr. Speaker, we are basically condemning future generations of Americans to slavery. Our fellow Americans should take a look and see what we are talking about here. One is not a free person if one has to work half of one's life simply to pay the interest on the debt that someone else has given. That is what the young people of our country have to look forward to unless we are responsible.

Our country will not be a prosperous country in a situation like that, and our people will not be a free people. It is the freedom of our fellow Americans in the future that we are talking about. It is the freedom of our children and our children's children; not only their prosperity but their freedom as well.

Let us note this: that we have heard a lot of talk today and a lot of names called. I heard one of our colleagues suggest that we are "masquerading as Congressmen." I heard another colleague say that we are just a "bunch of extremists." This type of name calling should raise the red flag in American homes and say, wait a minute, what is going on here? Why do people have to call these types of names? What about the basic argument at hand?

I think we should look at some of the basic things. We have been told today, for example, that 200,000 Federal employees have been cut by this administration. Well, we know almost all of those are a result of a reduction in our military forces. Is that being forthright with the American people, to claim that we have reduced the size of Government when in reality all we have done is reduced the size of the American military?

Then we heard about the $500 billion cut in our deficit. Does anyone believe that in the last 2 years we have seen a reduction of $500 billion in our deficit? That is absolutely ludicrous, to say that over these last 2 years we have seen a $500 billion cut in the deficit.

Mr. Speaker, what reduction there has been in the deficit, however, might be attributed simply to, No. 1, the good economy that this President inherited, and, No. 2, the fact that the President passed, immediately upon entering office, one of the largest tax increases in American history. Before that has its chance to wreak havoc upon our economy, there seems to be a little bit more revenue coming in because of tax increases.

□ 1315

It is absolutely ludicrous to suggest that this cut in the deficit has anything to do with a reduction in the size

of Government or Vice President GORE's plan to reinvent Government. This is not an honest debate when we move forward like this. The American people should understand that what we have today and the reason we are in a budget confrontation, the reason people are talking about default, the reason the Federal Government was closed down is, there is a philosophical struggle going on in Washington, DC. And the democratic process is playing it out, just as our Founding Fathers intended this democratic process to work.

The fact is that one group of people is demanding more and more Federal spending and an ever-increasing Government versus a shrinking proportion of take-home pay for the American people.

On the other side, we Republicans believe that a free society means that people have a chance to take home some of their hard-earned dollars and make choices for themselves, how they will educate their children, how they will spend the money that they have earned, how they will allocate these limited resources. It is not a free society, as I say, if a greater and greater portion is taken away from someone who has earned that money. We are condemning our children to a future of virtual slavery unless we change that pattern.

But changing the pattern is exactly what this is about. This President and the minority, who by the way had a chance to do anything they wanted to do for the last 2 years, they had the Presidency and both Houses of Congress, but the other side is so committed to bigger Government, to taking resources away from the people and giving them to bureaucrats and officials in Washington, who are bestowed, I guess, with some benevolence in that they understand how to use those resources, have a greater understanding than the people themselves who earned them. This is what they would like to do, and they want to do that so much, they are so committed to a bigger and bigger Government that they are willing to shut down the Federal Government. We hear time and time again of all of the consequences of the short shutdown that we faced with the Federal Government. The fact is, I understand that. You understand that. The majority understands that.

We did our job. The reason the Government was shut down was that the President of the United States did not do his job because he was committed to bigger Government and higher taxes and more controls and more regulation and Washington, DC, the omnipotent Washington DC, rather than committed to the freedom and prosperity of the people.

That is what is going on here. That is what is playing out. When you hear talk of default, the Republicans are forcing no default, just as the Republicans did not force the closing down of the Government. What we are doing, we are doing our very best to turn around a situation where if the United States continues to go in the direction that it is that we will be sacrificing the freedom and prosperity of young Americans and future generations.

Mr. HAYWORTH. Mr. Speaker, I thank my dear friend from California, again, for expounding on some of the rhetoric we heard this morning.

One who preceded us in America's public affairs said it this way, Mr. Speaker:

> This is the issue, whether we believe in our capacity for self-government or whether we abandon the American Revolution and confess that a little intellectual elite in a far distant capital can plan our lives for us better than we can plan them ourselves.

The truth of those words rings true. And it is in that spirit that we move today to our reason for taking this time, as Members of the majority, to commemorate the fact that on February 6, the great communicator, indeed one of the greatest Presidents ever to serve in the Oval Office, Ronald Wilson Reagan, will turn 85 years of age. There are so many inspiring factors, when one looks at the life of Ronald Reagan and his life in public service, but I look to his earlier years. Indeed, many, to offer this personal note, have looked at my career, those pundits and would-be potentates of the fourth estate inside this beltway, as some have written of my stewardship in this Congress, my heavens, he is a sportscaster.

Well, let the record show that Ronald Reagan began his working career on the air in radio, first at WOC Davenport and then WHO Des Moines and indeed, the bulk of his duties entailed sportscasting.

Now, I will be the first to admit, Mr. Speaker, that I am certainly no Ronald Reagan, but we are joined today in this Chamber, Mr. Speaker, by those who have served President Reagan and those who continue to serve former President Reagan. I would be happy to yield some time again to my good friend from California, one of the surfing Congressmen, indeed, one of the surfing speechwriters who worked in the Reagan White House, who was present at the Reagan revolution, my good friend, Mr. ROHRABACHER.

Mr. ROHRABACHER. I thank the gentleman very much. I was blessed to be born in California and to have lived in California at the time when Ronald Reagan was Governor of that State. In fact, I worked on his very first campaign.

I was the Los Angeles County high school chairman of Youth for Reagan. And one little anecdote that might give people a better sense of who we are talking about is that after that campaign, it was a very hard-fought campaign, Ronald Reagan was always told during his entire career that he would lose the election that he was in because he was an extremist. And we have heard that word bandied about here today.

Ronald Reagan was always called an extremist and was always told that the American people would never elect him and that he could not win, that was always the argument against him in the Republican primaries.

It was a hard-fought primary and Reagan won handily. During that primary in the youth group, in the youth movement that we had there working for Ronald Reagan, there was a conflict between the Young Republicans and the Young Americans for Freedom. And it was a very brutal conflict, even though we had a great man to work for. Everybody was fighting each other and some of us tried to just walk the precincts and pay attention to the job, but everybody seemed to get sucked into this battle.

What happened was, the senior staff of the Reagan campaign determined after the primary that what they would do is eliminate Youth for Reagan and then they would just put all the young people into the organization that was based for everybody, for the adult volunteers of the campaign. I just felt terrible about this. I just did not know what to do.

I had walked about 20 precincts myself. I had 120 kids in my area that had just worked their hearts out for Ronald Reagan and Youth for Reagan, and I was crestfallen. What was this going to mean? There would be no Youth for Reagan.

I decided to talk to Ronald Reagan himself about this problem. And there I was, 17, I guess I was more like 18 years old. I got up one morning and went to Ronald Reagan's home at 2 or 3 in the morning. And I walked up this narrow driveway, and this shows you how different things are, there was not even a guard on the outside of the house. And I went to the backyard and camped out in the backyard. And I had a little sign.

And the next morning about 7 in the morning, Nancy stuck her head out of the door and said, Who are you? I had this little sign and it said, Ronald Reagan, please speak to me. And she explained, she said, Now, look, my husband cannot come out; otherwise I know him, he will miss his breakfast or he will be late for the rest of the day.

How can you argue with a wife who is concerned about her husband? And so she said, If you will go down and if you will leave now, I will make sure that you get an appointment with one of the top campaign people. You can discuss your problem with him.

So, OK, I started walking down that long driveway. And then behind me I heard a thump, thump, thump. And it was Ronald Reagan. His shirt was half

off. There was shaving cream on his face. He said, Wait a minute, wait a minute. He said, If you can camp out on my back lawn all night, I can at least spend a couple minutes with you.

Sure enough, he spent 5 minutes with me. And I would like to think that that was the 5 minutes that saved Youth for Reagan, because the adult organization did not take over. But this is just the type of man Ronald Reagan was. He had a wonderful heart. He thought about young people.

We have just been discussing what will happen if we do not set our country on the right path. It will be our young people that suffer. Ronald Reagan knew this. Ronald Reagan's whole goal, when he became President of the United States, was to make sure that we passed onto our children a country that was more prosperous and a world that was more free and a world that was more likely to be at peace than the one that we inherited.

President Clinton, by the way, has had an easy job of this. I know that our colleagues on the other side of the aisle will not accept this, but the fact is, President Clinton inherited a great economy, an economy that was growing, an economy that had almost no inflation. And in fact, he also inherited a world in which the United States was the supreme power and that the cold war was a memory, the cold war was over.

For the first half of Mr. Clinton's Presidency, he had control of both Houses of Congress. His party could have done anything they wanted. This is so different than when Ronald Reagan took over as President. Ronald Reagan inherited a disaster. Our economy, I remember that, because I was a journalist at the time. I remember that in the 2 years prior to Ronald Reagan becoming President, my income was reduced by 25 percent due to inflation.

All those people who were not getting raises found out that with an inflation rate of 13 percent and 12 percent a year, that their income was going down, that they could not afford to live. In fact, one of the greatest drops in the economic well-being of minority Americans and less affluent Americans happened in the 2 years just prior to Ronald Reagan taking over as President.

And when Reagan came to office, we faced this incredible economic catastrophe. We also faced an enemy intent on destroying the United States of America, an enemy that had been arming itself to the teeth for years, and a situation in which our own Armed Forces had been neglected out of some ideological commitment by the left. I guess the left at that time felt that a strong United States was an enemy of peace and not a friend of peace.

Ronald Reagan had to turn that situation around or we would have been at war. He had to turn the situation around or our young people would never have had any chance of prosperity or the economic lives that we lived even in this generation would have continued to decline.

On top of that, the Democrats had control of this body, of the House of Representatives, during his entire time as President. In fact, the Democrats did everything they could to undermine President Reagan. I know there is a lot of revisionist history going on these days about the cold war, but I will tell you this right now, that when Ronald Reagan tried to confront Soviet aggression, tried to rebuild America's strength, tried to do what he could to confront this bully that threatened all of mankind, we did not have the liberal wing of the Democratic Party on our side. In fact, they were doing everything they possibly could to undermine our effort.

In fact, at the time in the domestic area, when Ronald Reagan proposed cuts, today we hear him blamed for the great deficit increase that happened during his years.

□ 1330

I remember very well what happened during those years. What happened was Ronald Reagan was personally attacked. He was villified, not for spending too much, not for creating a bigger deficit. The very same people who today call him those names and blame him for the deficit were the ones in charge of this House who were attacking Ronald Reagan for not spending enough money. They were the ones who pushed Ronald Reagan to the wall in order to get more money put into the budget, not less. It is funny now that we hear the revisionist history about Ronald Reagan being the one responsible for the deficit by the very same people who demanded more and more spending, and villified Ronald Reagan for fighting it.

Worse than that, however, When Ronald Reagan tried to confront the Soviet Union, in our efforts, for example, before Ronald Reagan became President, there was a movement by the Soviets to dominate Europe with a buildup of intermediate range missiles. Immediately thereafter, after the Soviet Union expanded its military might, it called for what they call a nuclear freeze, which would have frozen them into a military superiority which would not put them in domination of Europe, and would have put them in a situation where the cold war would never have ended, because they would have been a dominant force on this planet.

Ronald Reagan countered that with a proposal saying, "Look, if we are going to limit nuclear weapons, and we are talking about intermediate range nuclear weapons, let us bring down the levels of nuclear weapons in Europe to zero, so both sides will be able to decrease their spending on the military, and you will not have to have any missiles in Europe on either side."

The proposal was considered seriously in the Soviet Union. Where it is not considered seriously was by the liberal wing of the Democratic Party who attacked Ronald Reagan publicly for offering this, saying that they knew that the Soviet Union would never seriously consider this, and that Ronald Reagan was just hiding his true intent, which was wasting money on the military.

In fact, 5 years later the Soviet Union agreed to that arms control proposal, the zero option, and it was signed by President Reagan and Mr. Gorbachev into an agreement, a historic agreement, that signaled a change in the cold war. But that was not, that was not due to bipartisan, as we hear now, bipartisan support from the other side of the aisle. It was due despite the nitpicking and the public disagreement and the public undermining of the President's position.

I well remember sitting in the White House when we were discussing having arms control negotiations and what was going on in the arms control negotiations with the Soviet Union, when we had demanded that they live up to their past treaty obligations. The Soviet Union had built a huge radar facility, in total violation of one of its treaty obligations to the United States, but yet, people, liberal Democrats on the other side of the aisle, came forward in this body to defend the Soviet position, and to suggest that it was really the belligerence of Ronald Reagan and we extremists, which we hear all the time, extremists, which was at the heart of the cold war.

Liberal Democrats were proclaiming that there was a moral equivalency between the United States and the Soviet Union. This was not the bipartisan support that we hear time and time again, now that the cold war is over. The fact is that there was not bipartisan support. There was some bipartisan support, because there were some Democrats that come over, but by and large, Ronald Reagan had a two-front war to fight in order to end the cold war.

Mr. HAYWORTH. Mr. Speaker, I thank my friend, the gentleman from California, for his unique perspective. Now we know it will be in the history books one day, and perhaps in the archives of those who follow American political endeavors, that our good friend, the gentleman from California [Mr. ROHRABACHER], camped out on the back lawn of Ronald Reagan.

A couple of points and then I will yield to the gentlewoman who has the distinction of having the former President as a constituent, at least part of the time. It is this notion of optimism. Dwight Eisenhower said that a great leader should always be optimistic; not a cockeyed optimist, to be sure, but

one who believed in the basic goodness of people, and one who would defend the notions and the ideas he put forth.

President Reagan said it this way. Before he ever became a candidate for office, quoting him now, "They say the world has become too complex for simple answers. They are wrong. There are no easy answers, but there are simple answers. We must have the courage to do what we know is morally right."

As the gentleman from California outlined, facing considerable odds here at home domestically, facing the pundits and those who would fail to acknowledge the common sense of his policies, Ronald Reagan was willing to see a policy through. Because of his efforts, it has been said by our friend from Great Britain, the former Prime Minister, Mrs. Thatcher, if there is one individual responsible for the victory of the free world in the cold war, his name is Ronald Wilson Reagan.

With that, I am happy to yield to my good friend and fellow freshman, the gentlewoman from California [Mrs. SEASTRAND].

Mrs. SEASTRAND. Mr. Speaker, it is truly an honor to pay tribute to Ronald Reagan, and it is an honor that we do it here on the House floor. The gentleman from California talked about this involvement in trying to get the President elected. I have the unique pleasure to say, I go way back when, and I can remember stuffing those envelopes in the local headquarters for Ronald Reagan when he was running for Governor of California, and all the wonderful stories that, when we sit here and mull these things over and think about it, it is an honor, again, as I said to be here, and go way back when.

Today, as the Republican Congress moves our agenda of fiscal responsibility and bureaucratic downsizing through the House of Representatives, we are reminded of the first revolution—the Reagan revolution—that swept through Washington during the 1980's. Many of the things President Reagan championed throughout his Presidency have found a home and a new life in the Republican Congress. Welfare reform, real spending cuts, the balanced budget amendment, giving more flexibility to the States, and the line-item veto were all regular features of the Reagan program stifled by the Democrat Congress.

President Reagan's list of accomplishments seems unending. On the economic front, Reaganomics—as it was derided by his opponents—produced the longest peacetime economic expansion since World War II and blew holes right through the traditional and current Democrat appeals to class warfare. The Reagan tax cuts reduced the top marginal income tax rate from 70 to 28 percent and took many low-income people off the tax rolls altogether. The double-digit inflation and soaring interest rates of the Carter years crumbled to record lows. As Mr. Reagan himself has pointed out on many occasions, his only regret was an inability to get Congress to cut spending.

In foreign policy, Mr. Reagan's steadfast commitment to peace through strength sent an important signal to the world that the United States would no longer stand back and watch an expansionist Soviet Union roll up more territory. From Afghanistan to Angola to Nicaragua, the Reagan Doctrine put the United States firmly behind the freedom fighters who sought to throw off the oppressive Communists.

President Reagan was truly the man of the decade during the 1980's. There was no single figure more responsible for ending the cold war than Ronald Reagan. One sterling example was the 1986 Reykjavik summit. For 2 days the United States and the Soviets negotiated the most comprehensive arms reduction treaty in history only to have Mikhail Gorbachev throw a big curve at the end—the United States would have to give up the Strategic Defense Initiative. Ronald Reagan stood before Gorbachev and the world, held his ground, and said no deal. More than any single moment of his Presidency that was the nail right through the heart of the Soviet empire. As Gorbachev himself later admitted, when the Soviets realized that Reagan could not be bowled over, the game had changed and they did not have the resources to keep up.

President Reagan's policy of peace through strength was a hands down winner. It was a winner in spite of his critics. All during his Presidency Ronald Reagan withstood a vigorous assault from the left. But, through it all, he remained committed to restoring our Nation's defenses. There would be no further fears of a hollow army, and no lack of morale on the part of American serviceman. Having lived through four major wars in his lifetime, President Reagan was determined to make sure that our Armed Forces—those who would be asked to defend American interests at home and abroad at a moment's notice—had the resources, the respect, and the commitment from their government to do the job. As he so passionately and eloquently stated in perhaps his finest speech, the 40th anniversary of the Allied invasion at Normandy: "We will always remember. We will always be proud. We will always be prepared, so we may always be free."

It was a great honor for me to introduce legislation earlier this year that has since been enacted into law, legislation naming the newest constructed Federal building located on the last undeveloped stretch of Pennsylvania Avenue—America's Main Street—the Ronald Reagan Building and International Trade Center.

Ronald Reagan spoke of "Main Street America" as the "millions who work so hard to support their families and keep our country together." He often talked of the rising tide of optimism in Main Street America and that is why it is fitting that we named this Federal building after him.

The structure is designed by James Ingo Freed of Pei Cobb Freed & Partners; I.M. Pei designed the east wing of the National Gallery of Art and Freed designed the Holocaust Museum on 14th street and will be the centerpiece of downtown Washington. The building will dedicate 500,000 square feet for an international trade center and will attract additional business and tourism to our Nation's Capital. It seems fitting that this building that will feature free trade should bear Ronald Reagan's name.

Despite the arguments put forth by revisionist thinkers, President Reagan's place in history is secure. He stands next to the giants, Presidents like Roosevelt and Lincoln, who arrived at a time when the Nation desperately needed the passion and the leadership of a true believer. As he fights with courage, conviction, and that famous Reagan optimism against his current physical ailment, let us remember and pay tribute to a man who embodies the American Dream.

Mr. HAYWORTH. Mr. Speaker, I thank the gentlewoman from California, and reclaiming my time, I would ask if during the course of her busy day if she still has time to pause with us and reflect on those personal glimpses of President Reagan, she is more than welcome during the remainder of our time to do so.

My good friend, the gentleman from California, reflecting and offering yet more personal glimpses, as well as policy analysis of those years, the Reagan years in the White House and those years before, I am happy to yield to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, it is such a pleasure to be here with the gentleman, and celebrating the birthday of this great American, who has done so much for my life personally and also for the lives of every American.

People would like to know what kind of man Ronald Reagan was. I think I will make this a little personal as well as oriented towards his policy. I worked with him on his campaign in 1976 when he ran for President against Gerald Ford and lost. I remember one day when the President was speaking before a rally at a parking lot in North Carolina, where a young lady grabbed me by the arm and said, "I am here with a group of blind children. They cannot see. They cannot really get up into this crowd to hear as much as they should be able to, so I have had to keep them back here on the side. I was wondering if it was possible for," and they

called him Governor Reagan at that time, because he was not elected President yet, "for Governor Reagan to come here and to shake hands with these young people."

As the rally was over, the press were getting into their buses, and I mentioned this to Mike Deaver, and Ronald Reagan was in earshot and heard me talking about these young blind children. He said "Look, I don't want anybody in the press to come over there, because I don't want these young people to think that I'm trying to exploit young people, or blind children, for my candidacy, so do not tell the press anything. Let them get on the bus, and then I will go over there and meet with these young people and talk to them for a moment."

Sure enough, we jogged over to the side of the parking lot and there were about five children, probably 11 or 12 years old, that were blind. Ronald Reagan was speaking to them.

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As he spoke to them, he said, would you like to touch my face? I will never forget that, because it would not have dawned on me to say that. It was not a thought that came to my mind. But he was so understanding and so sensitive that he knew that they could not see him unless they touched his face.

Of course, they all wanted to touch his face. As they were there, these five blind children touching his face in the corner of that parking lot, I thought to myself, what politician in this country would not give millions of dollars to have his picture on the front of Time magazine or Newsweek magazine to have all of these children touching his face. It was such a heartfelt picture, it would have been a Pulitzer Prize. But, instead, Ronald Reagan knew that this was a private moment, and that he was talking to these young people, and if he was going to keep faith with them, he did not want them ever to have the thought that he was exploiting them for those purposes.

I guess that is what our basic challenge was when we were working for Ronald Reagan as President. Before people could really see him, they had to feel Ronald Reagan, and the American people got a feel of Ronald Reagan. During his presidency, they knew that he was a good and decent man. Even though during his entire presidency, and during his campaigns he was maligned over and over again, as if trying to be responsible, trying to say that we cannot spend everything for everybody, that that in some way makes you a malicious person.

Reagan was attacked over and over and over again, as if he did not have a good heart. But the American people saw that he had a good heart. They felt that. They knew that about him, just like those little blind children, when they touched his face, knew what this man looked like.

Well, the American people knew what Ronald Reagan looked like on the inside. That is why they trusted him. To the degree that he was successful, it had a lot to do with the trust that the American people put in him. He spoke to them.

I was Ronald Reagan's speech writer for 7 years. I had never written a speech for anyone else before I wrote a speech for Ronald Reagan as President of the United States. He was the one who taught me how to write. A lot of people, again maligning Ronald Reagan, tried to say that he was some sort of puppet and that he could not do anything without his cards.

Well, the fact is, Ronald Reagan was an excellent writer. I always said that if he had not been president, he was a good enough writer to be a presidential speech writer. He taught us that.

He was, as you had mentioned, an expert in communication, and that served him well, it served the country well. When Ronald Reagan took over the country, it was in a funk. The country and the American people had been told to lower their expectations. They had been told that all of the problems of the world dealt with our own faults as Americans. They were told that we could not succeed, that we were in a malaise, and Ronald Reagan, with his buoyant optimism and with his great sense of the people themselves and his ability to communicate, turned the American spirit around.

People complained that the deficit expanded during Reagan's years. Again, he tried to cut it and the Congress would not do it. But on top of that, just figure out where our country would have been had the same policies been in place that the Democrats had in place before Reagan was elected and those same economic trends would have continued. Our deficit would have been twice as big, and our inflation rate would have destroyed the economic well-being and the standard of living of all of our people. So Ronald Reagan was successful at that.

But perhaps what I am most proud of, through it all, Ronald Reagan was called a warmonger, called a militarist. He was portrayed as someone who wanted to spend money on all of these weapons. But in fact, Ronald Reagan was a champion of freedom and liberty, and in doing so, he was a champion of peace in the world. We have a more peaceful world today because of what he did, the stands he took.

I remember when Ronald Reagan was castigated; and this side of the aisle, the Democrats who controlled the Congress at the time, did everything they could to undermine his policy of supporting freedom fighters in the various parts of the world who were fighting Soviet aggression. I mean, it made every sense to me that we should arm local people to defend themselves rather than send Americans all over the world to have to fight; and in fact, we drained the Soviet Empire of its military capabilities by forcing them to fight for their gains rather than just giving it to them and letting people surrender without a fight.

In Nicaragua, where the Soviet Union was perched and ready to roll up Central America right into Mexico and to the borders of the United States, before Reagan was elected, in Nicaragua, the Communists were ready. The Soviet Union pumped billions of dollars of military aid into that country, and the Democrats on that side of the aisle undermined Reagan's effort over and over and over again to try to give the Nicaraguan people the right to fight for their own freedom.

I have no understanding of why that happened, but in today's revisionist history, we are told that a bipartisan effort ended the cold war. There would have been no end to the cold war had there been a major Soviet offensive in Latin America that was victorious, and that would have happened had not Ronald Reagan come in and supported those who were struggling for freedom.

Finally, let us not forget that it was Ronald Reagan's speeches and his ability to communicate to the world, his ability to champion the cause of freedom and to condemn communism. Ronald Reagan was the first President of the United States not just to condemn Soviet actions, but to condemn communism as an evil, tyrannical force on the planet. Let us not forget that those words, along with his policies, are what brought an end to the Soviet imperial empire that threatened our freedom and threatened the peace of the world.

I will leave you with one last story of Ronald Reagan, because Reagan was called, he was called names, too, about his rhetoric. I have heard speeches over and over again about how he was a warmonger and his speeches were going to get us into trouble. But I remember very well the incident when Ronald Reagan was going to go to Berlin, and Reagan, one of his speech writers went to Berlin before him, and we came back.

Ronald Reagan had mentioned that he thought that this was the place to talk about the tearing down of the Berlin Wall. And we speech writers did our job; we gave him text.

He approved it, and all of a sudden volcanoes began to erupt all over the world. Diplomats, foreign policy experts, George Shultz, our Secretary of State, you name it, everybody, the National Security Advisor to the President himself, they were just—they were screaming at the top of their lungs, do not do it. Do not tell Mr. Gorbachev to tear down the Wall, because it will be an insult to Gorbachev. He is our only hope.

It was said by many that Gorbachev was the man who was making the world more peaceful, which is what we

hear from the liberal side, and not Reagan and a commitment to freedom that was changing the world. Reagan in fact was told just the day before he gave the speech in Berlin by his own National Security Advisor to take out of his speech that reference to tearing down the Berlin Wall. He was handed another speech draft and told, Mr. President, you should use this draft instead of the one you have. And Ronald Reagan, being the leader that he was said, well, no, I think I will use the one I have.

He went to Berlin, and he pointed to the Wall and he said, Mr. Gorbachev, if you believe in democracy and peace, tear down this wall. That strength of purpose and that commitment to freedom sent a shock wave around the world which unnerved the last vestiges of power in the Soviet Union and brought about the end of the cold war.

Ronald Reagan made that decision on his own, against the advice of the experts, because he knew in his heart that saying and demanding the tearing down of the Berlin Wall made everything that he had done and everything America stood for real, not only to the people of the world, but to the leaders of the Soviet Union; and within a few days the CIA told us that Gorbachev had had a meeting and had been seriously discussing with his advisors how to move forward in bringing down the Berlin Wall as a symbol of peace. What a magnificent, magnificent victory.

Then, one moment, I am going to tell you about my best day at the White House. I remember when Nathan Sharansky came to the White House. Many people do not know who Nathan Sharansky is. He used to be called Anatoly Sharansky and was a true hero of the cause of human liberty. He was a Jewish dissident in Russia, Soviet Russia, and he was thrown into the slammer, thrown into the gulag and told, all you have to do is sign a slip of paper saying that the Soviet Union is really a democracy and does not persecute Jews, and we will let you out of the gulag; and Sharansky refused to do so.

When the word of this heroic stand of this individual got around the world, he became one of our heroes. He became in the 1980's not just a Jewish hero; he was a hero to all people who believed in liberty, especially to Ronald Reagan's speech writers.

Well, when he was let loose from the gulag, it was because we traded a spy for him, a Russian spy. We got a heroic champion of freedom and they got some low-life spy who was trying to help Soviet tyranny. Boy, did we get the better part of that deal.

Sharansky ended up coming to the White House to visit Ronald Reagan, and he told Ronald Reagan, he said, Mr. President, whatever you do, do not tone down your speeches, because apparently when he was at the bottom of despair, in the dark and damp dungeon of a gulag, he was slipped a small piece of paper and on that paper was written, President Reagan has called it an "evil empire." And he said that is what gave him hope. That is what gave the world a reason to resist Soviet tyranny.

Not only did Sharansky prevail, but all of the freedom-loving people prevailed, because Ronald Reagan had the courage to speak about the values and the principles of this country at a time of great adversity.

So today, I am very pleased to join you and my other colleagues in saying "happy birthday" to my old boss, a man who may now have lost his memory, but will never be forgotten. Thank you.

Mr. HAYWORTH. Mr. Speaker, reclaiming my time, I thank my friend from California for that heartfelt tribute, and for his willingness to share the very personal side of history, a history of this Nation, a history of this world, in which our former President, Ronald Reagan, served as a catalyst; a man who had the courage to point out the world as it was and the conviction to help change the world to the place it ought to be.

I look here in this Chamber, Mr. Speaker, and I see another of our good friends who has joined us in this effort to continue the battle, to restore the notion of freedom and constitutional government to this great constitutional Republic, and for his perspectives on the service and stewardship of President Reagan. I am happy to yield time to the gentleman from Minnesota [Mr. GUTKNECHT].

Mr. GUTKNECHT. Well, I thank the gentleman from Minnesota. After listening to Mr. ROHRABACHER from California, particularly that close, it is really very difficult to speak, because we all have our own personal recollections and memories.

I had never been to Washington, I do not think, during the Reagan administration; I had never been to Washington until the Bush administration, so my memory is somewhat different.

I appreciate your having this Special Order. We have heard a lot today about President Reagan as the great communicator. Sometimes we forget, and we remember the tremendous speeches that he gave and some of the powerful things that he said. But it is easy to forget that communication is always a two-way street.

It seems to me that one of the parts that is forgotten about President Reagan is that he had a tremendous listening ear. He understood. He had an empathy for the American people that sometimes is forgotten.

One of his favorite expressions, and I have stolen a lot of things from the President; one of his expressions that he used frequently, and I subsequently found out he got from John Adams, but I use it a lot. He said, facts are stubborn things. You know, we can ignore the facts, we can deny the facts, but ultimately facts are facts. And he deeply believed that.

He also believed that ideas matter, that words have meaning, and that actions have consequences. As Mr. ROHRABACHER talked about earlier, when he went to Berlin and he said, Mr. Gorbachev, if you mean what you say, then tear down this wall.

□ 1400

Those words were barely even reported here in Washington and in the western press. It was passed along and does not appear anywhere in the lists of famous quotations, so that expression was almost forgotten here in the West. But those words had meaning, and they rolled across Eastern Europe all the way to Moscow, and ultimately the reverberation of those words brought that wall down.

I will always remember, and I have got to be brief because I have to run, but again I appreciate so much the gentleman having this special order today. But I remember the day that Ronald Reagan was sworn in as our President in his first inaugural address. I remember I was traveling in central Minnesota and I pulled the car off the side of the road to listen to that speech. It was one of the most powerful and most moving speeches I have ever heard.

In fact I was in New Ulm, MN when I heard the speech, and I will always remember. In fact I do not have it in front of me and I cannot do it word for word, but I will paraphrase only slightly the last paragraph of that speech.

Some may remember he talked about a young man from Wisconsin who during World War I had written on his diary that he was going to work and he was going to fight and he was going to serve as if the entire outcome of that long and bloody war depended upon him and him alone. President Reagan closed his inaugural address with these words.

He said,

> Our problems do not require that kind of sacrifice. They do, however, require our best effort and our willingness to believe in ourselves, to believe in our capacity to perform great deeds, that together, with God's help, we can resolve the problems which confront us now. And, after all, why shouldn't we believe that? We are Americans.

Those words were powerful then; they are powerful today. I think the most important thing about that sentence is that he believed in us, he believed in the American people, he believed in those deep core values that made this country work, and he talked about them often. He talked about the values of faith, of family, of freedom, of work and personal responsibility, and he believed deeply that Government policy ought to reinforce those values and that liberal programs, no matter how well intentioned, have had the net practical effect of undermining those values.

I remember, too, the day that he left office. It was a poignant moment for me, because I was watching when President Bush was sworn in, and at the end of the ceremony he and Mrs. Reagan walked out on the east side of this building. They turned around and he saluted to President Bush. Then he got up on the stairs to get on the helicopter which was to take him to the airport to take him back to California.

I will never forget, I was watching this, my wife and I, who are both big Ronald Reagan fans, and I turned to my wife Mary and I said, "You know, he was a long time coming, he'll be a long time gone." It will be a long time before we see a President like President Reagan who could communicate so clearly to the American people, and indeed to the world. I want to thank the gentleman from Arizona for having this special order.

I want to thank you, Mr. President, for all that you did for me, all that you did for the American people, and all that you did for all the freedom-loving people of the world. You will always be a blessing to us and you will always be that symbol that speaks to the best in the American people, that appeals to our best hopes, not our worst fears. I thank you, Mr. President. I wish you a happy birthday, and may God bless you.

Mr. HAYWORTH. Reclaiming my time, I would like to thank the gentleman from Minnesota for his perspective. It is worth noting, as the gentleman from Minnesota points out, Mr. Speaker, that President Reagan's observations still make the point today. Indeed, in a speech delivered about a year ago the President said these words, and I think they still pertain to our situation today:

> After watching the State of the Union address the other night, I'm reminded of the old adage that imitation is the sincerest form of flattery. Only in this case it's not flattery but grand larceny, the intellectual theft of ideas that you and I recognize as our own. Speech delivery counts for little on the world stage unless you have the convictions and, yes, the vision to see beyond the front row seats.

How important that is, Mr. Speaker. My friend from Minnesota was absolutely correct. Words do mean something. Promises must be made but, more importantly, promises must be kept. It is the vision that President Reagan spoke of in his inaugural address, on that day in January of 1981, that made the point so well:

> It is not my intention to do away with government. It is, rather, to make it work, work with us, not over us, stand by our side, not ride on our back. Government can and must provide opportunity, not smother it; foster productivity, not stifle it.

Indeed as the words are bandied about on this floor, as the epithets are hurled, remarks of blackmail and extortion and extremist, let us remember the observation of Mark Twain, that history does not repeat itself but it rhymes. And as President Reagan embraced the vision of Abraham Lincoln, that the American people once fully informed would make the right decision, let us dedicate our work and our labors in this legislative branch of Government to that same endeavor, recognizing that good people can disagree, recognizing that in a free society debate leads to decision, and also recognizing the contributions of a great American.

Mr. Speaker, let us wish the happiest of birthdays to Ronald Wilson Reagan as he approaches his 85th, and let us remember his example and do all that we can to ensure that his vision of America, a vision that harkens back to our founders, is remembered, not for its novelty, not for cutting back, to seem to embrace antiquity, but because it embraces the basic goodness of the American people and an undying optimism that is uniquely American. Happy birthday, Ronald Reagan.

ONGOING BUDGET DEBATE

The SPEAKER pro tempore (Mr. JONES). Under a previous order of the House, the gentleman from Minnesota [Mr. GUTKNECHT] is recognized for 60 minutes.

Mr. GUTKNECHT. Mr. Speaker, after the last hour we would like to talk a little bit about what is happening with the budget. The gentleman from Arizona is going to join me for a while and I believe one of my freshman colleagues from Idaho is going to join us in a little bit.

I know that the gentleman from Arizona, I do not believe he had a chance to join us in Baltimore over the weekend, but I think we should maybe take a few minutes to talk about, because I know the press has talked a lot about what has happened in the budget negotiations of recent and that somehow, I know that within the course of just a couple of weeks, in referring to the freshmen, we have been described as being mean spirited, and then last week we were being described as being dispirited. I think the only thing I can honestly say is, we are still spirited as freshmen, are we not?

I yield to the gentleman from Arizona.

Mr. HAYWORTH. I thank my friend for yielding. Yes, I was unable to be at the freshman advance—note, Mr. Speaker, we do not use the word "retreat" in any way, shape, or form—with the freshman advance, and I was interested to read the comments in one east coast newspaper, "Humbled Freshmen Regroup," or words to that effect.

Mr. Speaker, my good friend from Minnesota shares the same sense of honor and awe that comes with serving in this House. Indeed, as old man eloquent John Quincy Adams said upon his election, after serving as President, upon his election to the House of Representatives, there is no higher honor than service in the people's House.

Mr. Speaker, and to my friend from Minnesota, I think what confounds the fourth estate is that though we are honored and awed to serve here, we understand that we were sent here to change business as usual, and the spirit remains and the almost, you could see it coming a mile off, from my days in the media, we were bound to get a story at the halfway point that, gee, some folks have grown, that is, they have accepted the ways of Washington; some people have matured, that is, they have been willing to accept compromises in certain ways, and that somehow reasonableness, the Washington definition, higher spending, higher taxes, more big Government, and an abandonment of campaign promises, that type of reasonableness had infected our ranks.

Well, Mr. Speaker and to my colleague from Minnesota—I am sure he will join me on this—we do not for a minute accept the Washington definition of what is reasonable. Our mission is to serve our constituents and the American public who have the ultimate wisdom, who understand what is reasonable, who know what it is like to sit around a kitchen table and try to make ends meet, who know what it is to try and pay the tax man, who understand the notion not only of trying to pay the tax man and trying to take care of their many obligations but also who look for unlimited economic growth, who try time and again to deal with the impediments that this Government has placed upon them in trying to start a business, in trying to create jobs, people who are willing to see this economy grow if only the shackles are taken off and truly a free market is embraced.

Mr. GUTKNECHT. This sort of goes back to the discussion we were having in the last hour. While they continue to try and belittle Reaganomics, the facts are stubborn things. The economy grew at an unbelievable rate during the 1980's, in part because there was a commitment to lower taxes, to less regulation, and to smaller Government.

It was not complete, but we have the opportunity now to complete that revolution and really free up the free enterprise system, to free up the American people, because the Government does not create jobs, the Government does not create wealth. Businesses do. People do. We have got to allow them to have more control over their futures. That is what this is about.

I think it is important that we have this discussion, because I think there is a view out there perhaps that now we have been tempered now after a year, and that our basic goals and our basic mission and our basic visions of what ought to happen in Washington have changed. I do not think that is the case at all.

I think we still understand who it is that controls the wealth, who it is that creates the jobs, who it is that can do the best job in helping to shape America's future. It certainly is not bureaucrats here in Washington. It obviously is people out in communities like Phoenix and like Rochester, MN, and all across the fruited plain.

It is people out there who Ronald Reagan believed in that are going to make the difference, that are going to make this a better country. It is not 5 trillion dollars' worth of debt. We look at the welfare issue. Maybe we can talk a little bit about that.

Unfortunately, sometimes when we talk about restructuring and reforming and in fact starting over with a blank sheet of paper, hopefully with the States having far more control in determining what kind of a system they are going to have to help people who truly need help. And I think there is a genuine commitment on all of our parts that when people genuinely need help, we should help them, but we should also find the most efficient way, and that the definition that we have used in the past of helping people simply has not worked.

I yield to the gentleman.

Mr. HAYWORTH. Again recalling the words of President Reagan, and I think this rings so true today, "The size of the Federal budget is not an appropriate barometer of social conscience or charitable concern."

Indeed what we have seen for the past half century is a usurpation, if you will, of charitable concerns by the Federal Government. None of us here are willing to abandon the notion of a safety net for those less fortunate, for those who may face physical challenges, for those who may face mental challenges, for those who literally have no way to take advantage of the freedom that they have to better themselves.

□ 1415

But what so tragically has happened, with ofttimes the best of intentions, is that we have turned the safety net into a hammock, and that we have made it more lucrative for some to stay away from work and that we have, in the words of one official from a charitable organization with whom I visited in the 6th District of Arizona, he said to me, "You know, J.D., the Federal Government basically stepped into my line of work about 30 years ago, and they have taken over the bulk of it."

Now, we have a fundamental debate going on. But to those who would claim it is mean-spirited, it is extreme to look at restraining the rate of growth of Government, to those who would claim it is selfish or somehow ignoble, or less than honorable to allow the American people to hang onto more of their hard-earned money, to those who would accept the misguided notion that it is the Government that controls the wealth, that it is the Government that should be the catalyst for every program from soup to nuts, from cradle to grave, that it is the Government with whom the power resides, they are ignoring one basic fact of our remarkable constitutional republic. Our Founders who composed this document believed this, and I believe though good people can disagree, we should understand this, in this Nation it is the people who are sovereign, and it is the people who confer power upon the Government. This Government belongs to the people, and again, to quote President Reagan, Government is the people's business, and every man, woman and child becomes a shareholder with the first penny of tax paid.

There is nothing dishonorable and there is nothing selfish and there is nothing mean-spirited about the average American family which now spends more on taxes than on food, shelter, and clothing combined hanging onto more of their income. There is nothing ignoble about letting a small business owner be free of the shackles of capital gains taxation which would limit growth and economic expansion. There is nothing ignoble about empowering the people. Good people can disagree, to be sure.

But we must work, as we have this historic debate, to listen to the people, to understand their concerns, and to deal with these concerns in what some would call a new way, but what I would maintain is the way that that has improved this Nation since its foundation, not reinventing Government, but remembering those principles embodied in our Constitution, recognizing there is room for dissent and debate, but moving to do the people's business, because we are stewards of their money, and the Government has taken from them, not that the Government gives to everyone else.

Mr. GUTKNECHT. I think one of the most frustrating, and there are many frustrating parts about the debate we have been having in Washington about restructuring the way Government works and what functions should be done at the Federal level, downsizing Federal Government. One of the most frustrating things is facts do not mean anything anymore, at least according to some people.

If you look at the facts, there is overwhelming amounts of evidence to suggest the Great Society has failed. In fact, even President Clinton in some respects when he gave his State of the Union Address the other night said the era of Big Government is over. I think he said that several times during his speech. But yet, the next day it was like some of the Members of this body did not hear that or do not agree with that or do not share that particular view.

But I think we have to look at the facts. Facts are stubborn things. If you look at the facts about what has happened to the welfare state over the last 30 or 40 years, we have spent $5 trillion, and if you want to see the evidence of what we have gotten for $5 trillion, you do not have to go very far from this building, because Washington, DC is perhaps the greatest social welfare experiment of any city.

In fact, if you go around Washington, DC, you will see the product that we have produced. We have created debt. We have created dependency. We have created despair. If you look at the housing projects, for example, here in Washington, DC, 80 percent of the violent crime in the city of Washington is committed within two blocks of a Federal housing project. Some people believe the answer is more and bigger Federal housing programs. We believe it ought to be decentralized.

We also understand there are some people who need some help. Maybe they need a voucher. We certainly do not need a large Department of Housing and Urban Development based here in Washington, DC, that has created what is has created, and that is throughout the entire social welfare system. It has been an abysmal failure.

The facts demonstrate that, and yet so many of our colleagues want to ignore the facts.

Now, is our answer perfect? No, absolutely not. But it cannot be any worse than the system that has been created over the last 30 or 40 years. That is the important point.

I yield to the gentleman.

Mr. HAYWORTH. I thank my friend from Minnesota. Yes, it was with great interest and, indeed, somewhat of surprise, although I expected in part the rhetoric that came from the President the other night when he said the days of Big Government are over, and now the challenge becomes, Mr. Speaker, for this President to join with this new majority and to really live up to that notion.

I ran into a reporter who will remain nameless, from one of the major television networks. "How is it going, Congressman?" "Great." "Did you see the headlines in the paper? It says President embracing GOP agenda." This reporter said, "You managed to make victory look like defeat." I said, "No, sir, with all due respect, you have. There is great reason to be optimistic. The President has now at least turned the page and changed the terms of debate and has taken a look at fiscal responsibility. Yes, there are many details to be worked out. Let us rejoice in that realization."

Mr. GUTKNECHT. I think that is the good message. We talked about the incurable optimist President Ronald Reagan was.

If you talk about the freshman class, you will see incurable optimists. While we have stubbed our toes and made a few mistakes and have not accomplished all we wanted to accomplish,

the bottom line, the truth of the matter is the entire fulcrum of this debate has moved, and even the President now is acknowledging the era of Big Government is over and big Washington solutions to all of our problems are not the answers.

And now we may not win on every point now, but it is not really a matter of whether we win or the President wins, the Republicans versus Democrats. The real issue is whether the American people win. This is not a battle between Republicans and Democrats. It is a battle between those who believe that the Government is the answer to most of our problems and those who believe that government is a big part of a lot of our problems; those who believe that Big Government solutions are the way to solve problems and those who believe we ought to decentralize and let individuals have more responsibility and authority in their lives, and we start with that basic premise, we the people. The three most important words are "We the people."

What has happened over the last several months has obviously given us a better education about how this place works, but it has not changed our optimism. It has not changed our view. We may have to change our tactics somewhat. We are not going to keep this Napoleonic, all lined up in a straight line and let people stand behind trees and fight a guerilla war; we are not going to change the goals, not going to change principles, not going to change what we came here for. As long as the people keep sending us back, we are going to fight for the fundamental principles President Reagan talked about, that we fought for in the last election. We are not going to give up. The freshman class is not going to change.

WE MUST GET PAST THE CLICHES

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12 1995, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 60 minutes as the designee of the minority leader.

Ms. KAPTUR. Mr. Speaker, I would like to yield to the distinguished Member from the great State of Montana, Mr. WILLIAMS, who announced a little earlier in the month that he would not be returning after this year, and that is a great disappointment, not just to myself as a Member of this body, but to every person in this country.

Few know this man. Let me say to the people of Montana, you sent the best.

Now you can say whatever you want to say.

Mr. WILLIAMS. I thank the gentlewoman very much for yielding.

I first want to say to my colleague and friend, the gentlewoman from Ohio [Ms. KAPTUR], how pleased I am with your kind and overly generous introduction and thoughts about me.

But I am here for another year. One of the reasons I am glad enough for that is I continue to get to work with the gentlewoman.

We have just heard on the House floor an argument for apple pie and motherhood and American flags. The previous speakers, it seems to me, are well-intentioned, but nonetheless were just filled with cliches. They condemned debt dependency and despair, they talked about fighting for fundamental principles, they condemned more and bigger government, and accused only one side of the aisle of being for that awful thing, talked about bloated regulations and big Washington solutions. I really did not hear anything they said with which I disagreed. It is just that almost everything they said, in my judgment, was somewhat meaningless and mostly cliches.

One has to, it seems to me, in difficult times like this get past cliches and move to facts if we are really to change this Government and our response to people in the way they want. For example, let me take education. I serve on that committee. There has been for at least a decade, and particularly for the past year, howls coming out of this Chamber about the fat bureaucracy in education. So that is the cliche.

Whether one, however, bothers, takes a few minutes to check the facts, you find out that in the schools of this country, central office personnel constitute less than 2 percent of school employees. We have heard, particularly during this last year on the floor of the House, a lot of talk about regulations in the schools, mandates from Washington, horrible regulations, how bad they are, how overwhelming, overwhelmingly destructive they are, but when you look at the facts of it, you find out some interesting things.

Goals 2000 has no regulations. School-to-work legislation, relatively new, school-to-work law, no regulations. Under President Clinton, who came to office believing there were too many regulations, the Department of Education has eliminated two-thirds of the regulations surrounding elementary and secondary education in this country. Now I know there is a little cloud that follows President Clinton around, that no-credit cloud, he never gets any credit, but he has eliminated two-thirds of the elementary and secondary regulations in this country.

A Member of this House, I will not name him or his State because it would not be fair, he is not here today, said about a week ago, speaking from the well of the House not far from where the gentlewoman from Ohio is standing, he said to the American people over C-SPAN with how many people listening, 100,000, 200,000, 1 million, 2 million, he said, You know, folks, I am not quoting him, I am paraphrasing him, I will quote him in a second, he said, You know, the problem, with Federal expenditures is only 23 cents of the dollars that we appropriate ever leaves Washington, only 23 cents on the dollar ever leaves Washington and gets down to the student; the rest of it, he said, feeds the Federal bureaucracy. So out of a dollar, he is saying only 23 cents gets to the student.

Now, I suppose, what, hundreds of thousands, millions of people heard that. It is totally inaccurate when one checks the facts. The Department of Education in Washington DC, has the best, lowest overhead administrative record of any department. The Defense Department would kill for a record as good as the Department of Education has; less than 2 percent, less than two cents of every dollar is used for the bureaucracy, for the overhead here in Washington, DC. So one needs to get past the cliches. One needs to get past the mistakes, some of them I think quite intentional.

One really needs to get down to the facts, particularly, I want to say as I conclude, particularly in this representative democracy of ours, where the citizens need the facts if they are to make proper choices in November and on election days at the ballot box. If they are to place upon their elected representatives their will, their choices, their options, those must be based on facts—not cliches, not myths, not intolerance, not lack of compromise—facts.

□ 1430

Again, I am appreciative of the gentlewoman sharing some of her time with me.

COME SHOP WITH ME AT SCOTT PAPER CO.

Ms. KAPTUR. I will reclaim my remaining time. I thank the gentleman very much for offering that important clarification. I think one of the difficulties is when you have a large number of new Members that are elected, it takes a long time to learn the ropes, and sometimes perhaps people speak out before they check the facts. I think the gentleman's commentary this afternoon is helpful to the country.

Let me say I come down here for a similar reason, and that is to offer a word of caution to Members of the freshman class, especially on the Republican side of the aisle, who this past Friday held a retreat. According to the press accounts, the purpose of the retreat was to reflect on how their best-laid plans for the so-called revolution went awry and to reflect why the American people have turned their backs thus far on their message.

There was an article in my local paper, the Toledo Blade, last Saturday, which I am going to submit for the RECORD, which talks about the fact that this group of new Members was very concerned after the President's

State of the Union that he was able to get his message across to the country, but that their leadership, according to this quote in the newspaper, that their leaders did not understand the importance of what they are calling communication. They were criticizing some of their leaders as too in your face, too extreme, too ideological. In order to help them out of this mess, one of the speakers that was invited to the retreat was the chief executive officer of Scott Paper Co.

When I read down to that point in the article, I knew that I had to come down here today and speak a bit. I would just say to the Members of the new class that rather than seeking political assistance from speakers like this Mr. Dunlap, I think maybe it might be important to have some quiet reflection, more in a spiritual sense, on your own, because when I tell you about this gentleman, I am not so sure you would want to invite him back.

He is one of the most well known chief executive officers in our country, who is referred to as "Chainsaw Al," the meanest boss in America, the country's most notorious employee killer. In his own biography he describes himself as Rambo in pinstripes because of the way that he cut employment and laid off, terminated, thousands of workers at Scott Paper Company, his home company. In fact, the May 1995 issue of Fortune Magazine indicates a reduction in work force at Scott Paper of nearly half. Thousands and thousands and thousands of workers at that particular company were given the pink slip.

Now, if I could give my colleagues some advice, it would be don't listen to Mr. Dunlap. Yet I see that he was invited. Over the last couple of years he has fired over 30,000 people in our country and shipped most of those jobs overseas. Recently he was a party to a merger between Kimberly Clark and Scott Paper, which he ended up coming out of that deal looking pretty good. He made over $100 million on the deal.

I would like to ask Mr. Dunlap, in giving his advice to the new Members, I would like to know what happened to those thousands and thousands of workers that gave their loyal service to Scott Paper? What happened to them?

During the time that all these workers were cut and terminated, Scott Paper enjoyed profits like it had never seen. Well, who would not, when you cut our work force in half? But he benefited, $100 million.

It is interesting to look at Scott Paper as a company, because it has manufacturing facilities all over the world. I know our listeners and Members of the House here buy their products. Viva paper towels is one you will notice on the shelves, or Scotties facial tissues, or Cottonelle, that you use in the bathroom.

But the company whose products are familiar to us all is cleaning up at the expense of the U.S. taxpayers. Some of the countries that they do business in have the most dirt cheap labor anywhere on the globe. Honduras, gosh, they are a great respect for workers in Honduras. They are shot if they try to earn a decent living down there. Costa Rica, China, Thailand, Malaysis, Taiwan, South Korea. Scott Paper has a huge presence in Mexico. In fact, its Mexican subsidiary, Compania Industrial de San Cristobal, operates five manufacturing facilities in Mexico, and plans for more expansion are under way.

In other words, all these people that got laid off in this country and are terminated coast to coast, they are going to be replaced by workers in Mexico who earn less than $1 an hour. Yet if you go to the store and buy any one of those products from Scott Paper, your prices did not go down. So what happened to the money? Mr. Dunlap took it.

Though the productivity of the workers at Scott even prior to the layoffs was very high and their profits were high, they were not a bankrupt company, workers in Scott Paper's tissue mill in Everett, WA, and I hope there are citizens from Everett, WA, who are listening, and other mills across the country, saw their jobs transferred to Mexico already. It is very interesting. In Mexico those workers have no benefits, they have no benefits. The workers in Washington made a living wage. That company really used to stand for something, before "Chain Saw Al" got involved.

In January 1994, Scott employed 33,000 people worldwide. But by December, when he had finished, there were 19,900 people left. Those who did not lose their job last year, imagine what it must be like to come to work every day in that company wondering whether the hatchet is going to fall on your neck in spite of how hard you work, in spite of your loyalty to the company, because every worker in that company knows they can be replaced by a worker in another country where Scott has a plant that earns almost nothing, not even enough to afford to buy Scott's products in the countries where those products are sold and made.

Scott Paper essentially put U.S. employees out of work, and, by building up operations in companies like Honduras and Mexico, the company continues to undercut the wages of this country and the American people.

But, wait. It gets worse. We know prices have not gone down. In fact, prices in the tissue area have been going up for years, at the same time as people like Mr. Dunlap are reaping huge profits while they take advantage of dirt cheap labor elsewhere and put our people out of work in this country. The company does not even have the decency to pass along its cost savings as a result of manufacturing and other companies in the form of price reductions at the shelves when our people go to the supermarkets to shop.

In the last year alone, however, as a result of this kind of shredding of a corporate charter with the American people, where so many of our folks are thrown out of work, its stock price skyrocketed. Wall Street could not be happier, its price value going up over 100 percent.

Now, what happened recently was Kimberly Clark just bought Scott Paper in July of this past year for $6.9 billion. Mr. Dunlap, that is where he managed to get $100 million on the deal, and effectively built a rising stock price on the swelling ranks of jobless people. How would you like to have him live next door to you?

Kimberly Clark is the largest paper product company in Mexico, having invested over $100 million there, and millions more in other countries. It is interesting to see, a gentleman who came into address the new freshmen, who disdains Government, who disdains the laws of this country, benefits so much from Government programs.

In 1994, Kimberly Clark, get ready for this, obtained $9.27 million from the Overseas Private Investment Corporation, for insurance. That is an instrumentality of the Government of the United States, paid for by our taxpayers to invest their money in other countries.

In the same year, our Department of Labor certified 636 U.S. employees of Kimberly Clark as approved to receive help, unemployment help, because they were being put out of work because imports were coming in from Scott and Kimberly, the same products from these other countries, putting our workers out of work, and the American people have to pay for the families that have been put out of work by this very same company. Scott Paper, with its presence in Mexico, also had 300 workers. So that is nearly 800 workers just in the past year that we are paying for, unemployed people, that these very same companies put out of work in the United States.

You could say that is a form of corporate welfare, because, on the one hand these companies are using our money to go abroad, insurance through the taxpayers of the United States, and then putting the U.S. work force out of work and having to get the money to pay for those unemployed workers through our Department of Labor. We know Americans are paying for the training of nearly 1,000 workers just over the last year because of the actions of these two companies.

Now, it is amazing, because Mr. Dunlap began working for Scott Paper at the beginning of 1994. The terms of his contract, though hidden from the public, specify a base salary of no less

than $1 million per year. While 13,100 workers got pink slips, Scott Paper bought Mr. Dunlap a multimillion-dollar home in Boca Raton, FL, and gave him a $333,000 hiring bonus. I sure hope that the new freshmen did not have to pay him to speak before their group, because he certainly could afford to come on his own.

So I guess what I wanted to point out today, there were articles that were included in Roll Call on Monday talking about some of his comments to that group, where he said, and I can't repeat some of these words, by the way, but I will just leave a blank, where he advised the freshmen, "Never give up. Never give up. Never let the 'blank' get you down. This nonsense about the working people, don't ever apologize for being successful."

This is the kind of person that is being listened to here in Washington. It says here, and I quote directly,

> The sleepy-eyed freshmen were greeted with a take no prisoners exhortation from Al Dunlap, the chief executive of the Scott Paper Company, who has been described variously as the meanest boss in America, the country's most notorious employee killer.

What an attitude at the end of the 20th century for someone with this kind of rapacious greed to be invited to address Members of the Congress of the United States, which means that they are acquiescing in the actions that he has taken.

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

Ms. KAPTUR. I yield to the gentleman from Michigan.

Mr. KILDEE. I have been listening to the gentlewoman's remarks. I was wondering, Mr. Dunlap is being asked by the Republican Conference to address them and to give them advice? Is that what the article states?

Ms. KAPTUR. The article states that they were asking for his advice.

Mr. KILDEE. His advice on Medicare, how to cut Medicare, the school lunch program, the WIC program for pregnant women? They have already cut those programs. He could advise them further on how to cut those programs. He is good at cutting programs. Is he coming in because he is an expert on cutting and they are going to go further in taking his advice on how to cut these programs for the people?

Ms. KAPTUR. I think it is very interesting they would invite him in as an expert and listen to a gentleman like this, and try to shape their agenda for 1996. That is why I bring it to the attention of the body.

Mr. KILDEE. I suggest after Mr. Dunlap, they should at least balance things out and maybe have someone like Mother Theresa come in and give them some spiritual guidance.

Mr. HEFNER. I think he probably has a special interest, Mr. Dunlap. If you make the drastic cuts in Medicare and Medicaid and these other programs, it will make more room for a tax cut, which he will benefit very greatly from. So I admire the man for being honest about it. He at least is sticking to his principles. The more working folks you can get rid of and you can cut the Medicare and Medicaid and programs for children, then you give him a bigger tax cut. I do not have any idea what $100 million would be in a tax cut, but I think it would probably be substantial under the proposed budget that the Republicans are offering. So at least he is going to his constituency, those that sympathize with him and feel the same way that he does. It would have been kind of nice if we had heard what his views are on Medicare and Medicaid and family leave and this sort of thing.

□ 1445

Maybe the next retreat that they have—no, it is not a retreat. Maybe the next whatever you call it that they have, what is it? The next one they have, they will discuss some of these programs and let the American people know how they truly feel about some of the programs that affect the most vulnerable people in our country rather than the most privileged few, rather than those that made their fortunes on the backs of the working people of this country. And do not apologize for getting wealthy. How much in tax breaks did the company get under the overseas advertising program that we did?

Ms. KAPTUR. The Overseas Private Investment Corporation, they received nearly $10 million in insurance in 1994, for investment in other countries. So it shows how he is thinking.

Mr. HEFNER. Mr. Speaker, if the gentlewoman will yield, that would be investing in other countries where the labor force would be cheaper, and labor would be more kind to a company of this size, and that the benefits would tend to not be as great as they are if they had all of their production in this country? Would that be a fair assumption?

Ms. KAPTUR. That is a fair assumption. What is interesting to look at is that, even before this is done, they were making profits in the United States. They had a good work force. They were making profits as a company. It is not that they had a work force that was not producing for them, but they wanted not to just make reasonable profits, they wanted excessive profits. They disinfested this country and used our tax dollars to do it to us.

Mr. HEFNER. I think we have to admire the gentleman's intestinal fortitude to come to people that think along the same lines and have the same philosophy. At least we have to give him that. He goes to where he has the potential to get even more goodies from this Congress if the budget passes along the lines that our Republican friends want to pass it.

Ms. KAPTUR. I thank the gentleman for bringing up a good point about his personal tax benefits that would flow from the tax package that they are proposing. He earns, who knows, millions and millions of dollars a year. The benefit to him would be absolutely incredible, probably in the hundreds of thousands of dollars, figuring his stock options, and so forth. So, he certainly would not be the example I would have chosen.

We have so many good companies in this country that are making profits that are well-managed and that treat their workers with respect, that have respect for people. But I thought that this was just a terrible indictment on the freshman class. I hope that the caution we have given them today might encourage them to bring business leaders to this Congress that are worthy of the kind of recognition that they give to this type of gentleman.

Mr. Speaker, I yield to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN. Mr. Speaker, I have been talking about one aspect of the House freshmen and women.

I would like to, if I might, talk about another one of their, I think, extreme causes. That is essentially the debt ceiling be damned. All torpedoes ahead, no matter what we are going to hit or whom we are going to hit.

I wanted to say just a few words about a letter that one of my colleagues from Michigan sent to Secretary Rubin, and I quote. The gentleman from Michigan [Mr. SMITH] said, "It is my understanding that you are considering withholding Social Security and other trust fund payments due on March 1, 1996, despite the positive cash-flows of such trust funds."

There is a grave misunderstanding here. The Treasury is not going to withhold Social Security and other trust fund payments. Here is the problem: If the debt ceiling is not extended, the Treasury is going to be put in this position, as I understand it. They are not going to be able to redeem the nonmarketable funds that they have. And if they cannot do that, they have to do it by issuing marketable securities. Then they may not have the money to honor the Social Security checks that would have been mailed to millions and millions of people.

So, it is not the Treasury Department that is, as the gentleman from Michigan [Mr. SMITH] put it in his letter, withholding Social Security and other fund payments, despite the positive cash-flows of such trust funds. It would be that the Republican majority here, I think a reckless act it would be, and I find it hard to believe that they will ultimately do this, would put the Government in the position of not being able to honor these checks.

Now, even if they could find the funds if cash came in, et cetera, the day that these checks were presented,

if there were not enough money, if there were not enough monies to honor all the checks that came in from Social Security on that day, and every other source, none of these checks under Federal Reserve policies would be honored, none of them.

There is because the Treasury Department does not at this point have the ability to segregate the kinds of checks that are paid. Social Security checks for mothers, they all come in. The software is such that either they are all handled together or they are not, under Federal Reserve rules, handled at all.

That is my understanding of it. So, the Republican majority, again they have got blinders on. They are seeing only what they want to see. Here they are being terribly myopic. They are so myopic they cannot even see what is in front of them, let alone, what is far away.

So, I would strongly urge that we do this: I heard a lot of the back and forth earlier on the floor, and to my colleague from Ohio, that is why I am here. I am deeply troubled. The gentlewoman referred to an example of the extremism of some of the House Republicans, especially some of the freshman, not all. I think that the ultimate example of this is playing around with the debt ceiling. There are other examples pointed out.

This is the ultimate. The faith and credit of the United States, their ability, when checks are presented, including by Social Security recipients, the question of whether they will be honored. What do other people think about this? I know that my colleagues on the other side, they do not like us to call them extremists, but they ought to understand that the public is calling them extremists, because playing around with the debt ceiling is an example of it.

I was reading the article on the House freshman in Business Week, the January 29 edition. it refers to a Business Week Harris Poll where 45 percent of the Americans thought of the first-termers on the Republican side as extremists. That is a huge number. They are doing so because it is based on the reality they see, extreme actions are well as rhetoric.

So, my reaction to the back and forth today, and all the oratory that went on, I know that my colleagues have trouble just giving ground in terms of some of these extreme ideas. I know they want to use every leverage they can, because they hold there views so deeply. But the problem with extreme ideas is that sometimes it causes people to adopt extreme means. In this case, the extremity, the extremeness of the end leads people to justify extreme means.

Mr. Speaker, playing around with the debt ceiling is an extreme means that is going to lead, I fear, if it were ever undertaken, the default, to extreme results.

So, the mainstream of America, which we are part of here, those of us who are pleading that we end the leveraging with the debt ceiling, even talking about it, the mainstream of America is saying resist the temptation. They talk about people who touch a hot stove, they learn having touched it once. In this case, our colleagues on the Republican side touched the stove twice at least in terms of shutting down the Government, and they got burned, but so did America. You would think people would learn. I hope so.

Ms. KAPTUR. Mr. Speaker, reclaiming my time, and I would be happy to yield again, talking about measures that go too far, I think part of the problem is who they might be listening to. Again this Mr. Dunlap, and this is a direct quote from Roll Call on Monday, January 29, suggested, just think about this for a second, that they should abolish the Senate, the other body. And if they did that, then they could get somewhere.

Now, a lot of us have problems with the way things are set up. We are not always pleased with the way we make our laws in this country, but I do not think that that remark was made in jest. And I think there are a lot of people that would want to dismantle the very tenets of our Constitution. To me that borders on anarchy. That is not just reform. That someone would come before them and offer that as a proposal, I find not just to be off the edge, I find that to be about as extreme a recommendation as they could make.

It goes to the very fundamental rights of representation that the small States and the large States have in our country. It goes back to the founding of the Republic. What gives this person the right to speak before this group in this way?

Mr. LEVIN. Mr. Speaker, if the gentlewoman will continue to yield, I think she put her finger on it. There is an obligation on the part of some of our colleagues on the Republican side who really do not like this extremism, who have said to a number of us on many occasions privately that it is reckless, and sometimes they used the word "crazy," that they now speak out publicly.

We should not leave here tomorrow or the next day wit the debt ceiling issue up in the air. It could have all kinds of results. And, look, it might help us politically, Democrats, if the Republicans playing with fire unleashed an inferno, but I do not want that and my colleague does not want that.

What the Republicans here should do is to say, look, we are reluctant to give up this leverage, if they think it is. It is not, and we are going to cut it cleanly. Cut it cleanly, extend the debt ceiling and let us argue out these important issues. We are in favor of a balanced budget. We are arguing out how we do it. Let that be the argument, not the debt ceiling.

I deeply appreciate the distinguished gentlewoman from Ohio yielding to me. I just wanted to come to the floor and to straighten out this issue about Social Security, the debt ceiling that would cause the checks perhaps to be dishonored, not because the Treasury was taking steps. The onus is on our colleagues over there, and I just pray that they will act responsibly and do it this week.

Ms. KAPTUR. Mr. Speaker, I thank the gentleman for raising a very important matter that frankly we could have taken care of weeks ago, months ago. We do not have to be constantly operating at the edge.

I think, as the gentleman says, and he is a very moderate individual in his own views, that perhaps people feel so strongly that they think this is their only alternative. But for the sake of the Nation I think it is best to put on the shelf some of the deeper urges we might have and for the sake of the Nation do what is right for all of the people, not just for a small subset or how we might personally feel about something.

□ 1500

OUR COVENANT TO PROTECT THE ENVIRONMENT WHILE PRESERVING LIBERTY AND UPHOLDING THE CONSTITUTION

The SPEAKER pro tempore (Mr. RADANOVICH). Under the Speaker's announced policy of May 12, 1995, the Chair recognizes the gentlewoman from Idaho [Mrs. CHENOWETH] for 43 minutes.

Mrs. CHENOWETH. Mr. Speaker, it is a rare individual who does not want an effective environmental policy. Sometimes these policies, or the remedies thereof, have been called extreme, just like we heard from my friends on the other side of the aisle. I am one of the freshman Members, but I find it interesting that a party who has lost its vision can use only one word to define the other party, and that is the word "extreme." I beg of my colleagues on the other side of the aisle to come up with alternative programs that will benefit the American people.

I just have to say, Mr. Speaker, this was not a planned part of my speech, but I do want to say that it is private individuals who risk and who invest who employ Americans. I join the gentlewoman from Ohio [Ms. KAPTUR], a woman I admire greatly, about the fact that we do want to keep American jobs here in America. I do agree with her there. But, you know, we either have one of two employers: Either you, the taxpayers, are employing individuals through government, or we have private businesses employing people. I

prefer private entrepreneurs in employing people and downsizing government.

Mr. Speaker, it is a rare individual who doesn't want an effective environmental policy. We all want to promote the wise use of America's natural resources, but the driving force behind our current policies have little to do with sound science, foresight, or reason. Instead, environmental policies are driven by a kind of emotional spiritualism that threatens the very foundation of our society, by eroding basic principles of our Constitution.

Mr. Speaker, if there is one quote I could center my remarks around today, I think it would be a personal statement made by Thomas Jefferson, who probably was the world's greatest articulator of man's heavenly endowed individual rights and liberties. Jefferson wrote in 1776:

> I may grow rich by an art I am compelled to follow, I may recover health by medicines I am compelled to take against my own judgement; but I cannot be saved by a worship I disbelieve and abhor.

Mr. Speaker, the very first clause of the very first amendment to our Constitution states that "Congress shall make no law respecting an establishment of religion," and yet there is increasing evidence of a government sponsored religion in America. This religion, a cloudy mixture of new age mysticism, Native American folklore, and primitive Earth worship (Pantheism) is being promoted and enforced by the Clinton administration in violation of our rights and freedoms.

Proponents of this new-environmentalism are the first to recognize its religious nature. Just to name a few: Sierra Club Director David Brower announced "We are a kind of religion." Scientist James Lovelock, author of the bestseller "Gaia," admits that "Gaia is a religious as well as a scientific concept." Bill McKibbon, author of "The End of Nature," proclaimed that "it is not in God's house that I feel his presence most—it is in His outdoors." According to columnist Alston Chase, nearly all environmental leaders have conceded that environmentalism is a religious movement.

The trouble is that these sentiments are not just expressed by leaders in the environmental movement, but frequently, by government leaders who influence and promulgate the regulations we live under. When Vice President AL GORE was invited to speak at the Episcopal Cathedral of St. John the Divine, he sermonized that "God is not separate from the Earth." Espousal of this environmental religion by political leaders and regulators carries profound constitutional implications.

I recently came across the transcript of a speech delivered by U.S. Secretary of the Interior Bruce Babbitt on November 11 to a joint meeting of the National Religious Partnership for the Environment and the American Association for the Advancement of Science. It was entitled "Between the flood and the rainbow: Our Covenant to Protect the Whole of Creation." In this speech, Babbitt explains how he became disillusioned with Christianity because the commandment that man should have dominion "over every living thing that moveth upon the Earth" conflicted with his view of nature's supremacy. "I always had a nagging instinct," he explained, "that the vast landscape was somehow sacred, and holy, and connected to me in a sense that my catechism ignored." Babbitt explains how a young Hopi friend taught him "that the blue mountain was, truly, a sacred place," and he became "acutely aware of a vacancy, a poverty amidst [his] own religious tradition."

To fill this vacancy he adopted the new environmentalism, and he has every intention of regulating and enforcing his dream of utopia into reality.

You may ask, what is the harm of public officials maintaining deeply held beliefs? The problem, Mr. Speaker, comes when those deeply held beliefs become the driving force for policy which that nonbelievers face persecution. Mr. Babbitt has made it clear that environmentalism—the religion—is driving this Nation's regulatory scheme. This is a violation of the establishment clause of the Constitution. It smothers our values and it threatens our liberties.

James Madison wrote his great "Memorial and Remonstrance" against a Virginia tax for the support of an established church. In it, he eloquently argued that a true religion did not need the support of law; that no person, either believer or nonbeliever, should be taxed to support a religious institution of any kind; that the best interest of a society required that the minds of men always be wholly free; and that cruel persecution were the inevitable result of government-established religions.

Madison was right. The backbone of America—workers, small businessmen, and property owners—are becoming victims of this new-environmentalism.

Businesses like Stibnite Mine in my district, whose mining operation was shut down for 2 years waiting for the National Marine Fisheries Service to determine whether they could haul supplies on a Forest Service road.

People like the Yantis family in my district, who were told by the National Marine Fisheries Service that they should just give up their right to irrigate for a fish that is not instream now, but could be one day.

People like a Minnesota farmer who had two 1-acre glacial potholes on his property. To make farming around them easier, the farmer filled one and expanded the other two acres. The U.S. Army Corps of Engineers objected, and the Federal Government ordered him to dig out the pothole he had filled and fined him $45,000.

Whole families throughout the Northwest who have lost their jobs because government restrictions and environmental lawsuits have shut down the region's ability to keep forests healthy.

Farmers in the Bruneau Valley whose livelihoods have been held hostage to a snail the size of a buck shot. The Fish and Wildlife Service has yet to scientifically prove that farming activities have an effect on the snail.

For those who still refuse to see the dangerous character of an established religious environmental movement, let me give you another example:

Wayne and Jean Hage bought a cattle ranch in Nevada in 1978. The former owner had been forced to sell because the regulatory pressure by the U.S. Forest Service had become unbearable. But Hage was confident that he could work with the Forest Service to resolve any problems that might occur. He was wrong. Problems started when, without warning or notification, a nearby Forest Service Ranger Station began to pump water from a critical spring on Hage's property into the ranger's cabin. The Forest Service maintained a fence around the spring so that cattle could not drink, but Hage felt that if the Service needed the water an amicable agreement could be reached. The Forest Service refused to cooperate, and when Hage held a field hearing on the issue, they launched an all-out holy war against the rancher.

For the sacrilege of questioning Forest Service actions, Wayne was contacted no less than 110 times with violations of bureaucratic regulations. Most, if not all, were wild goose chases, but each required time consuming and often expensive responses. The Forest Service even resorted to several armed raids on the ranch, confiscating 104 head of cattle and keeping the proceeds of their sale. Hage also faced felony charges for clearing brush from his own irrigation drains. The charges were thrown out by the courts, but this was the last straw—Hage filed a suit for the regulatory and physical taking of his ranch.

Unfortunately, CIGNA Corporation, the lender and lien holder on Hage's property is one of the environmentalist faithful, and has been attempting to foreclose on the property to effectively kill the case. CIGNA is a major corporate donor to the National Wildlife Federation which is acting as a friend of the court on behalf of the Forest Service. This is an organization that instructs environmental activists on how to use Forest Service and Bureau of Land Management regulatory power to "Make it so expensive for the rancher to operate that he goes broke."

Mr. Speaker, there is something seriously wrong with this picture.

Environmentalism need not be a religion. It could—and should—be based on science and logic and aimed at secular goals. But Secretary Babbitt rejects the protection of species for potential cures for disease, or new strains of drought-resistant crops, or bioremediation of oil spills, in favor of uniting "all state, county and federal workers under a common moral goal." He concluded his speech by affirming that "religious values remain at the heart of the Endangered Species Act, that they make themselves manifest through the green eyes of the grey wolf, through the call of the whooping crane, through the splash of the Pacific salmon."

The fact that this moral philosophy makes villains of hard working, productive citizens makes it repugnant to American values. The fact that it dismisses science prevents technological progress. The fact that it violates the Establishment Clause of the Constitution makes it an attack on our form of government. And the fact that it places obstacles in the way of American prosperity makes it a threat to our children's future.

Mr. Speaker, policies inspired by this new green religion are having devastating effects on my State. One example that I think exemplifies this new trend is unnecessary introduction of predators such as wolves and grizzlies against the will of the people and at great expense to the taxpayer.

Many people do not realize that the idea of releasing wolves in Idaho and in the west is not a new one. There were attempts as far back as 1982, when Senator CRAIG held the seat that I hold now. At that time, when the U.S. Fish and Wildlife Service introduced this idea, the plan was quickly shelved after then-Congressman CRAIG held hearings in which obvious flaws of artificially introducing the wolves were exposed.

In those hearings biologists admitted that the wolf was recovering naturally in Canada and Alaska, where there are currently as many as 40,000 to 50,000 of the grey wolves. Moreover, the plan was soundly rejected after it became clear what the consequences would be of introducing a dangerous predator into an area that was no longer completely wild, but in fact, where there are activities such as ranching, logging, mining, and recreation.

The mere suggestion of introducing wolves prompted the State legislature to pass a number of bills prohibiting the introduction of wolves unless it was under the terms and conditions of the State. I would like to insert into the RECORD the testimony of State representative JoAn Wood, who came before the House Resources Committee and testified to the long history of Idaho's objection to Federal wolf introductions.

Nevertheless, when President Clinton was elected, Bruce Babbitt, the President's appointed Secretary of the Interior, again resurrected the idea of introducing wolves in the West. This time, instead of trying to establish a sound, practical, scientific basis for the program, the Government promoted wolf introduction as a romantic notion of restoring the western ecosystem to its pre-Colombian state. Indeed, Mr. Babbitt has gone as far as saying that it fulfills a "spiritual" void. Mr. Babbitt proclaimed in his November 11 speech that wolf introduction efforts were driven by the "elevated nature of America's conservation laws: laws with the power to make creation whole * * *." in essence recover "our ancient religious values."

The Department of the Interior also responded differently to the avid opposition to wolf reintroduction by States of Montana, Idaho, and Wyoming. The Fish and Wildlife Service promised the States that no wolves would be released until an agreement of how these wolves would be managed was in place. The Department of the Interior, in conjunction with the many environmental groups also initiated a large-scale nationwide advertising campaign—in places where nobody would have to worry about managing the critters—to sell the romantic notion of returning these animals to the west.

Very little has been mentioned during the Government's public campaign blitz of the overall costs of the wolf introduction, which includes aircraft, ground vehicles, equipment such as kennels, shipping crates, sophisticated radar tracking devices, radio collars, tranquilizing guns, and extensive staff of biologists, veterinarians, technicians, and administrators—not to mention a massive publicity campaign. Added up, it amounts to about $1 million per wolf.

I first dealt with Mr. Babbitt's infatuation with the green eyes of the wolf just after I was sworn in to represent the citizens of Idaho's First Congressional District. It was apparent that after the fiscally austere Republicans won the majority in Congress, Babbitt determined that the release of the wolves must be greatly expedited or his chance "to make nature whole" would once again be jeopardized. We found that his attempts to work out an arrangement with the States were not only completely disingenuous, but merely used as a device to detour the legitimate concerns of the States while he found a way to implement his plan. When Babbitt realized that his costly wolf scheme could come under scrutiny by this Congress, he went into emergency mode, bypassing all the processes, including State laws and section 6(f) of the Endangered Species Act which specifically requires the Secretary to work in coordination with the States in any introduction effort. He did this while ignoring the pleas of Governors and legislators to not proceed, but by actually speeding up the capture of the wolves.

By early January, just days after the new Congress had been sworn in, Babbitt had his wolves ready to be released at Yellowstone and in Idaho. My office received a firestorm of pleas and concerns from constituents and State officials calling for an immediate halt to the releases. In fact, one of my first official acts as a Congressman was to send a letter to the Secretary requesting that he halt any releases, and at the very least let due process take place. Babbitt defiantly responded by immediately releasing the wolves into Idaho—and even forging a highly questionable agreement with the Nez Perce Indian Tribe to manage the wolves.

Despite all, Secretary Babbitt proceeded with the release of his imprisoned green-eyed friends—although I don't know how anyone can consider him a friend of the wolf considering the abrupt way these wolves were tracked down and shot by a tranquilizer gun, forced into a pen, had a collar placed around their neck, taken away from their native habitat, and released into unfamiliar and unfriendly territory. Moreover, problems resulting from the unnatural methods used became evident when wolves which were released into Yellowstone, that were under the care of humans for weeks, refused for a time to leave their newfound comforts and security. Even now the wolves, which in the wild stear clear of humans, are routinely seen—and quite possibly fed—by many of the tourists visiting the park. It is easy to see that the wolf program in Yellowstone Park has done nothing more than create more dependents on the Government dole.

The released wolves faced—and caused—even more dire consequences in Idaho. Shortly after the wolves were released in Central Idaho, a wolf was shot near Salmon after feeding on the carcass of a newborn calf. The body of the wolf was found on the property of a 74-year-old World War II veteran and rancher by the name of Mr. Gene Hussey. The reaction of the Fish and Wildlife Service was to initiate a full-blown investigation that included a $500,000 autopsy performed on the dead wolf. The Fish and Wildlife Service obtained a search warrant, and without notifying Mr. Hussey or the local sheriff, proceeded to send several officers to investigate Mr. Hussey's property. In a hearing about this incident held jointly with the Resources and Agriculture Committees, on which I sit, Mr. Hussey testified that on arriving home from his neighbor's house, he discovered several armed Fish and Wildlife officers crawling over his gate—damaging the gate in the process—and refusing to heed his warnings to leave his property until the local sheriff arrived. The predicament escalated to the point that the Federal agents accused this 74-

year-old man of throwing rocks at them, and rushed across a stream to confront him about it. In the meantime, the local sheriff, Mr. Barsalou, was speeding to the scene—very concerned about the possibility of a violent confrontation. Fortunately, he was able to arrive in time to defuse the situation.

After some of the problems that we have witnessed with the release of only 14 wolves last year, I am amazed to see the media reporting the program as "remarkably successful." I was even more disappointed to find out that even during the Government shutdown, and before their appropriations were approved, the Fish and Wildlife Service was busy preparing to capture another 30 wolves in Canada for release in Idaho and Wyoming. The Service has spared no expense and has let nothing stop them including inclement weather, lack of appropriations, animal rights protesters, the continued disapproval of the State legislature, and another call by this Congressman to refrain from capturing and releasing more wolves.

Apparently one of Mr. Babbitt's green-eyed friends did not like the whole idea and bit one of his handlers before receiving the unlucky fate of being killed by one of the Fish and Wildlife officials. Of course, if I had just been tracked down from my home, snared, darted, caged, drugged, and jostled, I would have bitten someone too.

The truth of the matter is that there remain many unanswered questions and unaddressed concerns about the wolf introduction program. Despite the fact that the Government continues to disregard the wishes of the local citizens, to implement a program that serves no scientific purpose, creates the potential for more conflicts, and costs taxpayers a bundle, the Government and the national media continue to paint the program as a better than expected success with few hitches. I believe this is because the media, like Mr. Babbitt, are not focusing on the logic or scientific merits of the program, but on how well it has fulfilled their own spiritual expectations.

Some wonder why I have fought so hard against a Federal program that has little direct impact on most Americans. I fight because I believe that we should be practicing great fiscal constraint, because excessive deficits threaten the future stability of this country. I fight because the taxpayer deserves to know that millions of their dollars are being spent on aircraft outfitted with sophisticated radio equipment which daily track a handful of confused wolves meandering about and stirring up trouble in the mountains of Idaho, Wyoming, and Montana.

I also fight because I believe there are deep implications about the wolf introduction program that affects all Americans—and that is the precedent it has set.

Now the Federal Government is finalizing plans to introduce an even more dangerous predator into the Selway-Bitteroot mountain range located in Idaho and Montana—the grizzly bear. Mr. Speaker, only a few years ago—the very idea of introducing grizzlies into central Idaho was considered pure lunacy. Why? Quite frankly, the grizzly bear, a species that now numbers over 100,000 in Canada, Alaska, parts of Montana, and in Yellowstone, simply has a propensity for violence against humans and animals. Last year there were numerous incidents of bear maulings during unprovoked situations. In one case a hiker was merely taking his shoes and socks off to cool his feet in a mountain stream when the odor of his socks apparently caught the attention of a nearby grizzly. And in the State of Wyoming and Montana, there has been an epidemic of nuisance bears which have been killing cattle and sheep, and rummaging around human habitation. Some are even suggesting that the grizzly no longer needs the special protection of the Endangered Species Act.

Mr. Speaker, the response that I have received from my constituents—even some who do not normally agree with me—has been overwhelmingly against the introduction of the grizzly. I believe that some in the forest industry have been driven by fear or strong coercive tactics into supporting a program that simply will not work. Other than that, the reaction against the idea comes from all types of individuals and for many legitimate reasons. Campers and hikers are concerned for obvious safety reasons, and that many of the trails and areas would be made off-limits. Hunters are concerned about dramatic reductions in game animal population. Ranchers are concerned about the loss of cattle and road closures. Miners are concerned about the possibility of restrictions on their activity as well, and property owners are deeply concerned about bears foraging about their garbage, and around their homes. Overall, people are not only afraid of the potential danger of having the bears in their backyard, but also having severe restrictions in accessing the forests and lands, both for recreational and industrial purposes. In fact the public comments compiled by the Fish and Wildlife Service show overwhelming opposition to the grizzly introduction plan in the Selway-Bitteroot coming from places as far as California and Colorado.

Moreover, introducing the bear has little scientific merit. The Fish and Wildlife Service has not shown how the grizzly is vital to the survival of the ecosystem of the Selway-Bitteroot. In fact, no solid evidence proves that the bear once roamed there in great numbers. Some have pointed to a supposed journal entry by Lewis and Clark claiming that they shot around 20 grizzly in the area during their travels. Considering that no taxonomy was even in place at the time to distinguish between types of bears, it is ludicrous to use a journal entry almost 200 years ago as a solid basis of the facts. Finally, the small amount of data that does exist from previous attempts to capture and release grizzly into unfamiliar and rugged terrain shows that it is impossible to predict the behavioral response of the bear. I believe it is not worth the cost, both in human and budgetary terms, to find out.

Mr. Speaker, considering the significant amount of opposition to, and the lack of scientific need for the proposed grizzly introduction, we must look again at what is clearly the real impetus behind this idea. Introducing the bears addresses only an emotional attachment to the romance of having grizzly bears roaming the wilderness. It contributes to Mr. Babbitt's realization of the spiritual dream that he envisioned with his Hopi Indian friend so many years ago.

If environmentalists get their way with the grizzlies, there will be a devastating impact on the freedoms and livelihoods of my constituents, and significant ramifications throughout this country. I have seen evidence lately of ambitious goals by the Fish and Wildlife Service and environmental groups to populate regions of the West with thousands of grizzly bears. This would have the drastic consequence of shutting down access to many of our lands and forests to all human activity, including hiking and camping which virtually all Americans enjoy from time to time.

This would be a giant step closer to the utopia religious environmentalists are striving to create—a utopia where human beings have only as much value as the razorback sucker fish, and possibly less.

Mr. Speaker, this religious vision is not shared by every American and no American should be forced to promote a religious vision contrary to their own beliefs. The environmentalists want a new Inquisition to eradicate those with opposing views, and they have the might of the Executive behind them. This threatens, in the most profound way, our entire way of life. It is thoroughly un-American, and I won't stand for it.

Mr. Speaker, I include for the RECORD the following documents:

TESTIMONY OF JOAN WOOD, IDAHO HOUSE OF REPRESENTATIVES, BEFORE THE HOUSE RESOURCES COMMITTEE, JANUARY 26, 1995

Madam Chairman, I am JoAn Wood of the Idaho House of Representatives. I am the ranking member of the House State Affairs committee, Resources and Conservation committee, and presently chairman of the House Transportation and Defense. I was the first committee co-chair of the Idaho Wolf oversight committee.

My purpose here is to establish before the committee the stand the people of Idaho,

represented by its legislature, have taken concerning the federal policies of the reintroduction of wolves into our state and region. I am also here as the representative of the state government to demand that, first, the Department of Interior immediately cease and desist the releasing of wolves into central Idaho, which has been done without the consent of the Idaho Legislature or any of its elected official—as required by Idaho State law; and, second, it abandon this wolf re-introduction program entirely, which is both scientifically and economically flawed.

I have a number of items that are pertinent to my testimony that I would at this time ask unanimous consent to be entered into the record.

I would like to refer to a letter and petition signed by elected officials of our state government, including our governor, and over ⅔ of our state legislature to our Congressional delegation stating a request that the delegation demand Secretary Babbitt immediately stop this illegal action. I would like to include this letter in the record.

Let me call your attention to Idaho law, code 36–103, which states that wildlife is the property of the state, and that it "shall be preserved, protected, perpetuated, and managed." We are outraged because of the possible legal liability that has been forced upon our state by the unauthorized release of these wolves on January 14, 1995.

Further, Idaho code 36–715, pertaining to wolf/dog hybridizations, which are not protected by the Endangered Species Act (ESA), requires a biological evaluation be performed on wolves to determine species priority before the Department of Fish and Game may take any action in accordance with the U.S. ESA. A request by the legislative committee and the Idaho State Veterinarian to quarantine and biologically test, as required by this law, was ignored by the U.S. Fish and Wildlife. This was in direct violation of Idaho State law.

Also, this law (36–715) gives direction to our own Fish and Game Department that they not expend funds, transfer assets, or enter into any cooperative agreements with any agency, department, or entity of the United States Government concerning wolves unless expressly authorized by state statute, with the exception that one representative participate in the wolf recovery team. The total recovery cost for this wolf re-introduction program is estimated to be 12.7 million dollars. We are concerned that Idaho may be forced by federal mandate to pick up as much as 25 percent of this cost. This has not been agreed to by the Idaho Legislature. The fear of this forced obligation is born out by a letter received by Idaho Fish and Game Director from Mr. Donald Friberg, Deputy Assistant Regional Director, and a copy of a letter from Minnesota State Director, Richard Wetzel, as to the problems encountered in Minnesota concerning wolf depredation and cost to that program. We received a letter also from the Wildlife federation under the signature of Thomas France Esquire, that once wolf populations are recovered, defenders of Wildlife will make a decision about continuing the compensation in conjunction with the states and other affected interests.

Further we charge that the agencies involved did not comply with Idaho Code 36–715(b), by not taking into consideration local economies, custom, culture, and private property rights. Proper notifications were not given for hearings on this matter. In addition, Suggestions that the government provide funding for compensation to livestock owners for all losses and to all people economically affected by land-use restrictions, among other local economic considerations, given to the Fish and Wildlife Services by the Wolf Oversight Committee, of which I was the ranking member, were completely struck out of the completed wolf plan. I would like to include a copy of the original plan in the record.

As early as 1984, the Idaho Legislature sent House Joint Memorial 11 to the President, the secretary of Interior, and other federal authorities wherein we urged the department of Interior and US FG&W service terminate any plans to plant wolf populations into Idaho. It is obvious that was ignored. Again in 1991, the state legislature sent a memorial (to also be included in the record) to the same federal officials (HJM6) stating the serious negative impact on the resource base of our state. The federal government responded to this memorial by threatening to turn the wolves over to the Nez Pierce Indians, who have no plan or process in place whatsoever to handle the wolves and compliances required by law.

We presented in the 1991 memorial five criteria for cooperation of Idaho oversight if the reintroduction cannot be stopped. I am submitting a copy of Dr. Tod Hoffman's testimony an Idaho Veterinarian and member of the Wolf Oversight Committee as a further witness of my testimony.

In conclusion, we submit to this congressional committee that the U.S. F&W under the direction and authority of the Secretary of Interior comply with 17.81 of the rules and regulations (A) refuted by Dr. Charles E. Kay and also Dr. Edward Goldman, renowned scientists in wildlife biology and ecology. We also request from Congress that you support Senator Kay Bailey Hutchinson's legislation to stop any further ESA action in Texas, but Idaho as well.

I am the latest effort by Idaho to petition Congress for relief from these recent unwarranted actions of U.S. Fish and Wildlife Program, and urge for a desisting of the wolf and a stop to this 6.4 million waste of tax payer money. So far, we have been ignored.

Ladies and Gentlemen, I hope my state does not have to sue our own Federal Government.

OFFICE OF THE GOVERNOR,
Boise, ID, January 25, 1996.

HON. HELEN CHENOWETH,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE CHENOWETH: The state of Idaho is strongly opposed to reintroduction of grizzly bears in Idaho. The state has many concerns regarding reintroduction, however there are two major areas that stand out. First, introduced bears will pose serious public safety concerns for Idahoans and tourists vacationing in our wonderful state. Second, the reintroduction has the potential to affect the social and economic stability of our rural communities by imposing undue burdens and restrictions on Idaho's natural resources based industries.

As you are aware, the United States Fish and Wildlife Service is developing an Environmental Impact Statement on the reintroduction of grizzly bears in central Idaho. I urge you to explore every available option to stop this reintroduction process as soon as possible.

Very truly yours,

PHILIP E. BATT,
Governor.

STATE OF IDAHO,
Boise, ID, January 18, 1996.

MR. ED BANGS,
Wolf Reintroduction Coordinator,
U.S. Fish and Wildlife Service, Helena, MT.

DEAR MR. BANGS: I write to reiterate the State of Idaho's objection to the reintroduction of wolves into central Idaho. Last year, the Idaho legislature determined that the United States Fish and Wildlife Service's wolf reintroduction program did not adequately respond to the concerns of the people of Idaho. Those inadequacies have been pointed out to you many times.

Since that time, the United States Congress has also indicated its dissatisfaction with wolf reintroduction by holding up the appropriation for the program. I cannot overemphasize my frustration that the Service has decided to proceed with wolf reintroduction despite the State of Idaho's and the U.S. Congress' opposition to the program.

I am encouraged, however, by the statements attributed to you in an article carried in the January 18, 1996, issue of the Idaho Statesman newspaper. In that article, you state that the 1996 shipment of wolves into Idaho may be the last shipment that is necessary to meet the goals of the program. I certainly hope so. I implore you to make this the last year that is marked by the controversy of this ill-conceived program.

Thank you for being responsive to the concerns of the people of Idaho.

Sincerely,

ALAN G. LANCE,
Attorney General.

OFFICE OF THE GOVERNOR,
Boise, ID, January 17, 1996.

ED BANGS,
Wolf Reintroduction Coordinator,
U.S. Fish and Wildlife Service, Helena, MT.

DEAR MR. BANGS: According to the Gray Wolf Reintroduction Progress Report, the United States Fish and Wildlife Service (USFWS) began capturing gray wolves, to be released in central Idaho, on January 16, 1996. This capture is being commenced even though the USFWS has not been issued the appropriate wildlife importation permits by the Idaho Department of Fish and Game. Without these permits, the USFWS is ignoring Idaho state laws and its responsibility under the Endangered Species Act to cooperate with affected states to the greatest extent possible.

USFWS management of the wolves released in January of 1995 has been unsatisfactory. The monitoring of the wolves has been inadequate. There have been a number of occasions when some of the wolves could not be located. Additionally, the USFWS has failed to notify Idaho citizens, or state agencies, when wolves were in close proximity to residential areas or livestock.

Until the USFWS adequately addresses the concerns of the state of Idaho, I must reiterate my opposition to the release of any more wolves in central Idaho. Please advise me of the USFWS's intentions.

Very truly yours,

PHILIP E. BATT,
Governor.

IDAHO FISH & GAME,
Boise, ID, 21 December 1995.

ED BANGS,
Wolf Reintroduction Coordinator,
U.S. Fish and Wildlife Service, Helena, MT.

DEAR MR. BANGS: In 1995, the Idaho Legislature rejected a wolf recovery and management plan that would have allowed the Idaho Department of Fish and Game to assume the

lead role in wolf recovery in Idaho. As a result of this legislative action, our Department will not be issuing a special permit for the release of additional wolves into Idaho. Because we remain the agency responsible for the management of elk, deer, and other potential prey of the wolf, we will continue to work with your agency, the Nez Perce Tribe, and other agencies and organizations as wolf recovery proceeds.

If you have any questions regarding this matter, please feel free to call.

Sincerely,

JERRY M. CONLEY,
Director.

CONFERENCE REPORT ON H.R. 2546, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1996

Mr. LIVINGSTON submitted the following conference report and statement on the bill (H.R. 2546) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1996, and for other purposes:

CONFERENCE REPORT (H. REPT. 104-455)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2546) "making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1996, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

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

In lieu of the matter stricken and inserted by said amendment, insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Government of the District of Columbia for the fiscal year ending September 30, 1996, and for other purposes, namely:

TITLE I—FISCAL YEAR 1996 APPROPRIATIONS

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

For payment to the District of Columbia for the fiscal year ending September 30, 1996, $660,000,000, as authorized by section 502(a) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended (D.C. Code, sec. 47-3406.1).

FEDERAL CONTRIBUTION TO RETIREMENT FUNDS

For the Federal contribution to the Police Officers and Fire Fighters', Teachers', and Judges' Retirement Funds, as authorized by the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; Public Law 96-122), $52,070,000.

FEDERAL CONTRIBUTION FOR EDUCATIONAL REFORM

For a Federal contribution to Education Reform, $14,930,000 which shall be deposited into an escrow account of the District of Columbia Financial Responsibility and Management Assistance Authority, pursuant to section 205 of Public Law 104-8, approved April 17, 1995 (109 Stat. 131), and shall be disbursed from such account pursuant to the instructions of the Authority and in accordance with title II of this Act, where applicable, as follows:

$200,000 shall be available for payments to charter schools;

$300,000 shall be available for Public Charter School Board;

$2,000,000 shall be transferred directly, notwithstanding any other provision of law, to the United States Department of Education for awarding grants to carry out Even Start programs in the District of Columbia as provided for in Subtitle C of title II of this Act;

$1,250,000 shall be available to establish core curriculum, content standards, and assessments;

$500,000 shall be available for payment to the Administrator of the General Services Administration for the costs of developing engineering plans for donated work on District of Columbia public school facilities;

$100,000 shall be available to develop a plan for a residential school;

$860,000 shall be available for the District Education and Learning Technologies Advancement Council;

$1,450,000 shall be available to the District Employment and Learning Center;

$1,000,000 shall be available for a professional development program for teachers and administrators administered by the nonprofit corporation selected under section 2701 of title II of this Act;

$1,450,000 shall be available for the Jobs for D.C. Graduates Program;

$70,000 shall be available for the Everybody Wins program: Provided, That $35,000 of this amount shall not be available until the Superintendent certifies to the Chairman of the District of Columbia Financial Responsibility and Management Assistance Authority that he has raised a like amount from private sources;

$100,000 shall be available for the Fit Kids program: Provided, That $50,000 of this amount shall not be available until the Superintendent certifies to the Chairman of the District of Columbia Financial Responsibility and Management Assistance Authority that he has raised a like amount from private sources;

$250,000 shall be transferred directly, notwithstanding any other provision of law, to the United States Department of Education to carry out the evaluation of the scholarship program as provided for in Subtitle N of title II of this Act;

$400,000 shall be available to the District of Columbia Public Schools to improve security (such as installing electronic door locking devices) at such schools, including at a minimum the following schools: Winston Education Center; McKinley High School; Ballou High School; and Cardozo High School; and

$5,000,000 shall be available for scholarships for low-income students and shall not be disbursed by the Authority until the Authority receives a certification from the District of Columbia Scholarship Corporation that the proposed allocation between the tuition scholarships and enhanced achievement scholarships has been approved by the Council of the District of Columbia consistent with the Scholarship Corporation's most recent proposal concerning the implementation of the low-income scholarship program. These funds shall lapse and be returned by the Authority to the U.S. Treasury on September 30, 1996, if the required certification from the Scholarship Corporation is not received by July 1, 1996: Provided, That no funds provided under this heading may be used for any indirect cost charges of the District of Columbia Board of Education, the District of Columbia Public Schools or the District of Columbia government.

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, $149,130,000 and 1,498 full-time equivalent positions (end of year) (including $117,464,000 and 1,158 full-time equivalent positions from local funds, $2,464,000 and 5 full-time equivalent positions from Federal funds, $4,474,000 and 71 full-time equivalent positions from other funds, and $24,728,000 and 264 full-time equivalent positions from intra-District funds): Provided, That not to exceed $2,500 for the Mayor, $2,500 for the Chairman of the Council of the District of Columbia, and $2,500 for the City Administrator shall be available from this appropriation for expenditures for official purposes: Provided further, That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: Provided further, That no revenues from Federal sources shall be used to support the operations or activities of the Statehood Commission and Statehood Compact Commission: Provided further, That the District of Columbia shall identify the sources of funding for Admission to Statehood from its own locally-generated revenues: Provided further, That $29,500,000 is for pay-as-you-go capital projects of which $1,500,000 shall be for a capital needs assessment study, and $28,000,000 shall be for a new financial management system, if so determined following the evaluation and review process subsequently described in this paragraph, of which $2,000,000 shall be used to develop a needs analysis and assessment of the existing financial management environment, and the remaining $26,000,000 shall be used to procure the necessary hardware and installation of new software, conversion, testing and training: Provided further, That the $26,000,000 shall not be obligated or expended until: (1) the District of Columbia Financial Responsibility and Management Assistance Authority submits a report to the Committees on Appropriations of the House and the Senate, the Committee on Governmental Reform and Oversight of the House, and the Committee on Governmental Affairs of the Senate reporting the results of a needs analysis and assessment of the existing financial management environment, specifying the deficiencies in, and recommending necessary improvements to or replacement of the District's financial management system including a detailed explanation of each recommendation and its estimated cost; and (2) 30 days lapse after receipt of the report by Congress.

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, $140,983,000 and 1,692 full-time equivalent positions (end-of-year) (including $68,203,000 and 698 full-time equivalent positions from local funds, $38,792,000 and 509 full-time equivalent positions from Federal funds, $17,658,000 and 258 full-time equivalent positions from other funds, and $16,330,000 and 227 full-time equivalent positions from intra-District funds): Provided, That the District of Columbia Housing Finance Agency, established by section 201 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979 (D.C. Law 2-135; D.C. Code, sec. 45-2111), based upon its capability of repayments as determined each year by the Council of the District of Columbia from the Housing Finance Agency's annual audited financial statements to the Council of the District of Columbia, shall repay to the general fund an amount equal to the appropriated administrative costs plus interest at a rate of four percent per annum for a term of 15 years, with a deferral of payments for the first three years: Provided further, That notwithstanding the foregoing provision, the obligation to repay all or

part of the amounts due shall be subject to the rights of the owners of any bonds or notes issued by the Housing Finance Agency and shall be repaid to the District of Columbia government only from available operating revenues of the Housing Finance Agency that are in excess of the amounts required for debt service, reserve funds, and operating expenses: Provided further, That upon commencement of the debt service payments, such payments shall be deposited into the general fund of the District of Columbia.

PUBLIC SAFETY AND JUSTICE

Public safety and justice, including purchase of 135 passenger-carrying vehicles for replacement only, including 130 for police-type use and five for fire-type use, without regard to the general purchase price limitation for the current fiscal year, $963,848,000 and 11,544 full-time equivalent positions (end-of-year) (including $940,631,000 and 11,365 full-time equivalent positions from local funds, $8,942,000 and 70 full-time equivalent positions from Federal funds, $5,160,000 and 4 full-time equivalent positions from other funds, and $9,115,000 and 105 full-time equivalent positions from intra-District funds): Provided, That the Metropolitan Police Department is authorized to replace not to exceed 25 passenger-carrying vehicles and the Fire Department of the District of Columbia is authorized to replace not to exceed five passenger-carrying vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths of the cost of the replacement: Provided further, That not to exceed $500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: Provided further, That the Metropolitan Police Department shall provide quarterly reports to the Committees on Appropriations of the House and Senate on efforts to increase efficiency and improve the professionalism in the department: Provided further, That notwithstanding any other provision of law, or Mayor's Order 86–45, issued March 18, 1986, the Metropolitan Police Department's delegated small purchase authority shall be $500,000: Provided further, That the District of Columbia government may not require the Metropolitan Police Department to submit to any other procurement review process, or to obtain the approval of or be restricted in any manner by any official or employee of the District of Columbia government, for purchases that do not exceed $500,000: Provided further, That $250,000 is used for the Georgetown Summer Detail; $200,000 is used for East of the River Detail; $100,000 is used for Adams Morgan Detail; and $100,000 is used for the Capitol Hill Summer Detail: Provided further, That the Metropolitan Police Department shall employ an authorized level of sworn officers not to be less than 3,800 sworn officers for the fiscal year ending September 30, 1996: Provided further, That funds appropriated for expenses under the District of Columbia Criminal Justice Act, approved September 3, 1974 (88 Stat. 1090; Public Law 93–412; D.C. Code, sec. 11–2601 et seq.), for the fiscal year ending September 30, 1996, shall be available for obligations incurred under the Act in each fiscal year since inception in the fiscal year 1975: Provided further, That funds appropriated for expenses under the District of Columbia Neglect Representation Equity Act of 1984, effective March 13, 1985 (D.C. Law 5–129; D.C. Code, sec. 16–2304), for the fiscal year ending September 30, 1996, shall be available for obligations incurred under the Act in each fiscal year since inception in the fiscal year 1985: Provided further, That funds appropriated for expenses under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986, effective February 27, 1987 (D.C. Law 6–204; D.C. Code, sec. 21–2060), for the fiscal year ending September 30, 1996, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1989: Provided further, That not to exceed $1,500 for the Chief Judge of the District of Columbia Court of Appeals, $1,500 for the Chief Judge of the Superior Court of the District of Columbia, and $1,500 for the Executive Officer of the District of Columbia Courts shall be available from this appropriation for official purposes: Provided further, That the District of Columbia shall operate and maintain a free, 24-hour telephone information service whereby residents of the area surrounding Lorton prison in Fairfax County, Virginia, can promptly obtain information from District of Columbia government officials on all disturbances at the prison, including escapes, riots, and similar incidents: Provided further, That the District of Columbia government shall also take steps to publicize the availability of the 24-hour telephone information service among the residents of the area surrounding the Lorton prison: Provided further, That not to exceed $100,000 of this appropriation shall be used to reimburse Fairfax County, Virginia, and Prince William County, Virginia, for expenses incurred by the counties during the fiscal year ending September 30, 1996, in relation to the Lorton prison complex: Provided further, That such reimbursements shall be paid in all instances in which the District requests the counties to provide police, fire, rescue, and related services to help deal with escapes, fires, riots, and similar disturbances involving the prison: Provided further, That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services that are performed in emergencies by the National Guard in a militia status and are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard: Provided further, That such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and the availability of the sums shall be deemed as constituting payment in advance for emergency services involved.

PUBLIC EDUCATION SYSTEM

Public education system, including the development of national defense education programs, $795,201,000 and 11,670 full-time equivalent positions (end-of-year) (including $676,251,000 and 9,996 full-time equivalent positions from local funds, $87,385,000 and 1,227 full-time equivalent positions from Federal funds, $21,719,000 and 234 full-time equivalent positions from other funds, and $9,846,000 and 213 full-time equivalent positions from intra-District funds), to be allocated as follows: $580,996,000 and 10,167 full-time equivalent positions (including $498,310,000 and 9,014 full-time equivalent positions from local funds $75,786,000 and 1,058 full-time equivalent positions from Federal funds, $4,343,000 and 44 full-time equivalent positions from other funds, and $2,557,000 and 51 full-time equivalent positions from intra-District funds), for the public schools of the District of Columbia; $111,800,000 (including $111,000,000 from local funds and $800,000 from intra-District funds) shall be allocated for the District of Columbia Teachers' Retirement Fund; $79,396,000 and 1,079 full-time equivalent positions (including $45,388,000 and 572 full-time equivalent positions from local funds, $10,611,000 and 156 full-time equivalent positions from Federal funds, $16,922,000 and 189 full-time equivalent positions from other funds, and $6,486,000 and 162 full-time equivalent positions from intra-District funds) for the University of the District of Columbia; $20,742,000 and 415 full-time equivalent positions (including $19,839,000 and 408 full-time equivalent positions from local funds, $446,000 and 6 full-time equivalent positions from Federal funds, $454,000 and 1 full-time equivalent position from other funds, and $3,000 from intra-District funds) for the Public Library; $2,267,000 and 9 full-time equivalent positions (including $1,725,000 and 2 full-time equivalent positions from local funds and $542,000 and 7 full-time equivalent positions from Federal funds) for the Commission on the Arts and Humanities: Provided, That the public schools of the District of Columbia are authorized to accept not to exceed 31 motor vehicles for exclusive use in the driver education program: Provided further, That not to exceed $2,500 for the Superintendent of Schools, $2,500 for the President of the University of the District of Columbia, and $2,000 for the Public Librarian shall be available from this appropriation for expenditures for official purposes: Provided further, That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 1996, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area.

EDUCATION REFORM

Education reform, $14,930,000, to be allocated as follows:

$200,000 shall be available for payments to charter schools as authorized under Subtitle B of title II of this Act;

$300,000 shall be available for the Public Charter School Board as authorized under Subtitle B of title II of this Act;

$2,000,000 shall be transferred directly, notwithstanding any other provision of law, to the United States Department of Education for awarding grants to carry out Even Start programs in the District of Columbia as provided for in Subtitle C of title II of this Act;

$1,250,000 shall be available to establish core curriculum, content standards, and assessments as authorized under Subtitle D of title II of this Act;

$500,000 shall be available for payment to the Administrator of the General Services Administration for the costs of developing engineering plans for donated work on District of Columbia public school facilities as authorized under Subtitle F of title II of this Act;

$100,000 shall be available to develop a plan for a residential school as authorized under Subtitle G of title II of this Act;

$860,000 shall be available for the District Education and Learning Technologies Advancement Council as authorized under Subtitle I of title II of this Act;

$1,450,000 shall be available to the District Employment and Learning Center as authorized under Subtitle I of title II of this Act;

$1,000,000 shall be available for a professional development program for teachers and administrators administered by the nonprofit corporation selected under section 2701 of title II of this Act as authorized under Subtitle I of title II of this Act;

$1,450,000 shall be available for the Jobs for D.C. Graduates Program as authorized under Subtitle I of title II of this Act;

$70,000 shall be available for the Everybody Wins program;

$100,000 shall be available for the Fit Kids program;

$250,000 shall be transferred directly, notwithstanding any other provision of law, to the United States Department of Education to carry out the evaluation of the scholarship program as provided for in Subtitle N of title II of this Act;

$400,000 shall be available to the District of Columbia Public Schools to improve security (such as installing electronic door locking devices) at such schools, including at a minimum the following schools: Winston Education Center; McKinley High School; Ballou High School; and Cardozo High School; and

$5,000,000 shall be paid to the District of Columbia Scholarship Corporation authorized under Subtitle N of title II of this Act for scholarships for low-income students: Provided, That the District of Columbia government shall enter into negotiations with Gallaudet University to transfer, at a fair market value rate, Hamilton School from the District of Columbia to Gallaudet University with the proceeds, if such a sale takes place, deposited into the general fund of the District and used to improve public school facilities in the same ward as the Hamilton School.

HUMAN SUPPORT SERVICES

Human support services, $1,855,014,000 and 6,469 full-time equivalent positions (end-of-year) (including $1,076,856,000 and 3,650 full-time equivalent positions from local funds, $726,685,000 and 2,639 full-time equivalent positions from Federal funds, $46,799,000 and 66 full-time equivalent positions from other funds, and $4,674,000 and 114 full-time equivalent positions from intra-District funds): Provided, That $26,000,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: Provided further, That the District shall not provide free government services such as water, sewer, solid waste disposal or collection, utilities, maintenance, repairs, or similar services to any legally constituted private nonprofit organization (as defined in section 411(5) of Public Law 100–77, approved July 22, 1987) providing emergency shelter services in the District, if the District would not be qualified to receive reimbursement pursuant to the Stewart B. McKinney Homeless Assistance Act, approved July 22, 1987 (101 Stat. 485; Public Law 100–77; 42 U.S.C. 11301 et seq.).

PUBLIC WORKS

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and purchase of passenger-carrying vehicles for replacement only, $297,568,000 and 1,914 full-time equivalent positions (end-of-year) (including $225,915,000 and 1,158 full-time equivalent positions from local funds, $2,682,000 and 32 full-time equivalent positions from Federal funds, $18,342,000 and 68 full-time equivalent positions from other funds, and $50,629,000 and 656 full-time equivalent positions from intra-District funds): Provided, That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business.

WASHINGTON CONVENTION CENTER FUND TRANSFER PAYMENT

For payment to the Washington Convention Center Enterprise Fund, $5,400,000 from local funds.

REPAYMENT OF LOANS AND INTEREST

For reimbursement to the United States of funds loaned in compliance with An Act to provide for the establishment of a modern, adequate, and efficient hospital center in the District of Columbia, approved August 7, 1946 (60 Stat. 896; Public Law 79–648); section 1 of An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85–451; D.C. Code, sec. 9–219); section 4 of An Act to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system, approved June 12, 1960 (74 Stat. 211; Public Law 86–515); sections 723 and 743(f) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973, as amended (87 Stat. 821; Public Law 93–198; D.C. Code, sec. 47–321, note; 91 Stat. 1156; Public Law 95–131; D.C. Code, sec. 9–219, note), including interest as required thereby, $327,787,000 from local funds.

REPAYMENT OF GENERAL FUND RECOVERY DEBT

For the purpose of eliminating the $331,589,000 general fund accumulated deficit as of September 30, 1990, $38,678,000 from local funds, as authorized by section 461(a) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973, as amended (105 Stat. 540; Public Law 102–106; D.C. Code, sec. 47–321(a)).

REPAYMENT OF INTEREST ON SHORT-TERM BORROWING

For repayment of interest on short-term borrowing, $9,698,000 from local funds.

PAY RENEGOTIATION OR REDUCTION IN COMPENSATION

The Mayor shall reduce appropriations and expenditures for personal services in the amount of $46,409,000, by decreasing rates of compensation for District government employees; such decreased rates are to be realized from employees who are subject to collective bargaining agreements to the extent possible through the renegotiation of existing collective bargaining agreements: Provided, That, if a sufficient reduction from employees who are subject to collective bargaining agreements is not realized through renegotiating existing agreements, the Mayor shall decrease rates of compensation for such employees, notwithstanding the provisions of any collective bargaining agreements: Provided further, That the Congress hereby ratifies and approves legislation enacted by the council of the District of Columbia during fiscal year 1995 to reduce the compensation and benefits of all employees of the District of Columbia government during that fiscal year: Provided further, That notwithstanding any other provision of law, the legislation enacted by the Council of the District of Columbia during fiscal year 1995 to reduce the compensation and benefits of all employees of the District of Columbia government during that fiscal year shall be deemed to have been ratified and approved by the Congress during fiscal year 1995.

RAINY DAY FUND

For mandatory unavoidable expenditures within one or several of the various appropriation headings of this Act, to be allocated to the budgets for personal services and nonpersonal services as requested by the Mayor and approved by the Council pursuant to the procedures in section 4 of the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3–100; D.C. Code, sec. 47–363), $4,563,000 from local funds: Provided, That the District of Columbia shall provide to the Committees on Appropriations of the House of Representatives and the Senate quarterly reports by the 15th day of the month following the end of the quarter showing how monies provided under this fund are expended with a final report providing a full accounting of the fund due October 15, 1996 or not later than 15 days after the last amount remaining in the fund is disbursed.

INCENTIVE BUYOUT PROGRAM

For the purpose of funding costs associated with the incentive buyout program, to be apportioned by the Mayor of the District of Columbia within the various appropriation headings in this Act from which costs are properly payable, $19,000,000.

OUTPLACEMENT SERVICES

For the purpose of funding outplacement services for employees who leave the District of Columbia government involuntarily, $1,500,000.

BOARDS AND COMMISSIONS

The Mayor shall reduce appropriations and expenditures for boards and commissions under the various headings in this Act in the amount of $500,000.

GOVERNMENT RE-ENGINEERING PROGRAM

The Mayor shall reduce appropriations and expenditures for personal and nonpersonal services in the amount of $16,000,000 within one or several of the various appropriation headings in this Act.

CAPITAL OUTLAY

(INCLUDING RESCISSIONS)

For construction projects, $168,222,000 (including $82,850,000 from local funds and $85,372,000 from Federal funds), as authorized by An Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58–140; D.C. Code, secs. 43–1512 through 43–1519); the District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 101; Public Law 83–364); An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85–451; including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: Provided, That $105,660,000 from local funds appropriated under this heading in prior fiscal years is rescinded: Provided further, That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: Provided further, That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: Provided further, That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90–495; D.C. Code, sec. 7–134, note), for which funds are provided by this appropriation title, shall expire on September 30, 1997, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1997: Provided further, That upon expiration of any such project authorization the funds provided herein for the project shall lapse.

WATER AND SEWER ENTERPRISE FUND

For the Water and Sewer Enterprise Fund, $242,253,000 and 1,024 full-time equivalent positions (end-of-year) (including $237,076,000 and 924 full-time equivalent positions from local funds, $433,000 from other funds, and $4,744,000 and 100 full-time equivalent positions from intra-District funds), of which $41,036,000 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects.

For construction projects, $39,477,000 from Federal funds, as authorized by An Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of

assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58–140; D.C. Code, sec. 43–1512 et seq.): Provided, That the requirements and restrictions that are applicable to general fund capital improvement projects and set forth in this Act under the Capital Outlay appropriation title shall apply to projects approved under this appropriation title.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund, established by the District of Columbia Appropriation Act for the fiscal year ending September 30, 1982, approved December 4, 1981 (95 Stat. 1174, 1175; Public Law 97–91), as amended, for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3–172; D.C. Code, secs. 2–2501 et seq. and 22–1516 et seq.), $229,950,000 and 88 full-time equivalent positions (end-of-year) (including $7,950,000 and 88 full-time equivalent positions for administrative expenses and $222,000,000 for non-administrative expenses from revenue generated by the Lottery Board), to be derived from non-Federal District of Columbia revenues: Provided, That the District of Columbia shall identify the source of funding for this appropriation title from the District's own locally-generated revenues: Provided further, That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

CABLE TELEVISION ENTERPRISE FUND

For the Cable Television Enterprise Fund, established by the Cable Television Communications Act of 1981, effective October 22, 1983 (D.C. Law 5–36; D.C. Code, sec. 43–1801 et seq.), $2,351,000 and 8 full-time equivalent positions (end-of-year) (including $2,019,000 and 8 full-time equivalent positions from local funds and $332,000 from other funds), of which $572,000 shall be transferred to the general fund of the District of Columbia.

STARPLEX FUND

For the Starplex Fund, $6,580,000 from other funds for the expenses incurred by the Armory Board in the exercise of its powers granted by An Act To Establish A District of Columbia Armory Board, and for other purposes, approved June 4, 1948 (62 Stat. 339; D.C. Code, sec. 2–301 et seq.) and the District of Columbia Stadium Act of 1957, approved September 7, 1957 (71 Stat. 619; Public Law 85–300; D.C. Code, sec. 2–321 et seq.): Provided, That the Mayor shall submit a budget for the Armory Board for the forthcoming fiscal year as required by section 442(b) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 824; Public Law 93–198; D.C. Code, sec. 47–301(b)).

D.C. GENERAL HOSPITAL

For the District of Columbia General Hospital, established by Reorganization Order No. 57 of the Board of Commissioners, effective August 15, 1953, $115,034,000, of which $56,735,000 shall be derived by transfer as intra-District funds from the general fund, $52,684,000 is to be derived from the other funds, and $5,615,000 is to be derived from intra-District funds.

D.C. RETIREMENT BOARD

For the D.C. Retirement Board, established by section 121 of the District of Columbia Retirement Reform Act of 1989, approved November 17, 1989 (93 Stat. 866; D.C. Code, sec. 1–711), $13,440,000 and 11 full-time equivalent positions (end-of-year) from the earnings of the applicable retirement funds to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board: Provided, That the District of Columbia Retirement Board shall provide to the Congress and to the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: Provided further, That the District of Columbia Retirement Board shall provide the Mayor, for transmittal to the Council of the District of Columbia, an item accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report.

CORRECTIONAL INDUSTRIES FUND

For the Correctional Industries Fund, established by the District of Columbia Correctional Industries Establishment Act, approved October 3, 1964 (78 Stat. 1000; Public Law 88–622), $10,516,000 and 66 full-time equivalent positions (end-of-year) (including $3,415,000 and 22 full-time equivalent positions from other funds and $7,101,000 and 44 full-time equivalent positions from intra-District funds).

WASHINGTON CONVENTION CENTER ENTERPRISE FUND

For the Washington Convention Center Enterprise Fund, $37,957,000, of which $5,400,000 shall be derived by transfer from the general fund.

DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY

For the District of Columbia Financial Responsibility and Management Assistance Authority, established by section 101(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 97; Public Law 104–8), $3,500,000.

PERSONAL AND NONPERSONAL SERVICES ADJUSTMENTS

Notwithstanding any other provision of law, the Chief Financial Officer established under section 302 of Public Law 104–8, approved April 17, 1995 (109 Stat. 142) shall, on behalf of the Mayor, adjust appropriations and expenditures for personal and nonpersonal services, together with the related full-time equivalent positions, in accordance with the direction of the District of Columbia Financial Responsibility and Management Assistance Authority such that there is a net reduction of $165,837,000, within or among one or several of the various appropriation headings in this Act, pursuant to section 208 of Public Law 104–8, approved April 17, 1995 (109 Stat. 134).

GENERAL PROVISIONS

SEC. 101. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 102. Except as otherwise provided in this Act, all vouchers covering expenditures of appropriations contained in this Act shall be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

SEC. 103. Whenever in this Act, an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor.

SEC. 104. Appropriations in this Act shall be available, when authorized by the Mayor, for allowances for privately owned automobiles and motorcycles used for the performance of official duties at rates established by the Mayor: Provided, That such rates shall not exceed the maximum prevailing rates for such vehicles as prescribed in the Federal Property Management Regulations 101–7 (Federal Travel Regulations).

SEC. 105. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: Provided, That the Council of the District of Columbia and the District of Columbia Courts may expend such funds without authorization by the Mayor.

SEC. 106. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments that have been entered against the District of Columbia government: Provided, That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved March 31, 1956 (70 Stat. 78; Public Law 84–460; D.C. Code, sec. 47–1812.11(c)(3)).

SEC. 107. Appropriations in this Act shall be available for the payment of public assistance without reference to the requirement of section 544 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4–101; D.C. Code, sec. 3–205.44), and for the non-Federal share of funds necessary to qualify for Federal assistance under the Juvenile Delinquency Prevention and Control Act of 1968, approved July 31, 1968 (82 Stat. 462; Public Law 90–445, 42 U.S.C. 3801 et seq.).

SEC. 108. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 109. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during non-school hours.

SEC. 110. The annual budget for the District of Columbia government for the fiscal year ending September 30, 1997, shall be transmitted to the Congress no later than April 15, 1996 or as provided for under the provisions of Public Law 104–8, approved April 17, 1995.

SEC. 111. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations, the House Committee on Government Reform and Oversight, District of Columbia Subcommittee, the Subcommittee on Oversight of Government Management, of the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representative: Provided, That none of the funds contained in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name and salary are not available for public inspection.

SEC. 112. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, effective September 23, 1977 (D.C. Law 2–20; D.C. Code, sec. 47–421 et seq.).

SEC. 113. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott

designed to support or defeat legislation pending before Congress or any State legislature.

SEC. 114. At the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowings: Provided, That within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowings and spending progress compared with projections.

SEC. 115. The Mayor shall not borrow any funds for capital projects unless the Mayor has obtained prior approval from the Council of the District of Columbia, by resolution, identifying the projects and amounts to be financed with such borrowings.

SEC. 116. The Mayor shall not expend any moneys borrowed for capital projects for the operating expenses of the District of Columbia government.

SEC. 117. None of the funds appropriated by this Act may be obligated or expended by reprogramming except pursuant to advance approval of the reprogramming granted according to the procedure set forth in the Joint Explanatory Statement of the Committee of Conference (House Report No. 96–443), which accompanied the District of Columbia Appropriation Act, 1980, approved October 30, 1979 (93 Stat. 713; Public Law 96–93), as modified in House Report No. 98–265, and in accordance with the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3–100; D.C. Code, sec. 47–361 et seq.): Provided, That for the fiscal year ending September 30, 1996 the above shall apply except as modified by Public Law 104–8.

SEC. 118. None of the Federal funds provided in this Act shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of the District of Columbia.

SEC. 119. None of the Federal Funds provided in this Act shall be obligated or expended to procure passenger automobiles as defined in the Automobile Fuel Efficiency Act of 1980, approved October 10, 1980 (94 Stat. 1824; Public Law 96–425; 15 U.S.C. 2001(2)), with an Environmental Protection Agency estimated miles per gallon average of less than 22 miles per gallon: Provided, That this section shall not apply to security, emergency rescue, or armored vehicles.

SEC. 120. (a) Notwithstanding section 422(7) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93–198; D.C. Code, sec. 1–242(7)), the City Administrator shall be paid, during any fiscal year, a salary at a rate established by the Mayor, not to exceed the rate established for level IV of the Executive Schedule under 5 U.S.C. 5315.

(b) For purposes of applying any provision of law limiting the availability of funds for payment of salary or pay in any fiscal year, the highest rate of pay established by the Mayor under subsection (a) of this section for any position for any period during the last quarter of calendar year 1995 shall be deemed to be the rate of pay payable for that position for September 30, 1995.

(c) Notwithstanding section 4(a) of the District of Columbia Redevelopment Act of 1945, approved August 2, 1946 (60 Stat. 793; Public Law 79–592; D.C. Code, sec. 5–803(a)), the Board of Directors of the District of Columbia Redevelopment Land Agency shall be paid, during any fiscal year, per diem compensation at a rate established by the Mayor.

SEC. 121. Notwithstanding any other provisions of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2–139; D.C. Code, sec. 1–601.1 et seq.), enacted pursuant to section 422(3) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93–198; D.C. Code, sec. 1–242(3)), shall apply with respect to the compensation of District of Columbia employees: Provided, That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5 of the United States Code.

SEC. 122. The Director of the Department of Administrative Services may pay rentals and repair, alter, and improve rented premises, without regard to the provisions of section 322 of the Economy Act of 1932 (Public Law 72–212; 40 U.S.C. 278a), upon a determination by the Director, that by reason of circumstances set forth in such determination, the payment of these rents and the execution of this work, without reference to the limitations of section 322, is advantageous to the District in terms of economy, efficiency, and the District's best interest.

SEC. 123. No later than 30 days after the end of the first quarter of the fiscal year ending September 30, 1996, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia the new fiscal year 1996 revenue estimates as of the end of the first quarter of fiscal year 1996. These estimates shall be used in the budget request for the fiscal year ending September 30, 1997. The officially revised estimates at midyear shall be used for the midyear report.

SEC. 124. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6–85; D.C. Code, sec. 1–1183.3), except that the District of Columbia Public Schools may renew or extend sole source contracts for which competition is not feasible or practical, provided that the determination as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated Board of Education rules and procedures.

SEC. 125. For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended, the term "program, project, and activity" shall be synonymous with and refer specifically to each account appropriating Federal funds in this Act, and any sequestration order shall be applied to each of the accounts rather than to the aggregate total of those accounts: Provided, That sequestration orders shall not be applied to any account that is specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended.

SEC. 126. In the event of a sequestration order is issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037: Public Law 99–177), as amended, after the amounts appropriated to the District of Columbia for the fiscal year involved have been paid to the District of Columbia, the Mayor of the District of Columbia shall pay to the Secretary of the Treasury, within 15 days after receipt of a request therefor from the Secretary of the Treasury, such amounts as are sequestered by the order: Provided, That the sequestration percentage specified in the order shall be applied proportionately to each of the Federal appropriation accounts in this Act that are not specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended.

SEC. 127. For the fiscal year ending September 30, 1996, the District of Columbia shall pay interest on its quarterly payments to the United States that are made more than 60 days from the date of receipt of an itemized statement from the Federal Bureau of Prisons of amounts due for housing District of Columbia convicts in Federal penitentiaries for the preceding quarter.

SEC. 128. Nothing in this Act shall be construed to authorize any office, agency or entity to expend funds for programs or functions for which a reorganization plan is required but has not been approved by the Council pursuant to section 422(12) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93–198; D.C. Code, sec. 1–242(12)) and the Governmental Reorganization Procedures Act of 1981, effective October 17, 1981 (D.C. Law 4–42; D.C. Code, sec. 1–299.1 to 1–299.7). Appropriations made by this Act for such programs or functions are conditioned on the approval by the Council, prior to October 1, 1995, of the required reorganization plans.

SEC. 129. (a) An entity of the District of Columbia government may accept and use a gift or donation during fiscal year 1996 if—

(1) the Mayor approves the acceptance and use of the gift or donation: Provided, That the Council of the District of Columbia may accept and use gifts without prior approval by the Mayor; and

(2) the entity uses the gift or donation to carry out its authorized functions or duties.

(b) Each entity of the District of Columbia government shall keep accurate and detailed records of the acceptance and use of any gift or donation under subsection (a) of this section, and shall make such records available for audit and public inspection.

(c) For the purposes of this section, the term "entity of the District of Columbia government" includes an independent agency of the District of Columbia.

(d) This section shall not apply to the District of Columbia Board of Education, which may, pursuant to the laws and regulations of the District of Columbia, accept and use gifts to the public schools without prior approval by the Mayor.

SEC. 130. None of the Federal funds provided in this Act may be used by the District of Columbia to provide for salaries, expenses, or other costs associated with the offices of United States Senator or United States Representative under section 4(d) of the District of Columbia Statehood Constitutional Convention Initiatives of 1979, effective March 10, 1981 (D.C. Law 3–171; D.C. Code, sec. 1–113(d)).

PROHIBITION AGAINST USE OF FUNDS FOR ABORTIONS

SEC. 131. None of the funds appropriated under this Act shall be expended for any abortion except where the life of the mother would be endangered if the fetus were carried to term or where the pregnancy is the result of an act of rape or incest.

PROHIBITION ON DOMESTIC PARTNERS ACT

SEC. 132. No funds made available pursuant to any provision of this Act shall be used to implement or enforce any system of registration of unmarried, cohabiting couples whether they are homosexual, lesbian, or heterosexual, including but not limited to registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis that such benefits are extended to legally married couples; nor shall any funds made available pursuant to any provision of this Act otherwise be used to implement or enforce D.C. Act 9–188, signed by the Mayor of the District of Columbia on April 15, 1992.

COMPENSATION FOR THE COMMISSION ON JUDICIAL DISABILITIES AND TENURE AND FOR THE JUDICIAL NOMINATION COMMISSION

SEC. 133. Sections 431(f) and 433(b)(5) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; Public Law 93-198; D.C. Code, secs. 11-1524 and title 11, App. 433), are amended to read as follows:

(a) Section 431(f) (D.C. Code, sec. 11-1524) is amended to read as follows:

"(f) Members of the Tenure Commission shall serve without compensation for services rendered in connection with their official duties on the Commission.".

(b) Section 433(b)(5) (title 11, App. 433) is amended to read as follows:

"(5) Members of the Commission shall serve without compensation for services rendered in connection with their official duties on the Commission.".

MULTIYEAR CONTRACTS

SEC. 134. Section 451 of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 803; Public Law 93-198; D.C. Code, sec. 1-1130), is amended by adding a new subsection (c) to read as follows:

"(c)(1) The District may enter into multiyear contracts to obtain goods and services for which funds would otherwise be available for obligation only within the fiscal year for which appropriated.

"(2) If the funds are not made available for the continuation of such a contract into a subsequent fiscal year, the contract shall be cancelled or terminated, and the cost of cancellation or termination may be paid from—

"(A) appropriations originally available for the performance of the contract concerned;

"(B) appropriations currently available for procurement of the type of acquisition covered by the contract, and not otherwise obligated; or

"(C) funds appropriated for those payments.

"(3) No contract entered into under this section shall be valid unless the Mayor submits the contract to the Council for its approval and the Council approves the contract (in accordance with criteria established by act of the Council). The Council shall be required to take affirmative action to approve the contract within 45 days. If no action is taken to approve the contract within 45 calendar days, the contract shall be deemed disapproved.".

CALCULATED REAL PROPERTY TAX RATE RESCISSION AND REAL PROPERTY TAX FREEZE

SEC. 135. The District of Columbia Real Property Tax Revision Act of 1974, approved September 3, 1974 (88 Stat. 1051; D.C. Code, sec. 47-801 et seq.), is amended as follows:

(1) Section 412 (D.C. Code, sec. 47-812) is amended as follows:

(A) Subsection (a) is amended by striking the third and fourth sentences and inserting the following sentences in their place: "If the Council does extend the time for establishing the rates of taxation on real property, it must establish those rates for the tax year by permanent legislation. If the Council does not establish the rates of taxation of real property by October 15, and does not extend the time for establishing rates, the rates of taxation applied for the prior year shall be the rates of taxation applied during the tax year.".

(B) A new subsection (a-2) is added to read as follows:

"(a-2) Notwithstanding the provisions of subsection (a) of this section, the real property tax rates for taxable real property in the District of Columbia for the tax year beginning October 1, 1995, and ending September 30, 1996, shall be the same rates in effect for the tax year beginning October 1, 1993, and ending September 30, 1994.".

(2) Section 413(c) (D.C. Code, sec. 47-815(c)) is repealed.

PRISONS INDUSTRIES

SEC. 136. Title 18 U.S.C. 1761(b) is amended by striking the period at the end and inserting the phrase "or not-for-profit organizations." in its place.

REPORTS ON REDUCTIONS

SEC. 137. Within 120 days of the effective date of this Act, the Mayor shall submit to the Congress and the Council a report delineating the actions taken by the executive to effect the directives of the Council in this Act, including—

(1) negotiations with representatives of collective bargaining units to reduce employee compensation;

(2) actions to restructure existing long-term city debt;

(3) actions to apportion the spending reductions anticipated by the directives of this Act to the executive for unallocated reductions; and

(4) a list of any position that is backfilled including description, title, and salary of the position.

MONTHLY REPORTING REQUIREMENTS—BOARD OF EDUCATION

SEC. 138. The Board of Education shall submit to the Congress, Mayor, and Council of the District of Columbia no later than fifteen (15) calendar days after the end of each month a report that sets forth—

(1) current month expenditures and obligations, year-to-date expenditures and obligations, and total fiscal year expenditure projections vs. budget broken out on the basis of control center, responsibility center, agency reporting code, and object class, and for all funds, including capital financing;

(2) a breakdown of FTE positions and staff for the most current pay period broken out on the basis of control center, responsibility center, and agency reporting code within each responsibility center, for all funds, including capital funds;

(3) a list of each account for which spending is frozen and the amount of funds frozen, broken out by control center, responsibility center, detailed object, and agency reporting code, and for all funding sources;

(4) a list of all active contracts in excess of $10,000 annually, which contains; the name of each contractor; the budget to which the contract is charged broken out on the basis of control center, responsibility center, and agency reporting code; and contract identifying codes used by the D.C. Public Schools; payments made in the last month and year-to-date, the total amount of the contract and total payments made for the contract and any modifications, extensions, renewals; and specific modifications made to each contract in the last month;

(5) all reprogramming requests and reports that are required to be, and have been, submitted to the Board of Education; and

(6) changes made in the last month to the organizational structure of the D.C. Public Schools, displaying previous and current control centers and responsibility centers, the names of the organizational entities that have been changed, the name of the staff member supervising each entity affected, and the reasons for the structural change.

MONTHLY REPORTING REQUIREMENT

UNIVERSITY OF THE DISTRICT OF COLUMBIA

SEC. 139. The University of the District of Columbia shall submit to the Congress, Mayor, and Council of the District of Columbia no later than fifteen (15) calendar days after the end of each month a report that sets forth—

(1) current month expenditures and obligations, year-to-date expenditures and obligations, and total fiscal year expenditure projections vs. budget broken out on the basis of control center, responsibility center, and object class, and for all funds, including capital financing;

(2) a breakdown of FTE positions and all employees for the most current pay period broken out on the basis of control center and responsibility center, for all funds, including capital funds;

(3) a list of each account for which spending is frozen and the amount of funds frozen, broken out by control center, responsibility center, detailed object, and for all funding sources;

(4) a list of all active contracts in excess of $10,000 annually, which contains: the name of each contractor; the budget to which the contract is charged broken out on the basis of control center and responsibility center, and contract identifying codes used by the University of the District of Columbia; payments made in the last month and year-to-date, the total amount of the contract and total payments made for the contract and any modifications, extensions, renewals; and specific modifications made to each contract in the last month;

(5) all reprogramming requests and reports that have been made by the University of the District of Columbia within the last month in compliance with applicable law; and

(6) changes in the last month to the organizational structure of the University of the District of Columbia, displaying previous and current control centers and responsibility centers, the names of the organizational entities that have been changed, the name of the staff member supervising each entity affected, and the reasons for the structural change.

ANNUAL REPORTING REQUIREMENTS

SEC. 140. (a) The Board of Education of the District of Columbia and the University of the District of Columbia shall annually compile an accurate and verifiable report on the positions and employees in the public school system and the university, respectively. The annual report shall set forth—

(1) the number of validated schedule A positions in the District of Columbia Public Schools and the University of the District of Columbia for fiscal year 1995, fiscal year 1996, and thereafter on full-time equivalent basis, including a compilation of all positions by control center, responsibility center, funding source, position type, position title, pay plan, grade, and annual salary; and

(2) a compilation of all employees in the District of Columbia Public Schools and the University of the District of Columbia as of the preceding December 31, verified as to its accuracy in accordance with the functions that each employee actually performs, by control center, responsibility center, agency reporting code, program (including funding source), activity, location for accounting purposes, job title, grade and classification, annual salary, and position control number.

(b) The annual report required by subsection (a) of this section shall be submitted to the Congress, the Mayor and Council of the District of Columbia, by not later than February 8 of each year.

ANNUAL BUDGETS AND BUDGET REVISIONS

SEC. 141. (a) Not later than October 1, 1995, or within 15 calendar days after the date of the enactment of the District of Columbia Appropriations Act, 1996, whichever occurs later, and each succeeding year, the Board of Education and the University of the District of Columbia shall submit to the Congress, the Mayor, and Council of the District of Columbia, a revised appropriated funds operating budget for the public school system and the University of the District of Columbia for such fiscal year that is in the total amount of the approved appropriation and that realigns budgeted data for personal services

and other-than-personal services, respectively, with anticipated actual expenditures.

(b) The revised budget required by subsection (a) of this section shall be submitted in the format of the budget that the Board of Education and the University of the District of Columbia submit to the Mayor of the District of Columbia for inclusion in the Mayor's budget submission to the Council of the District of Columbia for inclusion in the Mayor's budget submission to the Council of the District of Columbia pursuant to section 442 of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93–198, as amended (D.C. Code, sec. 47–301).

BUDGET APPROVAL

SEC. 142. The Board of Education the Board of Trustees of the University of the District of Columbia, the Board of Library Trustees, and the Board of Governors of the D.C. School of Law shall vote on and approve their respective annual or revised budgets before submission to the Mayor of the District of Columbia for inclusion in the Mayor's budget submission to the Council of the District of Columbia in accordance with section 442 of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93–198, as amended (D.C. Code, sec. 47–301), or before submitting their respective budgets directly to the Council.

PUBLIC SCHOOL EMPLOYEE EVALUATIONS

SEC. 143. Notwithstanding any other provision of law, rule, or regulation, the evaluation process and instruments for evaluating District of Columbia Public Schools employees shall be a non-negotiable item for collective bargaining purposes.

POSITION VACANCIES

SEC. 144. (a) No agency, including an independent agency, shall fill a position wholly funded by appropriations authorized by this Act, which is vacant on October 1, 1995, or becomes vacant between October 1, 1995, and September 30, 1996, unless the Mayor or independent agency submits a proposed resolution of intent to fill the vacant position to the Council. The Council shall be required to take affirmative action on the Mayor's resolution within 30 legislative days. If the Council does not affirmatively approve the resolution within 30 legislative days, the resolution shall be deemed disapproved.

(b) No reduction in the number of full-time equivalent positions or reduction-in-force due to privatization or contracting out shall occur if the District of Columbia Financial Responsibility and Management Assistance Authority, established by section 101(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 97; Public Law 104–8), disallows the full-time equivalent position reduction provided in this act in meeting the maximum ceiling of 35,984 for the fiscal year ending September 30, 1996.

(c) This section shall not prohibit the appropriate personnel authority from filling a vacant position with a District government employee currently occupying a position that is funded with appropriated funds.

(d) This section shall not apply to local school-based teachers, school-based officers, or school-based teachers' aides; or court personnel covered by title 11 of the D.C. Code, except chapter 23.

MODIFICATIONS OF BOARD OF EDUCATION REDUCTION-IN-FORCE PROCEDURES

SEC. 145. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2–139; D.C. Code, sec. 1–601.1 et seq.), is amended as follows:

(a) Section 301 (D.C. Code, sec. 1–603.1) is amended as follows:

(1) A new paragraph (13A) is added to read as follows:

"(13A) 'Nonschool-based personnel' means any employee of the District of Columbia Public Schools who is not based at a local school or who does not provide direct services to individual students.".

(2) A new paragraph (15A) is added to read as follows:

"(15A) 'School administrators' means principals, assistant principals, school program directors, coordinators, instructional supervisors, and support personnel of the District of Columbia Public Schools.".

(b) Section 801A(b)(2) (D.C. Code, sec. 1–609.1(b)(2)) is amended by adding a new subparagraph (L–i) to read as follows:

"(L–i) Notwithstanding any other provision of law, the Board of Education shall not issue rules that require or permit nonschool-based personnel or school administrators to be assigned or reassigned to the same competitive level as classroom teachers;"

(c) Section 2402 (D.C. Code, sec. 1–625.2) is amended by adding a new subsection (f) to read as follows:

"(f) Notwithstanding any other provision of law, the Board of Education shall not require or permit nonschool-based personnel or school administrators to be assigned or reassigned to the same competitive level as classroom teachers.".

SEC. 146. (a) Notwithstanding any other provision of law, rule, or regulation, an employee of the District of Columbia Public Schools shall be—

(1) classified as an Educational Service employee;

(2) placed under the personnel authority of the Board of Education; and

(3) subject to all Board of Education rules.

(b) School-based personnel shall constitute a separate competitive area from nonschool-based personnel who shall not compete with school-based personnel for retention purposes.

SEC. 147. None of the funds provided in this Act may be used directly or indirectly for the renovation of the property located at 227 7th Street Southeast (commonly known as Eastern Market), except that funds provided in this Act may be used for the regular maintenance and upkeep of the current structure and grounds located at such property.

CAPITAL PROJECT EMPLOYEES

SEC. 148. (a) Not later than 15 days after the end of every fiscal quarter (beginning October 1, 1995), the Mayor shall submit to the Council of the District of Columbia, the District of Columbia Financial Responsibility and Management Assistance Authority, and the Committees on Appropriations of the House of Representatives and the Senate a report with respect to the employees on the capital project budget for the previous quarter.

(b) Each report submitted pursuant to subsection (a) of this section shall include the following information—

(1) a list of all employees by position, title, grade and step;

(2) a job description, including the capital project for which each employee is working;

(3) the date that each employee began working on the capital project and the ending date that each employee completed or is projected to complete work on the capital project; and

(4) a detailed explanation justifying why each employee is being paid with capital funds.

MODIFICATION OF REDUCTION-IN-FORCE PROCEDURES

SEC. 149. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2–139; D.C. Code, sec. 1–601.1 et seq.), is amended as follows:

(a) Section 2401 (D.C. Code, sec. 1–625.1) is amended by amending the third sentence to read as follows: "A personnel authority may establish lesser competitive areas within an agency on the basis of all or a clearly identifiable segment of an agency's mission or a division or major subdivision of an agency.".

(b) A new section 2406 is added to read as follows:

"SEC. 2406. Abolishment of positions for Fiscal Year 1996.

"(a) Notwithstanding any other provision of law, regulation, or collective bargaining agreement either in effect or to be negotiated while this legislation is in effect for the fiscal year ending September 30, 1996, each agency head is authorized, within the agency head's discretion, to identify positions for abolishment.

"(b) Prior to February 1, 1996, each personnel authority shall make a final determination that a position within the personnel authority is to be abolished.

"(c) Notwithstanding any rights or procedures established by any other provision of this title, any District government employee, regardless of date of hire, who encumbers a position identified for abolishment shall be separated without competition or assignment rights, except as provided in this section.

"(d) An employee affected by the abolishment of a position pursuant to this section who, but for this section would be entitled to compete for retention, shall be entitled to 1 round of lateral competition pursuant to Chapter 24 of the District of Columbia Personnel Manual, which shall be limited to positions in the employee's competitive level.

"(e) Each employee who is a bona fide resident of the District of Columbia shall have added 5 years to his or her creditable service for reduction-in-force purposes. For purposes of this subsection only, a nonresident District employee who was hired by the District government prior to January 1, 1980, and has not had a break in service since that date, or a former employee of the U.S. Department of Health and Human Services at Saint Elizabeths Hospital who accepted employment with the District government on October 1, 1987, and has not had a break in service since that date, shall be considered a District resident.

"(f) Each employee selected for separation pursuant to this section shall be given written notice of at least 30 days before the effective date of his or her separation.

"(g) Neither the establishment of a competitive area smaller than an agency, nor the determination that a specific position is to be abolished, nor separation pursuant to his section shall be subject to review except as follows—

"(1) an employee may file a complaint contesting a determination or a separation pursuant to title XV of this Act or section 303 of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2–38; D.C. Code, sec. 1–2543); and

"(2) an employee may file with the Office of Employee Appeals an appeal contesting that the separation procedures of subsections (d) and (f) of this section were not properly applied.

"(h) An employee separated pursuant to this section shall be entitled to severance pay in accordance with title XI of this Act, except that the following shall be included in computing creditable service for severance pay for employees separated pursuant to this section—

"(1) four years for an employee who qualified for veteran's preference under this act, and

"(2) three years for an employee who qualified for residency preference under this act.

"(i) Separation pursuant to this section shall not affect an employee's rights under either the Agency Reemployment Priority Program or the

Displaced Employee Program established pursuant to Chapter 24 of the District Personnel Manual.

"(j) The Mayor shall submit to the Council a listing of all positions to be abolished by agency and responsibility center by March 1, 1996, or upon the delivery of termination notices to individual employees.

"(k) Notwithstanding the provisions of section 1708 or section 2402(d), the provisions of this act shall not be deemed negotiable.

"(l) A personnel authority shall cause a 30-day termination notice to be served, no later than September 1, 1996, on any incumbent employee remaining in any position identified to be abolished pursuant to subsection (b) of this section".

Sec. 150. (a) CEILING ON TOTAL OPERATING EXPENSES.—Notwithstanding any other provision of law, the total amount appropriated in this Act for operating expenses for the District of Columbia for fiscal year 1996 under the caption "Division of Expenses" shall not exceed $4,994,000,000 of which $165,339,000 shall be from intra-District funds.

(b) ACCEPTANCE AND USE OF GRANTS NOT INCLUDED IN CEILING.—

(1) IN GENERAL.—Notwithstanding subsection 9a), the Mayor of the District of Columbia may accept, obligate, and expend Federal, private, and other grants received by the District government that are not reflected in the amounts appropriated in this Act.

(2) REQUIREMENT OF CHIEF FINANCIAL OFFICER REPORT AND FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY APPROVAL.—No such Federal, private, or other grant may be accepted, obligated, or expended pursuant to paragraph (1) until—

(A) the Chief Financial Officer of the District submits to the District of Columbia Financial Responsibility and Management Assistance Authority established by Public Law 104–8 (109 Stat. 97) a report setting forth detailed information regarding such grant; and

(B) the District of Columbia Financial Responsibility and Management Assistance Authority has reviewed and approved the acceptance, obligation, and expenditure of such grant in accordance with review and approval procedures consistent with the provisions of Public Law 104–8.

(3) PROHIBITION ON SPENDING IN ANTICIPATION OF APPROVAL OR RECEIPT.—No amount may be obligated or expended from the general fund or other funds of the District government in anticipation of the approval or receipt of a grant under paragraph (2)(B) or in anticipation of the approval or receipt of a Federal, private, or other grant not subject to such paragraph.

(4) MONTHLY REPORTS.—The Chief Financial Officer of the District shall prepare a monthly report setting forth detailed information regarding all Federal, private, and other grants subject to this subsection. Each such report shall be submitted to the Council of the District of Columbia, and to the Committees on Appropriations of the House of Representatives and the Senate, not later than 15 days after the end of the month covered by the report.

PLANS FOR LORTON CORRECTIONAL COMPLEX

SEC. 151. (a) DEVELOPMENT OF PLANS.—Not later than March 15, 1996, the District of Columbia shall develop a series of alternative plans meeting the requirements of subsection (b) for the use and operation of the Lorton Correctional Complex (hereafter in this section referred to as the "Complex"), including—

(1) a plan under which the Complex will be closed;

(2) a plan under which the Complex will remain in operation under the management of the District of Columbia subject to such modifications as the District considers appropriate;

(3) a plan under which the Complex will be operated under the management of the Federal government;

(4) a plan under which the Complex will be operated under private management; and

(5) such other plans as the District of Columbia considers appropriate.

(b) REQUIREMENTS FOR PLANS.—Each of the plans developed by the District of Columbia under subsection (a) shall meet the following requirements:

(1) The plan shall provide for an appropriate transition period not to exceed 5 years in length.

(2) The plan shall include provisions specifying how and to what extent the District will utilize alternative management, including the private sector, for the operation of correctional facilities for the District, and shall include provisions describing the treatment under such alternative management (including under contracts) of site selection, design, financing, construction, and operation of correctional facilities for the District.

(3) The plan shall include a description of any legislation required to implement the plan.

(4) The plan shall include an implementation schedule, together with specific performance measures and timelines to determine the extent to which the District is meeting the schedule during the transition period.

(5) Under the plan, the Mayor of the District of Columbia shall submit a semi-annual report to the President, Congress, and the District of Columbia Financial Responsibility and Management Assistance Authority describing the actions taken by the District under the plan, and in addition shall regularly report to the President, Congress, and the District of Columbia Financial Responsibility and Management Assistance Authority on all significant measures taken under the plan as soon as such measures are taken.

(6) For each of the years during which the plan is in effect, the plan shall be consistent with the financial plan and budget for the District of Columbia for the year under subtitle A of title II of the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

(c) SUBMISSION OF PLAN.—Upon completing the development of the plans under subsection (a), the District of Columbia shall submit the plans to the President, Congress, and the District of Columbia Financial Responsibility and Management Assistance Authority.

PROHIBITION AGAINST ADOPTION BY UNMARRIED COUPLES

SEC. 152. (a) IN GENERAL.—Section 16–302, D.C. Code, is amended—

(1) by striking "Any person" and inserting "(a) Subject to subsection (b), any person"; and

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

"(b)(1) Except as provided in paragraph (2), no person may join in a petition under this section unless the person is the spouse of the petitioner.

"(2) An unmarried person may file a petition for adoption where no other person joins in the petition or where the co-petitioner is the natural parent of the child.".

TECHNICAL CORRECTIONS TO FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE ACT

SEC. 153. (a) REQUIRING GSA TO PROVIDE SUPPORT SERVICES.—Section 103(f) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 is amended by striking "may provide" and inserting "shall promptly provide".

(b) AVAILABILITY OF CERTAIN FEDERAL BENEFITS FOR INDIVIDUALS WHO BECOME EMPLOYED BY THE AUTHORITY.—

(1) FORMER FEDERAL EMPLOYEES.—Subsection (e) of section 102 of such Act is amended to read as follows:

"(e) PRESERVATION OF RETIREMENT AND CERTAIN OTHER RIGHTS OF FEDERAL EMPLOYEES WHO BECOME EMPLOYED BY THE AUTHORITY.—

"(1) IN GENERAL.—Any Federal employee who becomes employed by the Authority—

"(A) may elect, for the purposes set forth in paragraph (2)(A), to be treated, for so long as that individual remains continuously employed by the Authority, as if such individual had not separated from service with the Federal Government, subject to paragraph (3); and

"(B) shall, if such employee subsequently becomes reemployed by the Federal Government, be entitled to have such individual's service with the Authority treated, for purposes of determining the appropriate leave accrual rate, as if it had been service with the Federal Government.

"(2) EFFECT OF AN ELECTION.—An election made by an individual under the provisions of paragraph (1)(A)—

"(A) shall qualify such individual for the treatment describe in such provisions for purposes of—

"(i) chapter 83 or 84 of title 5, United States Code, as appropriate (relating to retirement), including the Thrift Savings Plan;

"(ii) chapter 87 of such title (relating to life insurance); and

"(iii) chapter 89 of such title (relating to health insurance); and

"(B) shall disqualify such individual, while such election remains in effect, from participating in the programs offered by the government of the District of Columbia (if any) corresponding to the respective programs referred to in subparagraph (A).

"(3) CONDITIONS FOR AN ELECTION TO BE EFFECTIVE.—An election made by an individual under paragraph (1)(A) shall be ineffective unless—

"(A) it is made before such individual separates from service with the Federal Government; and

"(B) such individual's service with the Authority commences within 3 days after so separating (not counting any holiday observed by the government of the District of Columbia).

"(4) CONTRIBUTIONS.—If an individual makes an election under paragraph (1)(A), the Authority shall, in accordance with applicable provisions of law referred to in paragraph (2)(A), be responsible for making the same deductions from pay and the same agency contributions as would be required if it were a Federal agency.

"(5) REGULATIONS.—Any regulations necessary to carry out this subsection shall be prescribed in consultation with the Authority by—

"(A) the Office of Personnel Management, to the extent that any program administered by the office is involved;

"(B) the appropriate office or agency of the government of the District of Columbia, to the extent that any program administered by such office or agency is involved; and

"(C) the Executive Director referred to in section 8474 of title 5, United States Code, to the extent that the Thrift Savings Plan is involved.".

"(2) OTHER INDIVIDUALS.—Section 102 of such Act is further amended by adding at the end the following:

"(f) FEDERAL BENEFITS FOR OTHERS.—

"(1) IN GENERAL.—The Office of personnel Management, in conjunction with each corresponding office or agency of the government of the District of Columbia and in consultation with the Authority, shall prescribe regulations under which any individual who becomes employed by the Authority (under circumstances other than as described in subsection (e)) may elect either—

"(A) to be deemed a Federal employee for purposes of the programs referred to in subsection (e)(2)(A) (i)–(iii); or

"(B) to participate in 1 or more of the corresponding programs offered by the government of the District of Columbia.

"(2) EFFECT OF AN ELECTION.—An individual who elects the option under subparagraph (A) or (B) of paragraph (1) shall be disqualified, while such election remains in effect, from participating in any of the programs referred to in the other such subparagraph.

"(3) DEFINITION OF 'CORRESPONDING OFFICE OR AGENCY'.—For purposes of paragraph (1), the term 'corresponding office or agency of the government of the District of Columbia' means, with respect to any program administered by the Office of Personnel Management, the office or agency responsible for administering the corresponding program (if any) offered by the government of the District of Columbia.

"(4) THRIFT SAVINGS PLAN.—To the extent that the Thrift Savings Plan is involved, the preceding provisions of this subsection shall be applied by substituting 'the Executive Director referred to in section 8474 of title 5, United States Code' for 'the Office of Personnel Management'.".

"(3) EFFECTIVE DATE; ADDITIONAL ELECTION FOR FORMER FEDERAL EMPLOYEES SERVING ON DATE OF ENACTMENT; ELECTION FOR EMPLOYEES APPOINTED DURING INTERIM PERIOD.—

"(A) EFFECTIVE DATE.—Not later than 6 months after the date of enactment of this Act, there shall be prescribed in consultation with the Authority (and take effect)—

"(i) regulations to carry out the amendments made by this subsection; and

"(ii) any other regulations necessary to carry out this subsection.

"(B) ADDITIONAL ELECTION FOR FORMER FEDERAL EMPLOYEES SERVING ON DATE OF ENACTMENT.—

"(i) IN GENERAL.—Any former Federal employee employed by the Authority on the effective date of the regulations referred to in subparagraph (A)(i) may, within such period as may be provided for under those regulations, make an election similar, to the maximum extent practicable, to the election provided for under section 102(e) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, as amended by this subsection. Such regulations shall be prescribed jointly by the Office of Personnel Management and each corresponding office or agency of the government of the District of Columbia (in the same manner as provided for in section 102(f) of such Act, as so amended).

"(ii) EXCEPTION.—An election under this subparagraph may not be made by any individual who—

"(I) is not then participating in a retirement system for Federal employees (disregarding Social Security); or

"(II) is then participating in any program of the government of the District of Columbia referred to in section 102(e)(2)(B) of such Act (as so amended).

(C) ELECTION FOR EMPLOYEES APPOINTED DURING INTERIM PERIOD.—

(i) FROM THE FEDERAL GOVERNMENT.—Subsection (e) of section 102 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (as last in effect before the date of enactment of this Act) shall be deemed to have remained in effect for purposes of any Federal employee who becomes employed by the District of Columbia Financial Responsibility and Management Assistance Authority during the period beginning on such date of enactment and ending on the day before the effective date of the regulations prescribed to carry out subparagraph (B).

(ii) OTHER INDIVIDUALS.—The regulations prescribed to carry out subsection (f) of section 102 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (as amended by this subsection) shall include provisions under which an election under such subsection shall be available to any individual who—

(I) becomes employed by the District of Columbia Financial Responsibility and Management Assistance Authority during the period beginning on the date of enactment of this Act and ending on the day before the effective date of such regulations;

(II) would have been eligible to make an election under such regulations had those regulations been in effect when such individual became so employed; and

(III) is not then participating in any program of the government of the District of Columbia referred to in subsection (f)(1)(B) of such section 102 (as so amended).

(c) EXEMPTION FROM LIABILITY FOR CLAIMS FOR AUTHORITY EMPLOYEES.—Section 104 of such Act is amended—

(1) by striking "the Authority and its members" and inserting "the Authority, its members, and its employees"; and

(2) by striking "the District of Columbia" and inserting "the Authority or its members or employees or the District of Columbia".

(d) PERMITTING REVIEW OF EMERGENCY LEGISLATION.—Section 203(a)(3) of such Act is amended by striking subparagraph (C).

ESTABLISHMENT OF EXCLUSIVE ACCOUNTS FOR BLUE PLAINS ACTIVITIES

SEC. 154. (a) OPERATION AND MAINTENANCE ACCOUNT.—

(1) CONTENTS OF ACCOUNT.—There is hereby established within the Water and Sewer Enterprise Fund the Operation and Maintenance Account, consisting of all fund paid to the District of Columbia on or after the date of the enactment of this Act which are—

(A) attributable to waste water treatment user charges;

(B) paid by users jurisdictions for the operation and maintenance of the Blue Plains Wastewater Treatment Facility and related waste water treatment works; or

(C) appropriated or otherwise provided for the operation and maintenance of the Blue Plains Wastewater Treatment Facility and related waste water treatment works.

(2) USE OF FUNDS IN ACCOUNT.—Funds in the Operation and Maintenance Account shall be used solely for funding the operation and maintenance of the Blue Plains Wastewater Treatment Facility and related waste water treatment works and may not be obligated or expended for any other purpose, and may be used for related debt service and capital costs if such funds are not attributable to user charges assessed for purposes of section 204(b)(1) of the Federal Water Pollution Control Act.

(b) EPA GRANT ACCOUNT.—

(1) CONTENTS OF ACCOUNT.—There is hereby established within the Water and Sewer Enterprise Fund and EPA Grant Account, consisting of all funds paid to the District of Columbia on or after the date of the enactment of this Act which are—

(A) attributable to grants from the Environmental Protection Agency for construction at the Blue Plains Wastewater Treatment Facility and related waste water treatment works; or

(B) appropriated or otherwise provided for construction at the Blue Plains Wastewater Treatment Facility and related waste water treatment works.

(2) USE OF FUNDS IN ACCOUNT.—Funds in the EPA Grant Account shall be used solely for the purposes specified under the terms of the grants and appropriations involved, and may not be obligated or expended for any other purpose.

SEC. 155. (a) Up to 50 police officers and up to 50 Fire and Emergency Medical Services members who were hired before February 14, 1980, and who retire on disability before the end of calendar year 1996 shall be excluded from the computation of the rate of disability retirements under subsection 145(a) of the District of Columbia Retirement Reform Act of 1979 (93 Stat. 882; D.C. Code, sec. 1–725(a)), for purposes of reducing the authorized Federal payment to the District of Columbia Police Offices and Fire Fighters' Retirement Fund pursuant to subsection 145(c) of the District of Columbia Retirement Reform Act of 1979.

(b) The Mayor, within 30 days after the enactment of this provision, shall engage an enrolled actuary, to be paid by the District of Columbia Retirement Board, and shall comply with the requirements of section 142(d) and section 144(d) of the District of Columbia Retirement Reform Act of 1979 (Public Law 96–122, approved November 17, 1979; D.C. Code, secs. 1–722(d) and 1–724(d)).

This title may be cited as the "District of Columbia Appropriations Act, 1996".

TITLE II—DISTRICT OF COLUMBIA SCHOOL REFORM

SEC. 2001. SHORT TITLE.

This title may be cited as the "District of Columbia School Reform Act of 1995".

SEC. 2002. DEFINITIONS.

Except as otherwise provided, for purposes of this title:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

(A) the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate;

(B) the Committee on Economic and Educational Opportunities of the House of Representatives and the Committee on Labor and Human Resources of the Senate; and

(C) the Committee on Government Reform and Oversight of the House of Representatives and the Committee on Governmental Affairs of the Senate.

(2) AUTHORITY.—The term "Authority" means the District of Columbia Financial Responsibility and Management Assistance Authority established under section 101(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (Public Law 104–8).

(3) AVERAGE DAILY ATTENDANCE.—The term "average daily attendance" means the aggregate attendance of students of the school during the period divided by the number of days during the period in which—

(A) the school is in session; and

(B) the students of the school are under the guidance and direction of teachers.

(4) AVERAGE DAILY MEMBERSHIP.—The term "average daily membership" means the aggregate enrollment of students of the school during the period divided by the number of days during the period in which—

(A) the school is in session; and

(B) the students of the school are under the guidance and direction of teachers.

(5) BOARD OF EDUCATION.—The term "Board of Education" means the Board of Education of the District of Columbia.

(6) BOARD OF TRUSTEES.—The term "Board of Trustees" means the governing board of a public charter school, the members of which are selected pursuant to the charter granted to the school and in a manner consistent with this title.

(7) CONSENSUS COMMISSION.—The term "Consensus Commission" means the Commission on Consensus Reform in the District of Columbia public schools established under subtitle L.

(8) CORE CURRICULUM.—The term "core curriculum" means the concepts, factual knowledge, and skills that students in the District of Columbia should learn in kindergarten through

grade 12 in academic content areas, including, at a minimum, English, mathematics, science, and history.

(9) DISTRICT OF COLUMBIA COUNCIL.—The term "District of Columbia Council" means the Council of the District of Columbia established pursuant to section 401 of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 1–221).

(10) DISTRICT OF COLUMBIA GOVERNMENT.—

(A) IN GENERAL.—The term "District of Columbia Government" means the government of the District of Columbia, including—

(i) any department, agency, or instrumentality of the government of the District of Columbia;

(ii) any independent agency of the District of Columbia established under part F of title IV of the District of Columbia Self-Government and Governmental Reorganization Act;

(iii) any other agency, board, or commission established by the Mayor or the District of Columbia Council;

(iv) the courts of the District of Columbia;

(v) the District of Columbia Council; and

(vi) any other agency, public authority, or public nonprofit corporation that has the authority to receive moneys directly or indirectly from the District of Columbia (other than moneys received from the sale of goods, the provision of services, or the loaning of funds to the District of Columbia).

(B) EXCEPTION.—The term "District of Columbia Government" neither includes the Authority nor a public charter school.

(11) DISTRICT OF COLUMBIA GOVERNMENT RETIREMENT SYSTEM.—The term "District of Columbia Government retirement system" means the retirement programs authorized by the District of Columbia Council or the Congress for employees of the District of Columbia Government.

(12) DISTRICT OF COLUMBIA PUBLIC SCHOOL.—

(A) IN GENERAL.—The term "District of Columbia public school" means a public school in the District of Columbia that offers classes—

(i) at any of the grade levels from prekindergarten through grade 12; or

(ii) leading to a secondary school diploma, or its recognized equivalent.

(B) EXCEPTION.—The term "District of Columbia public school" does not include a public charter school.

(13) DISTRICTWIDE ASSESSMENTS.—The term "districtwide assessments" means a variety of assessment tools and strategies (including individual student assessments under subparagraph (E)(ii)) administered by the Superintendent to students enrolled in District of Columbia public schools and public charter schools that—

(A) are aligned with the District of Columbia's content standards and core curriculum;

(B) provide coherent information about student attainment of such standards;

(C) are used for purposes for which such assessments are valid, reliable, and unbiased, and are consistent with relevant nationally recognized professional and technical standards for such assessments;

(D) involve multiple up-to-date measures of student performance, including measures that assess higher order thinking skills and understanding; and

(E) provide for—

(i) the participation in such assessments of all students;

(ii) individual student assessments for students that fail to reach minimum acceptable levels of performance;

(iii) the reasonable adaptations and accommodations for students with special needs (as defined in paragraph (32)) necessary to measure the achievement of such students relative to the District of Columbia's content standards; and

(iv) the inclusion of limited-English proficient students, who shall be assessed, to the extent practicable, in the language and form most likely to yield accurate and reliable information regarding such students' knowledge and abilities.

(14) ELECTRONIC DATA TRANSFER SYSTEM.—The term "electronic data transfer system" means a computer-based process for the maintenance and transfer of student records designed to permit the transfer of individual student records among District of Columbia public schools and public charter schools.

(15) ELEMENTARY SCHOOL.—The term "elementary school" means an institutional day or residential school that provides elementary education, as determined under District of Columbia law.

(16) ELIGIBLE APPLICANT.—The term "eligible applicant" means a person, including a private, public, or quasi-public entity, or an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))), that seeks to establish a public charter school in the District of Columbia.

(17) ELIGIBLE CHARTERING AUTHORITY.—The term "eligible chartering authority" means any of the following:

(A) The Board of Education.

(B) The Public Charter School Board.

(C) Any one entity designated as an eligible chartering authority by enactment of a bill by the District of Columbia Council after the date of the enactment of this Act.

(18) FAMILY RESOURCE CENTER.—The term "family resource center" means an information desk—

(A) located in a District of Columbia public school or a public charter school serving a majority of students whose family income is not greater than 185 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act applicable to a family of the size involved (42 U.S.C. 9902(3))); and

(B) which links students and families to local resources and public and private entities involved in child care, adult education, health and social services, tutoring, mentoring, and job training.

(19) INDIVIDUAL CAREER PATH.—The term "individual career path" means a program of study that provides a secondary school student the skills necessary to compete in the 21st century workforce.

(20) LITERACY.—The term "literacy" means—

(A) in the case of a minor student, such student's ability to read, write, and speak in English, and compute and solve problems at levels of proficiency necessary to function in society, to achieve such student's goals, and develop such student's knowledge and potential; and

(B) in the case of an adult, such adult's ability to read, write, and speak in English, and compute and solve problems at levels of proficiency necessary to function on the job and in society, to achieve such adult's goals, and develop such adult's knowledge and potential.

(21) LONG-TERM REFORM PLAN.—The term "long-term reform plan" means the plan submitted by the Superintendent under section 2101.

(22) MAYOR.—The term "Mayor" means the Mayor of the District of Columbia.

(23) METROBUS AND METRORAIL TRANSIT SYSTEM.—The term "Metrobus and Metrorail Transit System" means the bus and rail systems administered by the Washington Metropolitan Area Transit Authority.

(24) MINOR STUDENT.—The term "minor student" means an individual who—

(A) is enrolled in a District of Columbia public school or a public charter school; and

(B) is not beyond the age of compulsory school attendance, as prescribed in section 1 of article I, and section 1 of article II, of the Act of February 4, 1925 (sections 31–401 and 31–402, D.C. Code).

(25) NONRESIDENT STUDENT.—The term "nonresident student" means—

(A) an individual under the age of 18 who is enrolled in a District of Columbia public school or a public charter school, and does not have a parent residing in the District of Columbia; or

(B) an individual who is age 18 or older and is enrolled in a District of Columbia public school or public charter school, and does not reside in the District of Columbia.

(26) PARENT.—The term "parent" means a person who has custody of a child, and who—

(A) is a natural parent of the child;

(B) is a stepparent of the child;

(C) has adopted the child; or

(D) is appointed as a guardian for the child by a court of competent jurisdiction.

(27) PETITION.—The term "petition" means a written application.

(28) PROMOTION GATE.—The term "promotion gate" means the criteria, developed by the Superintendent and approved by the Board of Education, that are used to determine student promotion at different grade levels. Such criteria shall include student achievement on districtwide assessments established under subtitle D.

(29) PUBLIC CHARTER SCHOOL.—The term "public charter school" means a publicly funded school in the District of Columbia that—

(A) is established pursuant to subtitle B; and

(B) except as provided under sections 2212(d)(5) and 2213(c)(5) is not a part of the District of Columbia public schools.

(30) PUBLIC CHARTER SCHOOL BOARD.—The term "Public Charter School Board" means the Public Charter School Board established under section 2214.

(31) SECONDARY SCHOOL.—The term "secondary school" means an institutional day or residential school that provides secondary education, as determined by District of Columbia law, except that such term does not include any education beyond grade 12.

(32) STUDENT WITH SPECIAL NEEDS.—The term "student with special needs" means a student who is a child with a disability as provided in section 602(a)(1) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(a)(1)) or a student who is an individual with a disability as provided in section 7(8) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)).

(33) SUPERINTENDENT.—The term "Superintendent" means the Superintendent of the District of Columbia public schools.

(34) TEACHER.—The term "teacher" means any person employed as a teacher by the Board of Education or by a public charter school.

SEC. 2003. GENERAL EFFECTIVE DATE.

Except as otherwise provided in this title, this title shall be effective during the period beginning on the date of enactment of this Act and ending 5 years after such date.

Subtitle A—District of Columbia Reform Plan

SEC. 2101. LONG-TERM REFORM PLAN.

(a) IN GENERAL.—

(1) PLAN.—The Superintendent, with the approval of the Board of Education, shall submit to the Mayor, the District of Columbia Council, the Authority, the Consensus Commission, and the appropriate congressional committees, a long-term reform plan, not later than 90 days after the date of enactment of this Act, and each February 15 thereafter. The long-term reform plan shall be consistent with the financial plan and budget for the District of Columbia for fiscal year 1996, and each financial plan and budget for a subsequent fiscal year, as the case may be, required under section 201 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

(2) CONSULTATION.—

(A) IN GENERAL.—In developing the long-term reform plan, the Superintendent—

(i) shall consult with the Board of Education, the Mayor, the District of Columbia Council, the Authority, and the Consensus Commission; and

(ii) shall afford the public, interested organizations, and groups an opportunity to present their views and make recommendations regarding the long-term reform plan.

(B) SUMMARY OF RECOMMENDATIONS.—The Superintendent shall include in the long-term plan a summary of the recommendations made under subparagraph (A)(ii) and the response of the Superintendent to the recommendations.

(b) CONTENTS.—

(1) AREAS TO BE ADDRESSED.—The long-term reform plan shall describe how the District of Columbia public schools will become a world-class education system that prepares students for lifetime learning in the 21st century and which is on a par with the best education systems of other cities, States, and nations. The long-term reform plan shall include a description of how the District of Columbia public schools will accomplish the following:

(A) Achievement at nationally and internationally competitive levels by students attending District of Columbia public schools.

(B) The preparation of students for the workforce, including—

(i) providing special emphasis for students planning to obtain a postsecondary education; and

(ii) the development of individual career paths.

(C) The improvement of the health and safety of students in District of Columbia public schools.

(D) Local school governance, decentralization, autonomy, and parental choice among District of Columbia public schools.

(E) The implementation of a comprehensive and effective adult education and literacy program.

(F) The identification, beginning in grade 3, of each student who does not meet minimum standards of academic achievement in reading, writing, and mathematics in order to ensure that such student meets such standards prior to grade promotion.

(G) The achievement of literacy, and the possession of the knowledge and skills necessary to think critically, communicate effectively, and perform competently on districtwide assessments, by students attending District of Columbia public schools prior to such student's completion of grade 8.

(H) The establishment of after-school programs that promote self-confidence, self-discipline, self-respect, good citizenship, and respect for leaders, through such activities as arts classes, physical fitness programs, and community service.

(I) Steps necessary to establish an electronic data transfer system.

(J) Encourage parental involvement in all school activities, particularly parent teacher conferences.

(K) Development and implementation, through the Board of Education and the Superintendent, of a uniform dress code for the District of Columbia public schools, that—

(i) shall include a prohibition of gang membership symbols;

(ii) shall take into account the relative costs of any such code for each student; and

(iii) may include a requirement that students wear uniforms.

(L) The establishment of classes, beginning not later than grade 3, to teach students how to use computers effectively.

(M) The development of community schools that enable District of Columbia public schools to collaborate with other public and nonprofit agencies and organizations, local businesses, recreational, cultural, and other community and human service entities, for the purpose of meeting the needs and expanding the opportunities available to residents of the communities served by such schools.

(N) The establishment of programs which provide counseling, mentoring (especially peer mentoring), academic support, outreach, and supportive services to elementary, middle, and secondary school students who are at risk of dropping out of school.

(O) The establishment of a comprehensive remedial education program to assist students who do not meet basic literacy standards, or the criteria of promotion gates established in section 2421.

(P) The establishment of leadership development projects for middle school principals, which projects shall increase student learning and achievement and strengthen such principals as instructional school leaders.

(Q) The implementation of a policy for performance-based evaluation of principals and teachers, after consultation with the Superintendent and unions (including unions that represent teachers and unions that represent principals).

(R) The implementation of policies that require competitive appointments for all District of Columbia public school positions.

(S) The implementation of policies regarding alternative teacher certification requirements.

(T) The implementation of testing requirements for teacher licensing renewal.

(U) A review of the District of Columbia public school central office budget and staffing reductions for each fiscal year compared to the level of such budget and reductions at the end of fiscal year 1995.

(V) The implementation of the discipline policy for the District of Columbia public schools in order to ensure a safe, disciplined environment conducive to learning.

(2) OTHER INFORMATION.—For each of the items described in subparagraphs (A) through (V) of paragraph (1), the long-term reform plan shall include—

(A) a statement of measurable, objective performance goals;

(B) a description of the measures of performance to be used in determining whether the Superintendent and Board of Education have met the goals;

(C) dates by which the goals shall be met;

(D) plans for monitoring and reporting progress to District of Columbia residents, the Mayor, the District of Columbia Council, the Authority, the Consensus Commission, and the appropriate congressional committees regarding the carrying out of the long-term reform plan; and

(E) the title of the management employee of the District of Columbia public schools most directly responsible for the achievement of each goal and, with respect to each such employee, the title of the employee's immediate supervisor or superior.

(c) AMENDMENTS.—The Superintendent, with the approval of the Board of Education, shall submit any amendment to the long-term reform plan to the Mayor, the District of Columbia Council, the Authority, the Consensus Commission, and the appropriate congressional committees. Any amendment to the long-term reform plan shall be consistent with the financial plan and budget for fiscal year 1996, and each financial plan and budget for a subsequent fiscal year, as the case may be, for the District of Columbia required under section 201 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

Subtitle B—Public Charter Schools

SEC. 2201. PROCESS FOR FILING CHARTER PETITIONS.

(a) EXISTING PUBLIC SCHOOL.—An eligible applicant seeking to convert a District of Columbia public school into a public charter school—

(1) shall prepare a petition to establish a public charter school that meets the requirements of section 2202;

(2) shall provide a copy of the petition to—

(A) the parents of minor students attending the existing school;

(B) adult students attending the existing school; and

(C) employees of the existing school; and

(3) shall file the petition with an eligible chartering authority for approval after the petition—

(A) is signed by two-thirds of the sum of—

(i) the total number of parents of minor students attending the school; and

(ii) the total number of adult students attending the school; and

(B) is endorsed by at least two-thirds of full-time teachers employed in the school.

(b) PRIVATE OR INDEPENDENT SCHOOL.—An eligible applicant seeking to convert an existing private or independent school in the District of Columbia into a public charter school—

(1) shall prepare a petition to establish a public charter school that is approved by the Board of Trustees or authority responsible for the school and that meets the requirements of section 2202;

(2) shall provide a copy of the petition to—

(A) the parents of minor students attending the existing school;

(B) adult students attending the existing school; and

(C) employees of the existing school; and

(3) shall file the petition with an eligible chartering authority for approval after the petition—

(A) is signed by two-thirds of the sum of—

(i) the total number of parents of minor students attending the school; and

(ii) the total number of adult students attending the school; and

(B) is endorsed by at least two-thirds of full-time teachers employed in the school.

(c) NEW SCHOOL.—An eligible applicant seeking to establish in the District of Columbia a public charter school, but not seeking to convert a District of Columbia public school or a private or independent school into a public charter school, shall file with an eligible chartering authority for approval a petition to establish a public charter school that meets the requirements of section 2202.

SEC. 2202. CONTENTS OF PETITION.

A petition under section 2201 to establish a public charter school shall include the following:

(1) A statement defining the mission and goals of the proposed school and the manner in which the school will meet the content standards, and conduct the districtwide assessments, described in section 2411(b).

(2) A statement of the need for the proposed school in the geographic area of the school site.

(3) A description of the proposed instructional goals and methods for the proposed school, which shall include, at a minimum—

(A) the area of focus of the proposed school, such as mathematics, science, or the arts, if the school will have such a focus;

(B) the methods that will be used, including classroom technology, to provide students with the knowledge, proficiency, and skills needed—

(i) to become nationally and internationally competitive students and educated individuals in the 21st century; and

(ii) to perform competitively on any districtwide assessments; and

(C) the methods that will be used to improve student self-motivation, classroom instruction, and learning for all students.

(4) A description of the scope and size of the proposed school's program that will enable students to successfully achieve the goals established by the school, including the grade levels to be served by the school and the projected and maximum enrollment of each grade level.

(5) A description of the plan for evaluating student academic achievement at the proposed school and the procedures for remedial action that will be used by the school when the academic achievement of a student falls below the expectations of the school.

(6) An operating budget for the first 2 years of the proposed school that is based on anticipated enrollment and contains—

(A) a description of the method for conducting annual audits of the financial, administrative, and programmatic operations of the school;

(B) either—

(i) an identification of the site where the school will be located, including a description of any buildings on the site and any buildings proposed to be constructed on the site; or

(ii) a timetable by which such an identification will be made;

(C) a description of any major contracts planned, with a value equal to or exceeding $10,000, for equipment and services, leases, improvements, purchases of real property, or insurance; and

(D) a timetable for commencing operations as a public charter school.

(7) A description of the proposed rules and policies for governance and operation of the proposed school.

(8) Copies of the proposed articles of incorporation and bylaws of the proposed school.

(9) The names and addresses of the members of the proposed Board of Trustees and the procedures for selecting trustees.

(10) A description of the student enrollment, admission, suspension, expulsion, and other disciplinary policies and procedures of the proposed school, and the criteria for making decisions in such areas.

(11) A description of the procedures the proposed school plans to follow to ensure the health and safety of students, employees, and guests of the school and to comply with applicable health and safety laws, and all applicable civil rights statutes and regulations of the Federal Government and the District of Columbia.

(12) An explanation of the qualifications that will be required of employees of the proposed school.

(13) An identification, and a description, of the individuals and entities submitting the petition, including their names and addresses, and the names of the organizations or corporations of which such individuals are directors or officers.

(14) A description of how parents, teachers, and other members of the community have been involved in the design and will continue to be involved in the implementation of the proposed school.

(15) A description of how parents and teachers will be provided an orientation and other training to ensure their effective participation in the operation of the public charter school.

(16) An assurance the proposed school will seek, obtain, and maintain accreditation from at least one of the following:

(A) The Middle States Association of Colleges and Schools.

(B) The Association of Independent Maryland Schools.

(C) The Southern Association of Colleges and Schools.

(D) The Virginia Association of Independent Schools.

(E) American Montessori Internationale.

(F) The American Montessori Society.

(G) The National Academy of Early Childhood Programs.

(H) Any other accrediting body deemed appropriate by the eligible chartering authority that granted the charter to the school.

(17) In the case that the proposed school's educational program includes preschool or prekindergarten, an assurance the proposed school will be licensed as a child development center by the District of Columbia Government not later than the first date on which such program commences.

(18) An explanation of the relationship that will exist between the public charter school and the school's employees.

(19) A statement of whether the proposed school elects to be treated as a local educational agency or a District of Columbia public school for purposes of part B of the Individuals With Disabilities Education Act (20 U.S.C. 1411 et seq.) and section 504 of the Rehabilitation Act of 1973 (20 U.S.C. 794), and notwithstanding any other provision of law the eligible chartering authority shall not have the authority to approve or disapprove such election.

SEC. 2203. PROCESS FOR APPROVING OR DENYING PUBLIC CHARTER SCHOOL PETITIONS.

(a) SCHEDULE.—An eligible chartering authority shall establish a schedule for receiving petitions to establish a public charter school and shall publish any such schedule in the District of Columbia Register and newspapers of general circulation.

(b) PUBLIC HEARING.—Not later than 45 days after a petition to establish a public charter school is filed with an eligible chartering authority, the eligible chartering authority shall hold a public hearing on the petition to gather the information that is necessary for the eligible chartering authority to make the decision to approve or deny the petition.

(c) NOTICE.—Not later than 10 days prior to the scheduled date of a public hearing on a petition to establish a public charter school, an eligible chartering authority—

(1) shall publish a notice of the hearing in the District of Columbia Register and newspapers of general circulation; and

(2) shall send a written notification of the hearing date to the eligible applicant who filed the petition.

(d) APPROVAL.—Subject to subsection (i), an eligible chartering authority may approve a petition to establish a public charter school, if—

(1) the eligible chartering authority determines that the petition satisfies the requirements of this subtitle;

(2) the eligible applicant who filed the petition agrees to satisfy any condition or requirement, consistent with this subtitle and other applicable law, that is set forth in writing by the eligible chartering authority as an amendment to the petition; and

(3) the eligible chartering authority determines that the public charter school has the ability to meet the educational objectives outlined in the petition.

(e) TIMETABLE.—An eligible chartering authority shall approve or deny a petition to establish a public charter school not later than 45 days after the conclusion of the public hearing on the petition.

(f) EXTENSION.—An eligible chartering authority and an eligible applicant may agree to extend the 45-day time period referred to in subsection (e) by a period that shall not exceed 30 days.

(g) DENIAL EXPLANATION.—If an eligible chartering authority denies a petition or finds the petition to be incomplete, the eligible chartering authority shall specify in writing the reasons for its decision and indicate, when the eligible chartering authority determines appropriate, how the eligible applicant who filed the petition may revise the petition to satisfy the requirements for approval.

(h) APPROVED PETITION.—

(1) NOTICE.—Not later than 10 days after an eligible chartering authority approves a petition to establish a public charter school, the eligible chartering authority shall provide a written notice of the approval, including a copy of the approved petition and any conditions or requirements agreed to under subsection (d)(2), to the eligible applicant and to the Chief Financial Officer of the District of Columbia. The eligible chartering authority shall publish a notice of the approval of the petition in the District of Columbia Register and newspapers of general circulation.

(2) CHARTER.—The provisions described in paragraphs (1), (7), (8), (11), (16), (17), and (18) of section 2202 of a petition to establish a public charter school that are approved by an eligible chartering authority, together with any amendments to the petition containing conditions or requirements agreed to by the eligible applicant under subsection (d)(2), shall be considered a charter granted to the school by the eligible chartering authority.

(i) NUMBER OF PETITIONS.—

(1) FIRST YEAR.—For academic year 1996–1997, not more than 10 petitions to establish public charter schools may be approved under this subtitle.

(2) SUBSEQUENT YEARS.—For academic year 1997–1998 and each academic year thereafter each eligible chartering authority shall not approve more than 5 petitions to establish a public charter school under this subtitle.

(j) EXCLUSIVE AUTHORITY OF THE ELIGIBLE CHARTERING AUTHORITY.—No governmental entity, elected official, or employee of the District of Columbia shall make, participate in making, or intervene in the making of, the decision to approve or deny a petition to establish a public charter school, except for officers or employees of the eligible chartering authority with which the petition is filed.

SEC. 2204. DUTIES, POWERS, AND OTHER REQUIREMENTS, OF PUBLIC CHARTER SCHOOLS.

(a) DUTIES.—A public charter school shall comply with all of the terms and provisions of its charter.

(b) POWERS.—A public charter school shall have the following powers:

(1) To adopt a name and corporate seal, but only if the name selected includes the words "public charter school".

(2) To acquire real property for use as the public charter school's facilities, from public or private sources.

(3) To receive and disburse funds for public charter school purposes.

(4) Subject to subsection (c)(1), to secure appropriate insurance and to make contracts and leases, including agreements to procure or purchase services, equipment, and supplies.

(5) To incur debt in reasonable anticipation of the receipt of funds from the general fund of the District of Columbia or the receipt of Federal or private funds.

(6) To solicit and accept any grants or gifts for public charter school purposes, if the public charter school—

(A) does not accept any grants or gifts subject to any condition contrary to law or contrary to its charter; and

(B) maintains for financial reporting purposes separate accounts for grants or gifts.

(7) To be responsible for the public charter school's operation, including preparation of a budget and personnel matters.

(8) To sue and be sued in the public charter school's own name.

(c) PROHIBITIONS AND OTHER REQUIREMENTS.—

(1) CONTRACTING AUTHORITY.—

(A) NOTICE REQUIREMENT.—Except in the case of an emergency (as determined by the eligible chartering authority of a public charter school), with respect to any contract proposed to be awarded by the public charter school and having a value equal to or exceeding $10,000, the school shall publish a notice of a request for proposals in the District of Columbia Register and newspapers of general circulation not less than 30 days prior to the award of the contract.

(B) SUBMISSION TO THE AUTHORITY.—

(i) DEADLINE FOR SUBMISSION.—With respect to any contract described in subparagraph (A) that is awarded by a public charter school, the school shall submit to the Authority, not later than 3 days after the date on which the award is made, all bids for the contract received by the school, the name of the contractor who is awarded the contract, and the rationale for the award of the contract.

(ii) EFFECTIVE DATE OF CONTRACT.—

(I) IN GENERAL.—Subject to subclause (II), a contract described in subparagraph (A) shall become effective on the date that is 15 days after the date the school makes the submission under clause (i) with respect to the contract, or the effective date specified in the contract, whichever is later.

(II) EXCEPTION.—A contract described in subparagraph (A) shall be considered null and void if the Authority determines, within 12 days of the date the school makes the submission under clause (i) with respect to the contract, that the contract endangers the economic viability of the public charter school.

(2) TUITION.—A public charter school may not charge tuition, fees, or other mandatory payments, except to nonresident students, or for field trips or similar activities.

(3) CONTROL.—A public charter school—

(A) shall exercise exclusive control over its expenditures, administration, personnel, and instructional methods, within the limitations imposed in this subtitle; and

(B) shall be exempt from District of Columbia statutes, policies, rules, and regulations established for the District of Columbia public schools by the Superintendent, Board of Education, Mayor, District of Columbia Council, or Authority, except as otherwise provided in the school's charter or this subtitle.

(4) HEALTH AND SAFETY.—A public charter school shall maintain the health and safety of all students attending such school.

(5) CIVIL RIGHTS AND IDEA.—The Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.), and the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), shall apply to a public charter school.

(6) GOVERNANCE.—A public charter school shall be governed by a Board of Trustees in a manner consistent with the charter granted to the school and the provisions of this subtitle.

(7) OTHER STAFF.—No employee of the District of Columbia public schools may be required to accept employment with, or be assigned to, a public charter school.

(8) OTHER STUDENTS.—No student enrolled in a District of Columbia public school may be required to attend a public charter school.

(9) TAXES OR BONDS.—A public charter school shall not levy taxes or issue bonds.

(10) CHARTER REVISION.—A public charter school seeking to revise its charter shall prepare a petition for approval of the revision and file the petition with the eligible chartering authority that granted the charter. The provisions of section 2203 shall apply to such a petition in the same manner as such provisions apply to a petition to establish a public charter school.

(11) ANNUAL REPORT.—

(A) IN GENERAL.—A public charter school shall submit an annual report to the eligible chartering authority that approved its charter and to the Consensus Commission. The school shall permit a member of the public to review any such report upon request.

(B) CONTENTS.—A report submitted under subparagraph (A) shall include the following data:

(i) A report on the extent to which the school is meeting its mission and goals as stated in the petition for the charter school.

(ii) Student performance on any districtwide assessments.

(iii) Grade advancement for students enrolled in the public charter school.

(iv) Graduation rates, college admission test scores, and college admission rates, if applicable.

(v) Types and amounts of parental involvement.

(vi) Official student enrollment.

(vii) Average daily attendance.

(viii) Average daily membership.

(ix) A financial statement audited by an independent certified public accountant in accordance with Government auditing standards for financial audits issued by the Comptroller General of the United States.

(x) A report on school staff indicating the qualifications and responsibilities of such staff.

(xi) A list of all donors and grantors that have contributed monetary or in-kind donations having a value equal to or exceeding $500 during the year that is the subject of the report.

(C) NONIDENTIFYING DATA.—Data described in clauses (i) through (ix) of subparagraph (B) that are included in an annual report shall not identify the individuals to whom the data pertain.

(12) CENSUS.—A public charter school shall provide to the Board of Education student enrollment data necessary for the Board of Education to comply with section 3 of article II of the Act of February 4, 1925 (D.C. Code, sec. 31-404) (relating to census of minors).

(13) COMPLAINT RESOLUTION PROCESS.—A public charter school shall establish an informal complaint resolution process.

(14) PROGRAM OF EDUCATION.—A public charter school shall provide a program of education which shall include one or more of the following:

(A) Preschool.

(B) Prekindergarten.

(C) Any grade or grades from kindergarten through grade 12.

(D) Adult, community, continuing, and vocational education programs.

(15) NONSECTARIAN NATURE OF SCHOOLS.—A public charter school shall be nonsectarian and shall not be affiliated with a sectarian school or religious institution.

(16) NONPROFIT STATUS OF SCHOOL.—A public charter school shall be organized under the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29-501 et seq.).

(17) IMMUNITY FROM CIVIL LIABILITY.—

(A) IN GENERAL.—A public charter school, and its incorporators, Board of Trustees, officers, employees, and volunteers, shall be immune from civil liability, both personally and professionally, for any act or omission within the scope of their official duties unless the act or omission—

(i) constitutes gross negligence;

(ii) constitutes an intentional tort; or

(iii) is criminal in nature.

(B) COMMON LAW IMMUNITY PRESERVED.—Subparagraph (A) shall not be construed to abrogate any immunity under common law of a person described in such subparagraph.

SEC. 2205. BOARD OF TRUSTEES OF A PUBLIC CHARTER SCHOOL.

(a) BOARD OF TRUSTEES.—The members of a Board of Trustees of a public charter school shall be elected or selected pursuant to the charter granted to the school. Such Board of Trustees shall have an odd number of members that does not exceed 7, of which—

(1) a majority shall be residents of the District of Columbia; and

(2) at least 2 shall be parents of a student attending the school.

(b) ELIGIBILITY.—An individual is eligible for election or selection to the Board of Trustees of a public charter school if the person—

(1) is a teacher or staff member who is employed at the school;

(2) is a parent of a student attending the school; or

(3) meets the election or selection criteria set forth in the charter granted to the school.

(c) ELECTION OR SELECTION OF PARENTS.—In the case of the first Board of Trustees of a public charter school to be elected or selected after the date on which the school is granted a charter, the election or selection of the members under subsection (a)(2) shall occur on the earliest practicable date after classes at the school have commenced. Until such date, any other members who have been elected or selected shall serve as an interim Board of Trustees. Such an interim Board of Trustees may exercise all of the powers, and shall be subject to all of the duties, of a Board of Trustees.

(d) FIDUCIARIES.—The Board of Trustees of a public charter school shall be fiduciaries of the school and shall set overall policy for the school. The Board of Trustees may make final decisions on matters related to the operation of the school, consistent with the charter granted to the school, this subtitle, and other applicable law.

SEC. 2206. STUDENT ADMISSION, ENROLLMENT, AND WITHDRAWAL.

(a) OPEN ENROLLMENT.—Enrollment in a public charter school shall be open to all students who are residents of the District of Columbia and, if space is available, to nonresident students who meet the tuition requirement in subsection (e).

(b) CRITERIA FOR ADMISSION.—A public charter school may not limit enrollment on the basis of a student's race, color, religion, national origin, language spoken, intellectual or athletic ability, measures of achievement or aptitude, or status as a student with special needs. A public charter school may limit enrollment to specific grade levels.

(c) RANDOM SELECTION.—If there are more applications to enroll in a public charter school from students who are residents of the District of Columbia than there are spaces available, students shall be admitted using a random selection process.

(d) ADMISSION TO AN EXISTING SCHOOL.—During the 5-year period beginning on the date that a petition, filed by an eligible applicant seeking to convert a District of Columbia public school or a private or independent school into a public charter school, is approved, the school may give priority in enrollment to—

(1) students enrolled in the school at the time the petition is granted;

(2) the siblings of students described in paragraph (1); and

(3) in the case of the conversion of a District of Columbia public school, students who reside within the attendance boundaries, if any, in which the school is located.

(e) NONRESIDENT STUDENTS.—Nonresident students shall pay tuition to attend a public charter school at the applicable rate established for

District of Columbia public schools administered by the Board of Education for the type of program in which the student is enrolled.

(f) STUDENT WITHDRAWAL.—A student may withdraw from a public charter school at any time and, if otherwise eligible, enroll in a District of Columbia public school administered by the Board of Education.

(g) EXPULSION AND SUSPENSION.—The principal of a public charter school may expel or suspend a student from the school based on criteria set forth in the charter granted to the school.

SEC. 2207. EMPLOYEES.

(a) EXTENDED LEAVE OF ABSENCE WITHOUT PAY.—

(1) LEAVE OF ABSENCE FROM DISTRICT OF COLUMBIA PUBLIC SCHOOLS.—The Superintendent shall grant, upon request, an extended leave of absence, without pay, to an employee of the District of Columbia public schools for the purpose of permitting the employee to accept a position at a public charter school for a 2-year term.

(2) REQUEST FOR EXTENSION.—At the end of a 2-year term referred to in paragraph (1), an employee granted an extended leave of absence without pay under such paragraph may submit a request to the Superintendent for an extension of the leave of absence for an unlimited number of 2-year terms. The Superintendent may not unreasonably (as determined by the eligible chartering authority) withhold approval of the request.

(3) RIGHTS UPON TERMINATION OF LEAVE.—An employee granted an extended leave of absence without pay for the purpose described in paragraph (1) or (2) shall have the same rights and benefits under law upon termination of such leave of absence as an employee of the District of Columbia public schools who is granted an extended leave of absence without pay for any other purpose.

(b) RETIREMENT SYSTEM.—

(1) CREDITABLE SERVICE.—An employee of a public charter school who has received a leave of absence under subsection (a) shall receive creditable service, as defined in section 2604 of D.C. Law 2-139, effective March 3, 1979 (D.C. Code, sec. 1-627.4) and the rules established under such section, for the period of the employee's employment at the public charter school.

(2) AUTHORITY TO ESTABLISH SEPARATE SYSTEM.—A public charter school may establish a retirement system for employees under its authority.

(3) ELECTION OF RETIREMENT SYSTEM.—A former employee of the District of Columbia public schools who becomes an employee of a public charter school within 60 days after the date the employee's employment with the District of Columbia public schools is terminated may, at the time the employee commences employment with the public charter school, elect—

(A) to remain in a District of Columbia Government retirement system and continue to receive creditable service for the period of their employment at a public charter school; or

(B) to transfer into a retirement system established by the public charter school pursuant to paragraph (2).

(4) PROHIBITED EMPLOYMENT CONDITIONS.—No public charter school may require a former employee of the District of Columbia public schools to transfer to the public charter school's retirement system as a condition of employment.

(5) CONTRIBUTIONS.—

(A) EMPLOYEES ELECTING NOT TO TRANSFER.—In the case of a former employee of the District of Columbia public schools who elects to remain in a District of Columbia Government retirement system pursuant to paragraph (3)(A), the public charter school that employs the person shall make the same contribution to such system on behalf of the person as the District of Columbia would have been required to make if the person had continued to be an employee of the District of Columbia public schools.

(B) EMPLOYEES ELECTING TO TRANSFER.—In the case of a former employee of the District of Columbia public schools who elects to transfer into a retirement system of a public charter school pursuant to paragraph (3)(B), the applicable District of Columbia Government retirement system from which the former employee is transferring shall compute the employee's contribution to that system and transfer this amount, to the retirement system of the public charter school.

(c) EMPLOYMENT STATUS.—Notwithstanding any other provision of law and except as provided in this section, an employee of a public charter school shall not be considered to be an employee of the District of Columbia Government for any purpose.

SEC. 2208. REDUCED FARES FOR PUBLIC TRANSPORTATION.

A student attending a public charter school shall be eligible for reduced fares on the Metrobus and Metrorail Transit System on the same terms and conditions as are applicable under section 2 of D.C. Law 2-152, effective March 9, 1979 (D.C. Code, sec. 44-216 et seq.), to a student attending a District of Columbia public school.

SEC. 2209. DISTRICT OF COLUMBIA PUBLIC SCHOOL SERVICES TO PUBLIC CHARTER SCHOOLS.

The Superintendent may provide services, such as facilities maintenance, to public charter schools. All compensation for costs of such services shall be subject to negotiation and mutual agreement between a public charter school and the Superintendent.

SEC. 2210. APPLICATION OF LAW.

(a) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—

(1) TREATMENT AS LOCAL EDUCATIONAL AGENCY.—

(A) IN GENERAL.—For any fiscal year, a public charter school shall be considered to be a local educational agency for purposes of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.), and shall be eligible for assistance under such part, if the fraction the numerator of which is the number of low-income students enrolled in the public charter school during the fiscal year preceding the fiscal year for which the determination is made and the denominator of which is the total number of students enrolled in such public charter school for such preceding year, is equal to or greater than the lowest fraction determined for any District of Columbia public school receiving assistance under such part A where the numerator is the number of low-income students enrolled in such public school for such preceding year and the denominator is the total number of students enrolled in such public school for such preceding year.

(B) DEFINITION.—For the purposes of this subsection, the term "low-income student" means a student from a low-income family determined according to the measure adopted by the District of Columbia to carry out the provisions of part A of title I of the Elementary and Secondary Education Act of 1965 that is consistent with the measures described in section 1113(a)(5) of such Act (20 U.S.C. 6313(a)(5)) for the fiscal year for which the determination is made.

(2) ALLOCATION FOR FISCAL YEARS 1996 THROUGH 1998.—

(A) PUBLIC CHARTER SCHOOLS.—For fiscal years 1996 through 1998, each public charter school that is eligible to receive assistance under part A of title I of the Elementary and Secondary Education Act of 1965 shall receive a portion of the District of Columbia's total allocation under such part which bears the same ratio to such total allocation as the number described in subparagraph (C) bears to the number described in subparagraph (D).

(B) DISTRICT OF COLUMBIA PUBLIC SCHOOLS.—For fiscal years 1996 through 1998, the District of Columbia public schools shall receive a portion of the District of Columbia's total allocation under part A of title I of the Elementary and Secondary Education Act of 1965 which bears the same ratio to such total allocation as the total of the numbers described in clauses (ii) and (iii) of subparagraph (D) bears to the aggregate total described in subparagraph (D).

(C) NUMBER OF ELIGIBLE STUDENTS ENROLLED IN THE PUBLIC CHARTER SCHOOL.—The number described in this subparagraph is the number of low-income students enrolled in the public charter school during the fiscal year preceding the fiscal year for which the determination is made.

(D) AGGREGATE NUMBER OF ELIGIBLE STUDENTS.—The number described in this subparagraph is the aggregate total of the following numbers:

(i) The number of low-income students who, during the fiscal year preceding the fiscal year for which the determination is made, were enrolled in a public charter school.

(ii) The number of low-income students who, during the fiscal year preceding the fiscal year for which the determination is made, were enrolled in a District of Columbia public school selected to provide services under part A of title I of the Elementary and Secondary Education Act of 1965.

(iii) The number of low-income students who, during the fiscal year preceding the fiscal year for which the determination is made—

(I) were enrolled in a private or independent school; and

(II) resided in an attendance area of a District of Columbia public school selected to provide services under part A of title I of the Elementary and Secondary Education Act of 1965.

(3) ALLOCATION FOR FISCAL YEAR 1999 AND THEREAFTER.—

(A) CALCULATION BY SECRETARY.—Notwithstanding sections 1124(a)(2), 1124A(a)(4), and 1125(d) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(a)(2), 6334(a)(4), and 6335(d)), for fiscal year 1999 and each fiscal year thereafter, the total allocation under part A of title I of such Act for all local educational agencies in the District of Columbia, including public charter schools that are eligible to receive assistance under such part, shall be calculated by the Secretary of Education. In making such calculation, such Secretary shall treat all such local educational agencies as if such agencies were a single local educational agency for the District of Columbia.

(B) ALLOCATION.—

(i) PUBLIC CHARTER SCHOOLS.—For fiscal year 1999 and each fiscal year thereafter, each public charter school that is eligible to receive assistance under part A of title I of the Elementary and Secondary Education Act of 1965 shall receive a portion of the total allocation calculated under subparagraph (A) which bears the same ratio to such total allocation as the number described in paragraph (2)(C) bears to the aggregate total described in paragraph (2)(D).

(ii) DISTRICT OF COLUMBIA PUBLIC SCHOOL.—For fiscal year 1999 and each fiscal year thereafter, the District of Columbia public schools shall receive a portion of the total allocation calculated under subparagraph (A) which bears the same ratio to such total allocation as the total of the numbers described in clauses (ii) and (iii) of paragraph (2)(D) bears to the aggregate total described in paragraph (2)(D).

(4) USE OF ESEA FUNDS.—The Board of Education may not direct a public charter school in the school's use of funds under part A of title I of the Elementary and Secondary Education Act of 1965.

(5) ESEA REQUIREMENTS.—Except as provided in paragraph (6), a public charter school receiving funds under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) shall comply with all requirements applicable to schools receiving such funds.

(6) INAPPLICABILITY OF CERTAIN ESEA PROVISIONS.—The following provisions of the Elementary and Secondary Education Act of 1965 shall not apply to a public charter school:

(A) Paragraphs (5) and (8) of section 1112(b) (20 U.S.C. 6312(b)).

(B) Paragraphs (1)(A), (1)(B), (1)(C), (1)(D), (1)(F), (1)(H), and (3) of section 1112(c) (20 U.S.C. 6312(c)).

(C) Section 1113 (20 U.S.C. 6313).

(D) Section 1115A (20 U.S.C. 6316).

(E) Subsections (a), (b), and (c) of section 1116 (20 U.S.C. 6317).

(F) Subsections (d) and (e) of section 1118 (20 U.S.C. 6319).

(G) Section 1120 (20 U.S.C. 6321).

(H) Subsections (a) and (c) of section 1120A (20 U.S.C. 6322).

(I) Section 1126 (20 U.S.C. 6337).

(b) PROPERTY AND SALES TAXES.—A public charter school shall be exempt from District of Columbia property and sales taxes.

(c) EDUCATION OF CHILDREN WITH DISABILITIES.—Notwithstanding any other provision of this title, each public charter school shall elect to be treated as a local educational agency or a District of Columbia public school for the purpose of part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

SEC. 2211. POWERS AND DUTIES OF ELIGIBLE CHARTERING AUTHORITIES.

(a) OVERSIGHT.—

(1) IN GENERAL.—An eligible chartering authority—

(A) shall monitor the operations of each public charter school to which the eligible chartering authority has granted a charter;

(B) shall ensure that each such school complies with applicable laws and the provisions of the charter granted to such school; and

(C) shall monitor the progress of each such school in meeting student academic achievement expectations specified in the charter granted to such school.

(2) PRODUCTION OF BOOKS AND RECORDS.—An eligible chartering authority may require a public charter school to which the eligible chartering authority has granted a charter to produce any book, record, paper, or document, if the eligible chartering authority determines that such production is necessary for the eligible chartering authority to carry out its functions under this subtitle.

(b) FEES.—

(1) APPLICATION FEE.—An eligible chartering authority may charge an eligible applicant a fee, not to exceed $150, for processing a petition to establish a public charter school.

(2) ADMINISTRATION FEE.—In the case of an eligible chartering authority that has granted a charter to a public charter school, the eligible chartering authority may charge the school a fee, not to exceed one-half of one percent of the annual budget of the school, to cover the cost of undertaking the ongoing administrative responsibilities of the eligible chartering authority with respect to the school that are described in this subtitle. The school shall pay the fee to the eligible chartering authority not later than November 15 of each year.

(c) IMMUNITY FROM CIVIL LIABILITY.—

(1) IN GENERAL.—An eligible chartering authority, the Board of Trustees of such an eligible chartering authority, and a director, officer, employee, or volunteer of such an eligible chartering authority, shall be immune from civil liability, both personally and professionally, for any act or omission within the scope of their official duties unless the act or omission—

(A) constitutes gross negligence;

(B) constitutes an intentional tort; or

(C) is criminal in nature.

(2) COMMON LAW IMMUNITY PRESERVED.—Paragraph (1) shall not be construed to abrogate any immunity under common law of a person described in such paragraph.

(d) ANNUAL REPORT.—On or before July 30 of each year, each eligible chartering authority that issues a charter under this subtitle shall submit a report to the Mayor, the District of Columbia Council, the Board of Education, the Secretary of Education, the appropriate congressional committees, and the Consensus Commission that includes the following information:

(1) A list of the members of the eligible chartering authority and the addresses of such members.

(2) A list of the dates and places of each meeting of the eligible chartering authority during the year preceding the report.

(3) The number of petitions received by the eligible chartering authority for the conversion of a District of Columbia public school or a private or independent school to a public charter school, and for the creation of a new school as a public charter school.

(4) The number of petitions described in paragraph (3) that were approved and the number that were denied, as well as a summary of the reasons for which such petitions were denied.

(5) A description of any new charters issued by the eligible chartering authority during the year preceding the report.

(6) A description of any charters renewed by the eligible chartering authority during the year preceding the report.

(7) A description of any charters revoked by the eligible chartering authority during the year preceding the report.

(8) A description of any charters refused renewal by the eligible chartering authority during the year preceding the report.

(9) Any recommendations the eligible chartering authority has concerning ways to improve the administration of public charter schools.

SEC. 2212. CHARTER RENEWAL.

(a) TERM.—A charter granted to a public charter school shall remain in force for a 5-year period, but may be renewed for an unlimited number of times, each time for a 5-year period.

(b) APPLICATION FOR CHARTER RENEWAL.—In the case of a public charter school that desires to renew its charter, the Board of Trustees of the school shall file an application to renew the charter with the eligible chartering authority that granted the charter not later than 120 days nor earlier than 365 days before the expiration of the charter. The application shall contain the following:

(1) A report on the progress of the public charter school in achieving the goals, student academic achievement expectations, and other terms of the approved charter.

(2) All audited financial statements for the public charter school for the preceding 4 years.

(c) APPROVAL OF CHARTER RENEWAL APPLICATION.—The eligible chartering authority that granted a charter shall approve an application to renew the charter that is filed in accordance with subsection (b), except that the eligible chartering authority shall not approve such application if the eligible chartering authority determines that—

(1) the school committed a material violation of applicable laws or a material violation of the conditions, terms, standards, or procedures set forth in its charter, including violations relating to the education of children with disabilities; or

(2) the school failed to meet the goals and student academic achievement expectations set forth in its charter.

(d) PROCEDURES FOR CONSIDERATION OF CHARTER RENEWAL.—

(1) NOTICE OF RIGHT TO HEARING.—An eligible chartering authority that has received an application to renew a charter that is filed by a Board of Trustees in accordance with subsection (b) shall provide to the Board of Trustees written notice of the right to an informal hearing on the application. The eligible chartering authority shall provide the notice not later than 15 days after the date on which the eligible chartering authority received the application.

(2) REQUEST FOR HEARING.—Not later than 15 days after the date on which a Board of Trustees receives a notice under paragraph (1), the Board of Trustees may request, in writing, an informal hearing on the application before the eligible chartering authority.

(3) DATE AND TIME OF HEARING.—

(A) NOTICE.—Upon receiving a timely written request for a hearing under paragraph (2), an eligible chartering authority shall set a date and time for the hearing and shall provide reasonable notice of the date and time, as well as the procedures to be followed at the hearing, to the Board of Trustees.

(B) DEADLINE.—An informal hearing under this subsection shall take place not later than 30 days after an eligible chartering authority receives a timely written request for the hearing under paragraph (2).

(4) FINAL DECISION.—

(A) DEADLINE.—An eligible chartering authority shall render a final decision, in writing, on an application to renew a charter—

(i) not later than 30 days after the date on which the eligible chartering authority provided the written notice of the right to a hearing, in the case of an application with respect to which such a hearing is not held; and

(ii) not later than 30 days after the date on which the hearing is concluded, in the case of an application with respect to which a hearing is held.

(B) REASONS FOR NONRENEWAL.—An eligible chartering authority that denies an application to renew a charter shall state in its decision the reasons for denial.

(5) ALTERNATIVES UPON NONRENEWAL.—If an eligible chartering authority denies an application to renew a charter granted to a public charter school, the Board of Education may—

(A) manage the school directly until alternative arrangements can be made for students at the school; or

(B) place the school in a probationary status that requires the school to take remedial actions, to be determined by the Board of Education, that directly relate to the grounds for the denial.

(6) JUDICIAL REVIEW.—

(A) AVAILABILITY OF REVIEW.—A decision by an eligible chartering authority to deny an application to renew a charter shall be subject to judicial review by an appropriate court of the District of Columbia.

(B) STANDARD OF REVIEW.—A decision by an eligible chartering authority to deny an application to renew a charter shall be upheld unless the decision is arbitrary and capricious or clearly erroneous.

SEC. 2213. CHARTER REVOCATION.

(a) CHARTER OR LAW VIOLATIONS.—An eligible chartering authority that has granted a charter to a public charter school may revoke the charter if the eligible chartering authority determines that the school has committed a violation of applicable laws or a material violation of the conditions, terms, standards, or procedures set forth in the charter, including violations relating to the education of children with disabilities.

(b) FISCAL MISMANAGEMENT.—An eligible chartering authority that has granted a charter

to a public charter school shall revoke the charter if the eligible chartering authority determines that the school—

(1) has engaged in a pattern of nonadherence to generally accepted accounting principles;

(2) has engaged in a pattern of fiscal mismanagement; or

(3) is no longer economically viable.

(c) PROCEDURES FOR CONSIDERATION OF REVOCATION.—

(1) NOTICE OF RIGHT TO HEARING.—An eligible chartering authority that is proposing to revoke a charter granted to a public charter school shall provide to the Board of Trustees of the school a written notice stating the reasons for the proposed revocation. The notice shall inform the Board of Trustees of the right of the Board of Trustees to an informal hearing on the proposed revocation.

(2) REQUEST FOR HEARING.—Not later than 15 days after the date on which a Board of Trustees receives a notice under paragraph (1), the Board of Trustees may request, in writing, an informal hearing on the proposed revocation before the eligible chartering authority.

(3) DATE AND TIME OF HEARING.—

(A) NOTICE.—Upon receiving a timely written request for a hearing under paragraph (2), an eligible chartering authority shall set a date and time for the hearing and shall provide reasonable notice of the date and time, as well as the procedures to be followed at the hearing, to the Board of Trustees.

(B) DEADLINE.—An informal hearing under this subsection shall take place not later than 30 days after an eligible chartering authority receives a timely written request for the hearing under paragraph (2).

(4) FINAL DECISION.—

(A) DEADLINE.—An eligible chartering authority shall render a final decision, in writing, on the revocation of a charter—

(i) not later than 30 days after the date on which the eligible chartering authority provided the written notice of the right to a hearing, in the case of a proposed revocation with respect to which such a hearing is not held; and

(ii) not later than 30 days after the date on which the hearing is concluded, in the case of a proposed revocation with respect to which a hearing is held.

(B) REASONS FOR REVOCATION.—An eligible chartering authority that revokes a charter shall state in its decision the reasons for the revocation.

(5) ALTERNATIVES UPON REVOCATION.—If an eligible chartering authority revokes a charter granted to a public charter school, the Board of Education may manage the school directly until alternative arrangements can be made for students at the school.

(6) JUDICIAL REVIEW.—

(A) AVAILABILITY OF REVIEW.—A decision by an eligible chartering authority to revoke a charter shall be subject to judicial review by an appropriate court of the District of Columbia.

(B) STANDARD OF REVIEW.—A decision by an eligible chartering authority to revoke a charter shall be upheld unless the decision is arbitrary and capricious or clearly erroneous.

SEC. 2214. PUBLIC CHARTER SCHOOL BOARD.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established within the District of Columbia Government a Public Charter School Board (in this section referred to as the "Board").

(2) MEMBERSHIP.—The Secretary of Education shall present the Mayor a list of 15 individuals the Secretary determines are qualified to serve on the Board. The Mayor, in consultation with the District of Columbia City Council, shall appoint 7 individuals from the list to serve on the Board. The Secretary of Education shall recommend, and the Mayor shall appoint, members to serve on the Board so that a knowledge of each of the following areas is represented on the Board:

(A) Research about and experience in student learning, quality teaching, and evaluation of and accountability in successful schools.

(B) The operation of a financially sound enterprise, including leadership and management techniques, as well as the budgeting and accounting skills critical to the startup of a successful enterprise.

(C) The educational, social, and economic development needs of the District of Columbia.

(D) The needs and interests of students and parents in the District of Columbia, as well as methods of involving parents and other members of the community in individual schools.

(3) VACANCIES.—Any time there is a vacancy in the membership of the Board, the Secretary of Education shall present the Mayor a list of 3 individuals the Secretary determines are qualified to serve on the Board. The Mayor, in consultation with the District of Columbia Council, shall appoint 1 individual from the list to serve on the Board. The Secretary shall recommend and the Mayor shall appoint, such member of the Board taking into consideration the criteria described in paragraph (2). Any member appointed to fill a vacancy occurring prior to the expiration of the term of a predecessor shall be appointed only for the remainder of the term.

(4) TIME LIMIT FOR APPOINTMENTS.—If, at any time, the Mayor does not appoint members to the Board sufficient to bring the Board's membership to 7 within 30 days of receiving a recommendation from the Secretary of Education under paragraph (2) or (3), the Secretary shall make such appointments as are necessary to bring the membership of the Board to 7.

(5) TERMS OF MEMBERS.—

(A) IN GENERAL.—Members of the Board shall serve for terms of 4 years, except that, of the initial appointments made under paragraph (2), the Mayor shall designate—

(i) 2 members to serve terms of 3 years;

(ii) 2 members to serve terms of 2 years; and

(iii) 1 member to serve a term of 1 year.

(B) REAPPOINTMENT.—Members of the Board shall be eligible to be reappointed for one 4-year term beyond their initial term of appointment.

(6) INDEPENDENCE.—No person employed by the District of Columbia public schools or a public charter school shall be eligible to be a member of the Board or to be employed by the Board.

(b) OPERATIONS OF THE BOARD.—

(1) CHAIR.—The members of the Board shall elect from among their membership 1 individual to serve as Chair. Such election shall be held each year after members of the Board have been appointed to fill any vacancies caused by the regular expiration of previous members' terms, or when requested by a majority vote of the members of the Board.

(2) QUORUM.—A majority of the members of the Board, not including any positions that may be vacant, shall constitute a quorum sufficient for conducting the business of the Board.

(3) MEETINGS.—The Board shall meet at the call of the Chair, subject to the hearing requirements of sections 2203, 2212(d)(3), and 2213(c)(3).

(c) NO COMPENSATION FOR SERVICE.—Members of the Board shall serve without pay, but may receive reimbursement for any reasonable and necessary expenses incurred by reason of service on the Board.

(d) PERSONNEL AND RESOURCES.—

(1) IN GENERAL.—Subject to such rules as may be made by the Board, the Chair shall have the power to appoint, terminate, and fix the pay of an Executive Director and such other personnel of the Board as the Chair considers necessary, but no individual so appointed shall be paid in excess of the rate payable for level EG–16 of the Educational Service of the District of Columbia.

(2) SPECIAL RULE.—The Board is authorized to use the services, personnel, and facilities of the District of Columbia.

(e) EXPENSES OF BOARD.—Any expenses of the Board shall be paid from such funds as may be available to the Mayor.

(f) AUDIT.—The Board shall provide for an audit of the financial statements of the Board by an independent certified public accountant in accordance with Government auditing standards for financial audits issued by the Comptroller General of the United States.

(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out the provisions of this section and conducting the Board's functions required by this subtitle, there are authorized to be appropriated $300,000 for fiscal year 1996 and such sums as may be necessary for each of the 4 succeeding fiscal years.

SEC. 2215. FEDERAL ENTITIES.

(a) IN GENERAL.—The following Federal agencies and federally established entities are encouraged to explore whether it is feasible for the agency or entity to establish one or more public charter schools:

(1) The Library of Congress.

(2) The National Aeronautics and Space Administration.

(3) The Drug Enforcement Administration.

(4) The National Science Foundation.

(5) The Department of Justice.

(6) The Department of Defense.

(7) The Department of Education.

(8) The Smithsonian Institution, including the National Zoological Park, the National Museum of American History, the John F. Kennedy Center for the Performing Arts, and the National Gallery of Art.

(b) REPORT.—Not later than 120 days after date of enactment of this Act, any agency or institution described in subsection (a) that has explored the feasibility of establishing a public charter school shall report its determination on the feasibility to the appropriate committees of the Congress.

Subtitle C—Even Start

SEC. 2301. AMENDMENTS FOR EVEN START PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1002 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6302) is amended by striking subsection (b) and inserting the following:

"(b) EVEN START.—

"(1) IN GENERAL.—For the purpose of carrying out part B, there are authorized to be appropriated $118,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(2) DISTRICT OF COLUMBIA.—For the purpose of carrying out Even Start programs in the District of Columbia described in section 1211, there are authorized to be appropriated—

"(A) $2,000,000 for fiscal year 1996;

"(B) $3,500,000 for fiscal year 1997;

"(C) $5,000,000 for fiscal year 1998;

"(D) $5,000,000 for fiscal year 1999; and

"(E) $5,000,000 for fiscal year 2000.".

(b) EVEN START FAMILY LITERACY PROGRAMS.—Part B of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6361 et seq.) is amended—

(1) in section 1202(a)(1) (20 U.S.C. 6362(a)(1)), by inserting "(1)" after "1002(b)";

(2) in section 1202(b) (20 U.S.C. 6362(b)), by inserting "(1)" after "1002(b)";

(3) in section 1202(d)(3) (20 U.S.C. 6362(d)(3)), by inserting "(1)" after "1002(b)";

(4) in section 1204(a) (20 U.S.C. 6364(a)), by inserting "intensive" after "cost of providing";

(5) in section 1205(4) (20 U.S.C. 6365(4)), by inserting ", intensive" after "high-quality"; and

(6) by adding at the end the following new section:

"SEC. 1211. DISTRICT OF COLUMBIA EVEN START INITIATIVES.

"(a) DISTRICT OF COLUMBIA PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—In addition to any grant for the District of Columbia authorized under section 1202, the Secretary shall provide grants, on a competitive basis, to eligible entities to enable such entities to carry out Even Start programs in the District of Columbia that build on the findings of the National Evaluation of the Even Start Family Literacy Program, such as providing intensive services in early childhood education, parent training, and adult literacy or adult education.

"(2) NUMBER OF GRANTS.—The Secretary shall award—

"(A) not more than 8 grants under this section for fiscal year 1996;

"(B) not more than 14 grants under this section for fiscal year 1997;

"(C) not more than 20 grants under this section for each of the fiscal years 1998 and 1999; and

"(D) not more than 20 grants under this section, or such number as the Secretary determines appropriate taking into account the results of evaluations described in subsection (i), for fiscal year 2000.

"(b) DEFINITION.—For the purpose of this section, the term 'eligible entity' means a partnership composed of at least—

"(1) a District of Columbia public school;

"(2) the local educational agency in existence on September 1, 1995 for the District of Columbia, any other public organization, or an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))); and

"(3) a private nonprofit community-based organization.

"(c) USES OF FUNDS; FEDERAL SHARE.—

"(1) COMPLIANCE.—Each eligible entity that receives funds under this section shall comply with section 1204(a) and 1204(b)(3), relating to the use of such funds.

"(2) FEDERAL SHARE.—Each program funded under this section is subject to the Federal share requirement of section 1204(b)(1), except that the Secretary may waive that requirement, in whole or in part, for any eligible entity that demonstrates to the Secretary's satisfaction that such entity otherwise would not be able to participate in the program under this section.

"(3) MINIMUM.—Except as provided in paragraph (4), each eligible entity selected to receive a grant under this section shall receive not more than $250,000 in any fiscal year, except that the Secretary may increase such amount if the Secretary determines that—

"(A) such entity needs additional funds to be effective; and

"(B) the increase will not reduce the amount of funds available to other eligible entities that receive funds under this section.

"(4) REMAINING FUNDS.—If funds remain after payments are made under paragraph (3) for any fiscal year, the Secretary shall make such remaining funds available to each eligible entity receiving a grant under this section for such year in an amount that bears the same relation to such funds as the amount each such entity received under this section bears to the amount all such entities received under this section.

"(d) PROGRAM ELEMENTS.—Each program assisted under this section shall comply with the program elements described in section 1205, including intensive high quality instruction programs of early childhood education, parent training, and adult literacy or adult education.

"(e) ELIGIBLE PARTICIPANTS.—

"(1) IN GENERAL.—Individuals eligible to participate in a program under this section are—

"(A) the parent or parents of a child described in subparagraph (B), or any other adult who is substantially involved in the day-to-day care of the child, if such parent or adult—

"(i) is eligible to participate in an adult education program under the Adult Education Act; or

"(ii) is attending, or is eligible by age to attend, a District of Columbia public school; and

"(B) any child, from birth through age 7, of an individual described in subparagraph (A).

"(2) ELIGIBILITY REQUIREMENTS.—The eligibility factors described in section 1206(b) shall apply to programs under this section, except that for purposes of this section—

"(A) the reference in paragraph (1) to subsection (a) shall be read to refer to paragraph (1); and

"(B) references in such section to this part shall be read to refer to this section.

"(f) APPLICATIONS.—Each eligible entity that wishes to receive a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(g) SELECTION OF GRANTEES.—In awarding grants under this section, the Secretary shall—

"(1) use the selection criteria described in subparagraphs (A) through (F), and (H), of section 1208(a)(1); and

"(2) give priority to applications for programs that—

"(A) target services to schools in which a schoolwide program is being conducted under section 1114; or

"(B) are located in areas designated as empowerment zones or enterprise communities.

"(h) DURATION OF PROGRAMS.—The priority for subgrants described in section 1208(a)(2), and the progress requirement described in section 1208(b)(4), shall apply to grants made under this section, except that—

"(1) references in those sections to the State educational agency and to subgrants shall be read to refer to the Secretary and to grants under this section, respectively; and

"(2) notwithstanding section 1208(b), the Secretary shall not provide continuation funding to a grant recipient under this section if the Secretary determines, after affording the recipient notice and an opportunity for a hearing, that the recipient has not made substantial progress in accomplishing the objectives of this section.

"(i) TECHNICAL ASSISTANCE AND EVALUATION.—

"(1) TECHNICAL ASSISTANCE.—(A) The Secretary shall use not more than 5 percent of the amounts authorized under section 1002(b)(2) for any fiscal year—

"(i) to provide technical assistance to eligible entities, including providing funds to one or more District of Columbia nonprofit organizations to enable such organizations to provide technical assistance to eligible entities in the areas of community development and coalition building; and

"(ii) for the evaluation conducted pursuant to paragraph (2).

"(B) The Secretary shall allocate 5 percent of the amounts authorized under section 1002(b)(2) for any fiscal year to enter into a contract with the National Center for Family Literacy for the provision of technical assistance to eligible entities.

"(2) EVALUATION.—(A) The Secretary shall use funds available under paragraph (1)(A)—

"(i) to provide for independent evaluations of programs under this section in order to determine the effectiveness of such programs in providing high quality family literacy services, including—

"(I) intensive and high quality early childhood education;

"(II) intensive and high quality services in adult literacy or adult education;

"(III) intensive and high quality services in parent training;

"(IV) coordination with related programs; and

"(V) training of related personnel in appropriate skill areas; and

"(ii) to determine if the grant amount provided to eligible recipients to carry out such projects is appropriate to accomplish the objectives of this section.

"(B)(i) Such evaluation shall be conducted by individuals not directly involved in the administration of a program operated with funds provided under this section. Such independent evaluators and the program administrators shall jointly develop evaluation criteria which provide for appropriate analysis of the factors listed in subparagraph (A).

"(ii) In order to determine a program's effectiveness, each evaluation shall contain objective measures of such effectiveness, and whenever feasible, shall contain the specific views of program participants about such programs.

"(C) The Secretary shall prepare and submit to the appropriate congressional committees a report regarding the results of such evaluations not later than March 1, 1999. The Secretary shall provide an interim report regarding the results of such evaluations by March 1, 1998.".

Subtitle D—World Class Schools Task Force, Core Curriculum, Content Standards, Assessments, and Promotion Gates

PART 1—WORLD CLASS SCHOOLS TASK FORCE, CORE CURRICULUM, CONTENT STANDARDS, AND ASSESSMENTS

SEC. 2411. GRANT AUTHORIZED AND RECOMMENDATION REQUIRED.

(a) GRANT AUTHORIZED.—

(1) IN GENERAL.—The Superintendent is authorized to award a grant to a World Class Schools Task Force to enable such task force to make the recommendation described in subsection (b).

(2) DEFINITION.—For the purpose of this subtitle, the term "World Class Schools Task Force" means 1 nonprofit organization located in the District of Columbia that—

(A) has a national reputation for advocating content standards;

(B) has a national reputation for advocating a strong liberal arts curriculum;

(C) has experience with at least 4 urban school districts for the purpose of establishing content standards;

(D) has developed and managed professional development programs in science, mathematics, the humanities and the arts; and

(E) is governed by an independent board of directors composed of citizens with a variety of experiences in education and public policy.

(b) RECOMMENDATION REQUIRED.—

(1) IN GENERAL.—The World Class Schools Task Force shall recommend to the Superintendent, the Board of Education, and the District of Columbia Goals Panel the following:

(A) Content standards in the core academic subjects that are developed by working with the District of Columbia community, which standards shall be developed not later than 12 months after the date of enactment of this Act.

(B) A core curriculum developed by working with the District of Columbia community, which curriculum shall include the teaching of computer skills.

(C) Districtwide assessments for measuring student achievement in accordance with content standards developed under subparagraph (A). Such assessments shall be developed at several grade levels, including at a minimum, the grade levels with respect to which the Superintendent establishes promotion gates under section 2421. To the extent feasible, such assessments shall, at a minimum, be designed to provide information that permits comparisons between—

(i) individual District of Columbia public schools and public charter schools; and

(ii) individual students attending such schools.

(D) Model professional development programs for teachers using the standards and curriculum developed under subparagraphs (A) and (B).

(2) SPECIAL RULE.—The World Class Schools Task Force is encouraged, to the extent practicable, to develop districtwide assessments described in paragraph (1)(C) that permit comparisons among—

(A) individual District of Columbia public schools and public charter schools, and individual students attending such schools; and

(B) students of other nations.

(c) CONTENT.—The content standards and assessments recommended under subsection (b) shall be judged by the World Class Schools Task Force to be world class, including having a level of quality and rigor, or being analogous to content standards and assessments of other States or nations (including nations whose students historically score high on international studies of student achievement).

(d) SUBMISSION TO BOARD OF EDUCATION FOR ADOPTION.—If the content standards, curriculum, assessments, and programs recommended under subsection (b) are approved by the Superintendent, the Superintendent may submit such content standards, curriculum, assessments, and programs to the Board of Education for adoption.

SEC. 2412. CONSULTATION.

The World Class Schools Task Force shall conduct its duties under this part in consultation with—

(1) the District of Columbia Goals Panel;

(2) officials of the District of Columbia public schools who have been identified by the Superintendent as having responsibilities relevant to this part, including the Deputy Superintendent for Curriculum;

(3) the District of Columbia community, with particular attention given to educators, and parent and business organizations; and

(4) any other persons or groups that the task force deems appropriate.

SEC. 2413. ADMINISTRATIVE PROVISIONS.

The World Class Schools Task Force shall ensure public access to its proceedings (other than proceedings, or portions of proceedings, relating to internal personnel and management matters) that are relevant to its duties under this part and shall make available to the public, at reasonable cost, transcripts of such proceedings.

SEC. 2414. CONSULTANTS.

Upon the request of the World Class Schools Task Force, the head of any department or agency of the Federal Government may detail any of the personnel of such agency to such task force to assist such task force in carrying out such task force's duties under this part.

SEC. 2415. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $2,000,000 for fiscal year 1996 to carry out this part. Such funds shall remain available until expended.

PART 2—PROMOTION GATES

SEC. 2421. PROMOTION GATES.

(a) KINDERGARTEN THROUGH 4TH GRADE.—Not later than one year after the date of adoption in accordance with section 2411(d) of the assessments described in section 2411(b)(1)(C), the Superintendent shall establish and implement promotion gates for mathematics, reading, and writing, for not less than 1 grade level from kindergarten through grade 4, including at least grade 4, and shall establish dates for establishing such other promotion gates for other subject areas.

(b) 5TH THROUGH 8TH GRADES.—Not later than one year after the adoption in accordance with section 2411(d) of the assessments described in section 2411(b)(1)(C), the Superintendent shall establish and implement promotion gates with respect to not less than one grade level from grade 5 through grade 8, including at least grade 8.

(c) 9TH THROUGH 12TH GRADES.—Not later than one year after the adoption in accordance with section 2411(d) of the assessments described in section 2411(b)(1)(C), the Superintendent shall establish and implement promotion gates with respect to not less than one grade level from grade 9 through grade 12, including at least grade 12.

Subtitle E—Per Capita District of Columbia Public School and Public Charter School Funding

SEC. 2501. ANNUAL BUDGETS FOR SCHOOLS.

(a) IN GENERAL.—For fiscal year 1997 and for each subsequent fiscal year, the Mayor shall make annual payments from the general fund of the District of Columbia in accordance with the formula established under subsection (b).

(b) FORMULA.—

(1) IN GENERAL.—The Mayor and the District of Columbia Council, in consultation with the Board of Education and the Superintendent, shall establish on or before April 15, 1996, a formula to determine the amount of—

(A) the annual payment to the Board of Education for the operating expenses of the District of Columbia public schools, which for purposes of this paragraph includes the operating expenses of the Board of Education and the Office of the Superintendent; and

(B) the annual payment to each public charter school for the operating expenses of each public charter school.

(2) FORMULA CALCULATION.—Except as provided in paragraph (3), the amount of the annual payment under paragraph (1) shall be calculated by multiplying a uniform dollar amount used in the formula established under such paragraph by—

(A) the number of students calculated under section 2502 that are enrolled at District of Columbia public schools, in the case of the payment under paragraph (1)(A); or

(B) the number of students calculated under section 2502 that are enrolled at each public charter school, in the case of a payment under paragraph (1)(B).

(3) EXCEPTIONS.—

(A) FORMULA.—Notwithstanding paragraph (2), the Mayor and the District of Columbia Council, in consultation with the Board of Education and the Superintendent, may adjust the formula to increase or decrease the amount of the annual payment to the District of Columbia public schools or each public charter school based on a calculation of—

(i) the number of students served by such schools in certain grade levels; and

(ii) the cost of educating students at such certain grade levels.

(B) PAYMENT.—Notwithstanding paragraph (2), the Mayor and the District of Columbia Council, in consultation with the Board of Education and the Superintendent, may adjust the amount of the annual payment under paragraph (1) to increase the amount of such payment if a District of Columbia public school or a public charter school serves a high number of students—

(i) with special needs; or

(ii) who do not meet minimum literacy standards.

SEC. 2502. CALCULATION OF NUMBER OF STUDENTS.

(a) SCHOOL REPORTING REQUIREMENT.—

(1) IN GENERAL.—Not later than September 15, 1996, and not later than September 15 of each year thereafter, each District of Columbia public school and public charter school shall submit a report to the Mayor and the Board of Education containing the information described in subsection (b) that is applicable to such school.

(2) SPECIAL RULE.—Not later than April 1, 1997, and not later than April 1 of each year thereafter, each public charter school shall submit a report in the same form and manner as described in paragraph (1) to ensure accurate payment under section 2503(a)(2)(B)(ii).

(b) CALCULATION OF NUMBER OF STUDENTS.—Not later than 30 days after the date of the enactment of this Act, and not later than October 15 of each year thereafter, the Board of Education shall calculate the following:

(1) The number of students, including nonresident students and students with special needs, enrolled in each grade from kindergarten through grade 12 of the District of Columbia public schools and in public charter schools, and the number of students whose tuition for enrollment in other schools is paid for with funds available to the District of Columbia public schools.

(2) The amount of fees and tuition assessed and collected from the nonresident students described in paragraph (1).

(3) The number of students, including nonresident students, enrolled in preschool and prekindergarten in the District of Columbia public schools and in public charter schools.

(4) The amount of fees and tuition assessed and collected from the nonresident students described in paragraph (3).

(5) The number of full time equivalent adult students enrolled in adult, community, continuing, and vocational education programs in the District of Columbia public schools and in public charter schools.

(6) The amount of fees and tuition assessed and collected from resident and nonresident adult students described in paragraph (5).

(7) The number of students, including nonresident students, enrolled in nongrade level programs in District of Columbia public schools and in public charter schools.

(8) The amount of fees and tuition assessed and collected from nonresident students described in paragraph (7).

(c) ANNUAL REPORTS.—Not later than 30 days after the date of the enactment of this Act, and not later than October 15 of each year thereafter, the Board of Education shall prepare and submit to the Authority, the Mayor, the District of Columbia Council, the Consensus Commission, the Comptroller General of the United States, and the appropriate congressional committees a report containing a summary of the most recent calculations made under subsection (b).

(d) AUDIT OF INITIAL CALCULATIONS.—

(1) IN GENERAL.—The Board of Education shall arrange with the Authority to provide for the conduct of an independent audit of the initial calculations described in subsection (b).

(2) CONDUCT OF AUDIT.—In conducting the audit, the independent auditor—

(A) shall provide an opinion as to the accuracy of the information contained in the report described in subsection (c); and

(B) shall identify any material weaknesses in the systems, procedures, or methodology used by the Board of Education—

(i) in determining the number of students, including nonresident students, enrolled in the District of Columbia public schools and in public charter schools, and the number of students whose tuition for enrollment in other school systems is paid for by funds available to the District of Columbia public schools; and

(ii) in assessing and collecting fees and tuition from nonresident students.

(3) SUBMISSION OF AUDIT.—Not later than 45 days, or as soon thereafter as is practicable, after the date on which the Authority receives the initial annual report from the Board of Education under subsection (c), the Authority shall submit to the Board of Education, the Mayor, the District of Columbia Council, and the appropriate congressional committees, the audit conducted under this subsection.

(4) COST OF THE AUDIT.—The Board of Education shall reimburse the Authority for the cost of the independent audit, solely from amounts appropriated to the Board of Education for staff, stipends, and other-than-personal-services of the Board of Education by an Act making appropriations for the District of Columbia.

SEC. 2503. PAYMENTS.

(a) IN GENERAL.—

(1) ESCROW FOR PUBLIC CHARTER SCHOOLS.—Except as provided in subsection (b), for any fiscal year, not later than 10 days after the date of enactment of an Act making appropriations for the District of Columbia for such fiscal year, the Mayor shall place in escrow an amount equal to the aggregate of the amounts determined under section 2501(b)(1)(B) for use only by District of Columbia public charter schools.

(2) TRANSFER OF ESCROW FUNDS.—

(A) INITIAL PAYMENT.—Not later than October 15, 1996, and not later than October 15 of each year thereafter, the Mayor shall transfer, by electronic funds transfer, an amount equal to 75 percent of the amount of the annual payment for each public charter school determined by using the formula established pursuant to section 2501(b) to a bank designated by such school.

(B) FINAL PAYMENT.—

(i) Except as provided in clause (ii), not later than May 1, 1997, and not later than May 1 of each year thereafter, the Mayor shall transfer the remainder of the annual payment for a public charter school in the same manner as the initial payment was made under subparagraph (A).

(ii) Not later than March 15, 1997, and not later than March 15 of each year thereafter, if the enrollment number of a public charter school has changed from the number reported to the Mayor and the Board of Education, as required under section 2502(a), the Mayor shall increase the payment in an amount equal to 50 percent of the amount provided for each student who has enrolled in such school in excess of such enrollment number, or shall reduce the payment in an amount equal to 50 percent of the amount provided for each student who has withdrawn or dropped out of such school below such enrollment number.

(C) PRO RATA REDUCTION OR INCREASE IN PAYMENTS.—

(i) PRO RATA REDUCTION.—If the funds made available to the District of Columbia Government for the District of Columbia public school system and each public charter school for any fiscal year are insufficient to pay the full amount that such system and each public charter school is eligible to receive under this subtitle for such year, the Mayor shall ratably reduce such amounts for such year on the basis of the formula described in section 2501(b).

(ii) INCREASE.—If additional funds become available for making payments under this subtitle for such fiscal year, amounts that were reduced under subparagraph (A) shall be increased on the same basis as such amounts were reduced.

(D) UNEXPENDED FUNDS.—Any funds that remain in the escrow account for public charter schools on September 30 of a fiscal year shall revert to the general fund of the District of Columbia.

(b) EXCEPTION FOR NEW SCHOOLS.—

(1) AUTHORIZATION.—There are authorized to be appropriated $200,000 for each fiscal year to carry out this subsection.

(2) DISBURSEMENT TO MAYOR.—The Secretary of the Treasury shall make available and disburse to the Mayor, not later than August 1 of each of the fiscal years 1996 through 2000, such funds as have been appropriated under paragraph (1).

(3) ESCROW.—The Mayor shall place in escrow, for use by public charter schools, any sum disbursed under paragraph (2) and not paid under paragraph (4).

(4) PAYMENTS TO SCHOOLS.—The Mayor shall pay to public charter schools described in paragraph (5), in accordance with this subsection, any sum disbursed under paragraph (2).

(5) SCHOOLS DESCRIBED.—The schools referred to in paragraph (4) are public charter schools that—

(A) did not operate as public charter schools during any portion of the fiscal year preceding the fiscal year for which funds are authorized to be appropriated under paragraph (1); and

(B) operated as public charter schools during the fiscal year for which funds are authorized to be appropriated under paragraph (1).

(6) FORMULA.—

(A) 1996.—The amount of the payment to a public charter school described in paragraph (5) that begins operation in fiscal year 1996 shall be calculated by multiplying $6,300 by 1/12 of the total anticipated enrollment as set forth in the petition to establish the public charter school; and

(B) 1997 THROUGH 2000.—The amount of the payment to a public charter school described in paragraph (5) that begins operation in any of fiscal years 1997 through 2000 shall be calculated by multiplying the uniform dollar amount used in the formula established under section 2501(b) by 1/12 of the total anticipated enrollment as set forth in the petition to establish the public charter school.

(7) PAYMENT TO SCHOOLS.—

(A) TRANSFER.—On September 1 of each of the years 1996 through 2000, the Mayor shall transfer, by electronic funds transfer, the amount determined under paragraph (6) for each public charter school from the escrow account established under subsection (a) to a bank designated by each such school.

(B) PRO RATA AND REMAINING FUNDS.—Subparagraphs (C) and (D) of subsection (a)(2) shall apply to payments made under this subsection, except that for purposes of this subparagraph references to District of Columbia public schools in such subparagraphs (C) and (D) shall be read to refer to public charter schools.

Subtitle F—School Facilities Repair and Improvement

SEC. 2550. DEFINITIONS.

For purposes of this subtitle—

(1) the term "facilities" means buildings, structures, and real property of the District of Columbia public schools, except that such term does not include any administrative office building that is not located in a building containing classrooms; and

(2) the term "repair and improvement" includes administration, construction, and renovation.

PART 1—SCHOOL FACILITIES

SEC. 2551. TECHNICAL ASSISTANCE.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act the Administrator of the General Services Administration shall enter into a Memorandum of Agreement or Understanding (referred to in this subtitle as the "Agreement") with the Superintendent regarding the terms under which the Administrator will provide technical assistance and related services with respect to District of Columbia public schools facilities management in accordance with this section.

(b) TECHNICAL ASSISTANCE AND RELATED SERVICES.—The technical assistance and related services described in subsection (a) shall include—

(1) the Administrator consulting with and advising District of Columbia public school personnel responsible for public schools facilities management, including repair and improvement with respect to facilities management of such schools;

(2) the Administrator assisting the Superintendent in developing a systemic and comprehensive facilities revitalization program, for the repair and improvement of District of Columbia public school facilities, which program shall—

(A) include a list of facilities to be repaired and improved in a recommended order of priority;

(B) provide the repair and improvement required to support modern technology; and

(C) take into account the Preliminary Facilities Master Plan 2005 (prepared by the Superintendent's Task Force on Education Infrastructure for the 21st Century);

(3) the method by which the Superintendent will accept donations of private goods and services for use by the District of Columbia public schools without regard to any law or regulation of the District of Columbia;

(4) the Administrator recommending specific repair and improvement projects in District of Columbia public school facilities to the Superintendent that are appropriate for completion by members and units of the National Guard and the Reserves in accordance with the program developed under paragraph (2);

(5) upon the request of the Superintendent, the Administrator assisting the appropriate District of Columbia public school officials in the preparation of an action plan for the performance of any repair and improvement recommended in the program developed under paragraph (2), which action plan shall detail the technical assistance and related services the Administrator proposes to provide in the accomplishment of the repair and improvement;

(6) upon the request of the Superintendent, and if consistent with the efficient use of resources as determined by the Administrator, the coordination of the accomplishment of any repair and improvement in accordance with the action plan prepared under paragraph (5), except that in carrying out this paragraph, the Administrator shall not be subject to the requirements of title III of the Federal Property and Administrative Services Act of 1949 (42 U.S.C. 471 et seq.), the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), or any other law governing procurements or public contracts, nor shall such action plan be subject to review under the bid protest procedures described in sections 3551 through 3556 of title 31, United States Code, or the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.);

(7) providing access for the Administrator to all District of Columbia public school facilities as well as permitting the Administrator to request and obtain any record or document regarding such facilities as the Administrator determines necessary, except that any such record or document shall not become a record (as defined in section 552a of title 5, United States Code) of the General Services Administration; and

(8) the Administrator making recommendations regarding how District of Columbia public school facilities may be used by the District of Columbia community for multiple purposes.

(c) AGREEMENT PROVISIONS.—The Agreement shall include—

(1) the procedures by which the Superintendent and Administrator will consult with respect to carrying out this section, including reasonable time frames for such consultation;

(2) the scope of the technical assistance and related services to be provided by the General Services Administration in accordance with this section;

(3) assurances by the Administrator and the Superintendent to cooperate with each other in any way necessary to ensure implementation of

the Agreement, including assurances that funds available to the District of Columbia shall be used to pay the obligations of the District of Columbia public school system that are incurred as a result of actions taken under, or in furtherance of, the Agreement, in addition to funds available to the Administrator for purposes of this section; and

(4) the duration of the Agreement, except that in no event shall the Agreement remain in effect later than the day that is 24 months after the date that the Agreement is signed, or the day that the agency designated pursuant to section 2552(a)(2) assumes responsibility for the District of Columbia public school facilities, whichever day is earlier.

(d) LIMITATION ON ADMINISTRATOR'S LIABILITY.—No claim, suit, or action may be brought against the Administrator in connection with the discharge of the Administrator's responsibilities under this subtitle.

(e) SPECIAL RULE.—Notwithstanding any other provision of law, the Administrator is authorized to accept and use a conditioned gift made for the express purpose of repairing or improving a District of Columbia public school, except that the Administrator shall not be required to carry out any repair or improvement under this section unless the Administrator accepts a donation of private goods or services sufficient to cover the costs of such repair or improvement.

(f) EFFECTIVE DATE.—This subtitle shall cease to be effective on the earlier day specified in subsection (c)(4).

SEC. 2552. FACILITIES REVITALIZATION PROGRAM.

(a) PROGRAM.—Not later than 24 months after the date that the Agreement is signed, the Mayor and the District of Columbia Council in consultation with the Administrator, the Authority, the Board of Education, and the Superintendent, shall—

(1) design and implement a comprehensive long-term program for the repair and improvement, and maintenance and management, of the District of Columbia public school facilities, which program shall incorporate the work completed in accordance with the program described in section 2551(b)(2); and

(2) designate a new or existing agency or authority within the District of Columbia Government to administer such program.

(b) PROCEEDS.—Such program shall include—

(1) identifying short-term funding for capital and maintenance of facilities, which may include retaining proceeds from the sale or lease of a District of Columbia public school facility; and

(2) identifying and designating long-term funding for capital and maintenance of facilities.

(c) IMPLEMENTATION.—Upon implementation of such program, the agency or authority created or designated pursuant to subsection (a)(2) shall assume authority and responsibility for the repair and improvement, and maintenance and management, of District of Columbia public schools.

SEC. 2553. AUTHORIZATION OF APPROPRIATIONS FOR ENGINEERING PLANS.

There are authorized to be appropriated to the Administrator, $500,000 for fiscal year 1996, which funds only shall be available for the costs of engineering plans developed to carry out this subtitle.

PART 2—WAIVERS

SEC. 2561. WAIVERS.

(a) IN GENERAL.—

(1) REQUIREMENTS WAIVED.—Subject to subsection (b), all District of Columbia fees and all requirements contained in the document entitled "District of Columbia Public Schools Standard Contract Provisions" (as such document was in effect on November 2, 1995 and including any revisions or modifications to such document) published by the District of Columbia public schools for use with construction or maintenance projects, are waived, for purposes of repair and improvement of District of Columbia public schools facilities for a period beginning on the date of enactment of this Act and ending 24 months after such date.

(2) DONATIONS AND SERVICES.—Notwithstanding any other provision of law, any employer may accept, and any person may voluntarily donate, materials and services for the repair and improvement of a District of Columbia public school facility.

(b) LIMITATION.—A waiver under subsection (a) shall apply only to a contractor, subcontractor, and any other group, entity, or individual who donates materials and services for the repair or improvement of a District of Columbia public school facility.

PART 3—GIFTS, DONATIONS, BEQUESTS, AND DEVISES

SEC. 2571. GIFTS, DONATIONS, BEQUESTS, AND DEVISES.

(a) IN GENERAL.—A District of Columbia public school or a public charter school may accept directly from any person a gift, donation, bequest, or devise of any property, real or personal, without regard to any law or regulation of the District of Columbia.

(b) TAX LAWS.—For the purposes of the income tax, gift tax, and estate tax laws of the Federal Government, any money or other property given, donated, bequeathed, or devised to a District of Columbia public school or a public charter school, shall be deemed to have been given, donated, bequeathed, or devised to or for the use of the District of Columbia.

Subtitle G—Residential School

SEC. 2601. RESIDENTIAL SCHOOL AUTHORIZED.

(a) IN GENERAL.—The Superintendent is authorized to develop a plan to establish for the District of Columbia a residential school for academic year 1997–1998 and to assist in the startup of such school.

(b) PLAN REQUIREMENTS.—If developed, the plan for the residential school shall include, at a minimum—

(1) options for the location of the school, including the renovation or construction of a facility;

(2) financial plans for the facility, including annual costs to operate the school, capital expenditures required to open the facility, maintenance of facilities, and staffing costs; and

(3) staff development and training plans.

SEC. 2602. USE OF FUNDS.

Funds under this subtitle may be used—

(1) to develop the plan described in section 2601; and

(2) for capital costs associated with the startup of a residential school, including the purchase of real and personal property and the renovation or construction of facilities.

SEC. 2603. FUTURE FUNDING.

The Superintendent shall identify, not later than December 31, 1996, in a report to the Mayor, the District of Columbia Council, the Authority, and the appropriate congressional committees, non-Federal funding sources for the operation of the residential school.

SEC. 2604. GIFTS.

The Superintendent may accept donations of money, property, and personal services for purposes of the establishment and operation of the residential school.

SEC. 2605. AUTHORIZATION OF APPROPRIATIONS.

(a) PLAN.—There are authorized to be appropriated to the District of Columbia $100,000 for fiscal year 1996 to develop the plan described in section 2601.

(b) CAPITAL COSTS.—There are authorized to be appropriated $1,900,000 for fiscal year 1997 to carry out section 2602(2).

SEC. 2606. ELIGIBILITY FOR SCHOLARSHIPS.

Notwithstanding any other provision of law, the residential school established under this subtitle shall be an eligible institution for the purposes of scholarships awarded under section 2923(d)(2).

Subtitle H—Progress Reports and Accountability

SEC. 2651. SUPERINTENDENT'S REPORT ON REFORMS.

Not later than December 1, 1996, the Superintendent shall submit to the appropriate congressional committees, the Board of Education, the Mayor, the Consensus Commission, and the District of Columbia Council a report regarding the progress of the District of Columbia public schools toward achieving the goals of the long-term reform plan.

SEC. 2652. DISTRICT OF COLUMBIA COUNCIL REPORT.

Not later than April 1, 1997, the Chairperson of the District of Columbia Council shall submit to the appropriate congressional committees a report describing legislative and other actions the District of Columbia Council has taken or will take to facilitate the implementation of the goals of the long-term reform plan.

Subtitle I—Partnerships With Business

SEC. 2701. PURPOSE.

The purpose of this subtitle is—

(1) to leverage private sector funds utilizing initial Federal investments in order to provide students and teachers within the District of Columbia public schools and public charter schools with access to state-of-the-art educational technology;

(2) to establish a regional job training and employment center;

(3) to strengthen workforce preparation initiatives for students within the District of Columbia public schools and public charter schools;

(4) to coordinate private sector investments in carrying out this title; and

(5) to assist the Superintendent with the development of individual career paths in accordance with the long-term reform plan.

SEC. 2702. DUTIES OF THE SUPERINTENDENT OF THE DISTRICT OF COLUMBIA PUBLIC SCHOOLS.

Not later than 45 days after the date of the enactment of this Act, the Superintendent shall provide a grant to a private, nonprofit corporation that meets the eligibility criteria under section 2703 for the purposes of carrying out the duties under sections 2704 and 2707.

SEC. 2703. ELIGIBILITY CRITERIA FOR PRIVATE, NONPROFIT CORPORATION.

A private, nonprofit corporation shall be eligible to receive a grant under section 2702 if the corporation is a national business organization incorporated in the District of Columbia, that—

(1) has a board of directors which includes members who are also chief executive officers of technology-related corporations involved in education and workforce development issues;

(2) has extensive practical experience with initiatives that link business resources and expertise with education and training systems;

(3) has experience in working with State and local educational agencies throughout the United States with respect to the integration of academic studies with workforce preparation programs; and

(4) has a nationwide structure through which additional resources can be leveraged and innovative practices disseminated.

SEC. 2704. DUTIES OF THE PRIVATE, NONPROFIT CORPORATION.

(a) DISTRICT EDUCATION AND LEARNING TECHNOLOGIES ADVANCEMENT COUNCIL.—

(1) ESTABLISHMENT.—The private, nonprofit corporation shall establish a council to be known as the "District Education and Learning

Technologies Advancement Council" (in this subtitle referred to as the "council").

(2) MEMBERSHIP.—

(A) IN GENERAL.—The private, nonprofit corporation shall appoint members to the council. An individual shall be appointed as a member to the council on the basis of the commitment of the individual, or the entity which the individual is representing, to providing time, energy, and resources to the council.

(B) COMPENSATION.—Members of the council shall serve without compensation.

(3) DUTIES.—The council—

(A) shall advise the private, nonprofit corporation with respect to the duties of the corporation under subsections (b) through (e) of this section; and

(B) shall assist the corporation in leveraging private sector resources for the purpose of carrying out such duties.

(b) ACCESS TO STATE-OF-THE-ART EDUCATIONAL TECHNOLOGY.—

(1) IN GENERAL.—The private, nonprofit corporation, in conjunction with the Superintendent, students, parents, and teachers, shall establish and implement strategies to ensure access to state-of-the-art educational technology within the District of Columbia public schools and public charter schools.

(2) ELECTRONIC DATA TRANSFER SYSTEM.—The private, nonprofit corporation shall assist the Superintendent in acquiring the necessary equipment, including computer hardware and software, to establish an electronic data transfer system. The private, nonprofit corporation shall also assist in arranging for training of District of Columbia public school employees in using such equipment.

(3) TECHNOLOGY ASSESSMENT.—

(A) IN GENERAL.—In establishing and implementing the strategies under paragraph (1), the private, nonprofit corporation, not later than September 1, 1996, shall provide for an assessment of the availability, on the date of enactment of this Act, of state-of-the-art educational technology within the District of Columbia public schools and public charter schools.

(B) CONDUCT OF ASSESSMENT.—In providing for the assessment under subparagraph (A), the private, nonprofit corporation—

(i) shall provide for onsite inspections of the state-of-the-art educational technology within a minimum sampling of District of Columbia public schools and public charter schools; and

(ii) shall ensure proper input from students, parents, teachers, and other school officials through the use of focus groups and other appropriate mechanisms.

(C) RESULTS OF ASSESSMENT.—The private, nonprofit corporation shall ensure that the assessment carried out under this paragraph provides, at a minimum, necessary information on state-of-the-art educational technology within the District of Columbia public schools and public charter schools, including—

(i) the extent to which typical District of Columbia public schools have access to such state-of-the-art educational technology and training for such technology;

(ii) how such schools are using such technology;

(iii) the need for additional technology and the need for infrastructure for the implementation of such additional technology;

(iv) the need for computer hardware, software, training, and funding for such additional technology or infrastructure; and

(v) the potential for computer linkages among District of Columbia public schools and public charter schools.

(4) SHORT-TERM TECHNOLOGY PLAN.—

(A) IN GENERAL.—Based upon the results of the technology assessment under paragraph (3), the private, nonprofit corporation shall develop a 3-year plan that includes goals, priorities, and strategies for obtaining the resources necessary to implement strategies to ensure access to state-of-the-art educational technology within the District of Columbia public schools and public charter schools.

(B) IMPLEMENTATION.—The private, nonprofit corporation, in conjunction with schools, students, parents, and teachers, shall implement the plan developed under subparagraph (A).

(5) LONG-TERM TECHNOLOGY PLAN.—Prior to the completion of the implementation of the short-term technology plan under paragraph (4), the private, nonprofit corporation shall develop a plan under which the corporation will continue to coordinate the donation of private sector resources for maintaining the continuous improvement and upgrading of state-of-the-art educational technology within the District of Columbia public schools and public charter schools.

(c) DISTRICT EMPLOYMENT AND LEARNING CENTER.—

(1) ESTABLISHMENT.—The private, nonprofit corporation shall establish a center to be known as the "District Employment and Learning Center" (in this subtitle referred to as the "center"), which shall serve as a regional institute providing job training and employment assistance.

(2) DUTIES.—

(A) JOB TRAINING AND EMPLOYMENT ASSISTANCE PROGRAM.—The center shall establish a program to provide job training and employment assistance in the District of Columbia and shall coordinate with career preparation programs in existence on the date of enactment of this Act, such as vocational education, school-to-work, and career academies in the District of Columbia public schools.

(B) CONDUCT OF PROGRAM.—In carrying out the program established under subparagraph (A), the center—

(i) shall provide job training and employment assistance to youths who have attained the age of 18 but have not attained the age of 26, who are residents of the District of Columbia, and who are in need of such job training and employment assistance for an appropriate period not to exceed 2 years;

(ii) shall work to establish partnerships and enter into agreements with appropriate agencies of the District of Columbia Government to serve individuals participating in appropriate Federal programs, including programs under the Job Training Partnership Act (29 U.S.C. 1501 et seq.), the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.), the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.), and the School-to-Work Opportunities Act of 1994 (20 U.S.C. 6101 et seq.);

(iii) shall conduct such job training, as appropriate, through a consortium of colleges, universities, community colleges, businesses, and other appropriate providers, in the District of Columbia metropolitan area;

(iv) shall design modular training programs that allow students to enter and leave the training curricula depending on their opportunities for job assignments with employers; and

(v) shall utilize resources from businesses to enhance work-based learning opportunities and facilitate access by students to work-based learning and work experience through temporary work assignments with employers in the District of Columbia metropolitan area.

(C) COMPENSATION.—The center may provide compensation to youths participating in the program under this paragraph for part-time work assigned in conjunction with training. Such compensation may include need-based payments and reimbursement of expenses.

(d) WORKFORCE PREPARATION INITIATIVES.—

(1) IN GENERAL.—The private, nonprofit corporation shall establish initiatives with the District of Columbia public schools, and public charter schools, appropriate governmental agencies, and businesses and other private entities, to facilitate the integration of rigorous academic studies with workforce preparation programs in District of Columbia public schools and public charter schools.

(2) CONDUCT OF INITIATIVES.—In carrying out the initiatives under paragraph (1), the private, nonprofit corporation shall, at a minimum, actively develop, expand, and promote the following programs:

(A) Career academy programs in secondary schools, as such programs are established in certain District of Columbia public schools, which provide a school-within-a-school concept, focusing on career preparation and the integration of the academy programs with vocational and technical curriculum.

(B) Programs carried out in the District of Columbia that are funded under the School-to-Work Opportunities Act of 1994 (20 U.S.C. 6101 et seq.).

(e) PROFESSIONAL DEVELOPMENT PROGRAM FOR TEACHERS AND ADMINISTRATORS.—

(1) ESTABLISHMENT OF PROGRAM.—The private, nonprofit corporation shall establish a consortium consisting of the corporation, teachers, school administrators, and the consortium of universities located in the District of Columbia (in existence on the date of the enactment of this Act), for the purpose of establishing a program for the professional development of teachers and school administrators employed by the District of Columbia public schools and public charter schools.

(2) CONDUCT OF PROGRAM.—In carrying out the program established under paragraph (1), the consortium established under such paragraph, in consultation with the task force established under subtitle D and the Superintendent, at a minimum, shall provide for the following:

(A) Professional development for teachers consistent with the model professional development programs for teachers under section 2411(b)(4), or consistent with the core curriculum developed by the Superintendent under section 2411(b)(2), as the case may be, except that for fiscal year 1996, such professional development shall focus on curriculum for elementary school grades in reading and mathematics that have been demonstrated to be effective for students from low-income backgrounds.

(B) Professional development for principals, with a special emphasis on middle school principals, focusing on effective practices that reduce the number of students who drop out of school.

(C) Private sector training of teachers in the use, application, and operation of state-of-the-art technology in education.

(D) Training for school principals and other school administrators in effective private sector management practices for the purpose of site-based management in the District of Columbia public schools, and training in the management of public charter schools established in accordance with this title.

SEC. 2705. MATCHING FUNDS.

The private, nonprofit corporation, to the extent practicable, shall provide matching funds, or in-kind contributions, or a combination thereof, for the purpose of carrying out the duties of the corporation under section 2704, as follows:

(1) For fiscal year 1996, the nonprofit corporation shall provide matching funds or in-kind contributions of $1 for every $1 of Federal funds provided under this subtitle for such year for activities under section 2704.

(2) For fiscal year 1997, the nonprofit corporation shall provide matching funds or in-kind

contributions of $3 for every $1 of Federal funds provided under this subtitle for such year for activities under section 2704.

(3) For fiscal year 1998, the nonprofit corporation shall provide matching funds or in-kind contributions of $5 for every $1 of Federal funds provided under this subtitle for such year for activities under section 2704.

SEC. 2706. REPORT.

The private, nonprofit corporation shall prepare and submit to the appropriate congressional committees on a quarterly basis, or, with respect to fiscal year 1996, on a biannual basis, a report which shall contain—

(1) the activities the corporation has carried out, including the duties of the corporation described in section 2704, for the 3-month period ending on the date of the submission of the report, or, with respect to fiscal year 1996, the 6-month period ending on the date of the submission of the report;

(2) an assessment of the use of funds or other resources donated to the corporation;

(3) the results of the assessment carried out under section 2704(b)(3); and

(4) a description of the goals and priorities of the corporation for the 3-month period beginning on the date of the submission of the report, or, with respect to fiscal year 1996, the 6-month period beginning on the date of the submission of the report.

SEC. 2707. JOBS FOR D.C. GRADUATES PROGRAM.

(a) IN GENERAL.—The nonprofit corporation shall establish a program, to be known as the "Jobs for D.C. Graduates Program", to assist District of Columbia public schools and public charter schools in organizing and implementing a school-to-work transition system, which system shall give priority to providing assistance to at-risk youths and disadvantaged youths.

(b) CONDUCT OF PROGRAM.—In carrying out the program established under subsection (a), the nonprofit corporation, consistent with the policies of the nationally recognized Jobs for America's Graduates, Inc., shall—

(1) establish performance standards for such program;

(2) provide ongoing enhancement and improvements in such program;

(3) provide research and reports on the results of such program; and

(4) provide preservice and inservice training.

SEC. 2708. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—

(1) DELTA COUNCIL; ACCESS TO STATE-OF-THE-ART EDUCATIONAL TECHNOLOGY; AND WORKFORCE PREPARATION INITIATIVES.—There are authorized to be appropriated to carry out subsections (a), (b), and (d) of section 2704, $1,000,000 for each of the fiscal years 1996, 1997, and 1998.

(2) DEAL CENTER.—There are authorized to be appropriated to carry out section 2704(c), $2,000,000 for each of the fiscal years 1996, 1997, and 1998.

(3) PROFESSIONAL DEVELOPMENT PROGRAM FOR TEACHERS AND ADMINISTRATORS.—There are authorized to be appropriated to carry out section 2704(e), $1,000,000 for each of the fiscal years 1996, 1997, and 1998.

(4) JOBS FOR D.C. GRADUATES PROGRAM.—There are authorized to be appropriated to carry out section 2707—

(A) $2,000,000 for fiscal year 1996; and

(B) $3,000,000 for each of the fiscal years 1997 through 2000.

(b) AVAILABILITY.—Amounts authorized to be appropriated under subsection (a) are authorized to remain available until expended.

SEC. 2709. TERMINATION OF FEDERAL SUPPORT; SENSE OF THE CONGRESS RELATING TO CONTINUATION OF ACTIVITIES.

(a) TERMINATION OF FEDERAL SUPPORT.—The authority under this subtitle to provide assistance to the private, nonprofit corporation or any other entity established pursuant to this subtitle shall terminate on October 1, 1998.

(b) SENSE OF THE CONGRESS RELATING TO CONTINUATION OF ACTIVITIES.—It is the sense of the Congress that—

(1) the activities of the private, nonprofit corporation under section 2704 should continue to be carried out after October 1, 1998, with resources made available from the private sector; and

(2) the corporation should provide oversight and coordination for such activities after such date.

Subtitle J—Management and Fiscal Accountability

SEC. 2751. MANAGEMENT SUPPORT SYSTEMS.

(a) FOOD SERVICES AND SECURITY SERVICES.—Notwithstanding any other law, rule, or regulation, the Board of Education shall enter into a contract for academic year 1995–1996 and each succeeding academic year, for the provision of all food services operations and security services for the District of Columbia public schools, unless the Superintendent determines that it is not feasible and provides the Superintendent's reasons in writing to the Board of Education and the Authority.

(b) DEVELOPMENT OF NEW MANAGEMENT AND DATA SYSTEMS.—Notwithstanding any other law, rule, or regulation, the Board of Education shall, in academic year 1995–1996, consult with the Authority on the development of new management and data systems, as well as training of personnel to use and manage the systems in areas of budget, finance, personnel and human resources, management information services, procurement, supply management, and other systems recommended by the Authority. Such plans shall be consistent with, and contemporaneous to, the District of Columbia Government's development and implementation of a replacement for the financial management system for the District of Columbia Government in use on the date of enactment of this Act.

(c) FISCAL YEAR 1996 FOR MANAGEMENT AND DATA SYSTEMS.—Not less than $1,500,000 of the amount appropriated under title I of this Act for staff, stipends, and other-than-personal-services of the Board of Education shall be available to carry out subsection (b).

SEC. 2752. ANNUAL REPORTING REQUIREMENTS.

(a) IN GENERAL.—The Board of Education shall annually compile an accurate and verifiable report on the positions and employees in the District of Columbia public school system. The annual report shall set forth—

(1) the number of validated schedule A positions in the District of Columbia public schools for fiscal year 1995, fiscal year 1996, and thereafter on a full-time equivalent basis, including a compilation of all positions by control center, responsibility center, funding source, position type, position title, pay plan, grade, and annual salary; and

(2) a compilation of all employees in the District of Columbia public schools as of December 31, of the year preceding the year for which the report is made, verified as to its accuracy in accordance with the functions that each employee actually performs, by control center, responsibility center, agency reporting code, program (including funding source), activity, location for accounting purposes, job title, grade and classification, annual salary, and position control number.

(b) SUBMISSION.—The annual report required by subsection (a) shall be submitted to the Congress, the Mayor, the District of Columbia Council, the Consensus Commission, and the Authority, not later than February 8, 1996, and each February 8 thereafter.

SEC. 2753. ANNUAL BUDGETS AND BUDGET REVISIONS.

(a) IN GENERAL.—Not later than October 1, 1996, or prior to 15 calendar days after the date of the enactment of the District of Columbia Appropriations Act, 1996, whichever occurs first, and each succeeding year thereafter, the Board of Education shall submit to the appropriate congressional committees, the Mayor, the District of Columbia Council, the Consensus Commission, and the Authority, a revised appropriated funds operating budget for the District of Columbia public school system for such fiscal year that is consistent with the total amount appropriated in an Act making appropriations for the District of Columbia for such fiscal year and that realigns budgeted data for personal services and other than personal services, with anticipated actual expenditures.

(b) SUBMISSION.—The revised budget required by subsection (a) shall be submitted in the format of the budget that the Board of Education submits to the Mayor for inclusion in the Mayor's budget submission to the District of Columbia Council pursuant to section 442 of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93–198 (D.C. Code, sec. 47–301).

SEC. 2754. ACCESS TO FISCAL AND STAFFING DATA.

(a) IN GENERAL.—The budget, financial-accounting, personnel, payroll, procurement, and management information systems of the District of Columbia public schools shall be coordinated and interface with related systems of the District of Columbia Government.

(b) ACCESS.—The Board of Education shall provide read-only access to its internal financial management systems and all other data bases to designated staff of the Mayor, the Council, the Authority, and appropriate congressional committees.

SEC. 2755. DEVELOPMENT OF FISCAL YEAR 1997 BUDGET REQUEST.

(a) IN GENERAL.—The Board of Education shall develop its fiscal year 1997 gross operating budget and its fiscal year 1997 appropriated funds budget request in accordance with this section.

(b) FISCAL YEAR 1996 BUDGET REVISION.—Not later than February 15, 1996, the Board of Education shall develop, approve, and submit to the Mayor, the District of Columbia Council, the Authority, and appropriate congressional committees, a revised fiscal year 1996 gross operating budget that reflects the amount appropriated in the District of Columbia Appropriations Act, 1996, and which—

(1) is broken out on the basis of appropriated funds and nonappropriated funds, control center, responsibility center, agency reporting code, object class, and object; and

(2) indicates by position title, grade, and agency reporting code, all staff allocated to each District of Columbia public school as of October 15, 1995, and indicates on an object class basis all other-than-personal-services financial resources allocated to each school.

(c) ZERO-BASE BUDGET.—For fiscal year 1997, the Board of Education shall build its gross operating budget and appropriated funds request from a zero-base, starting from the local school level through the central office level.

(d) SCHOOL-BY-SCHOOL BUDGETS.—The Board of Education's initial fiscal year 1997 gross operating budget and appropriated funds budget request submitted to the Mayor, the District of Columbia Council, and the Authority shall contain school-by-school budgets and shall also—

(1) be broken out on the basis of appropriated funds and nonappropriated funds, control center, responsibility center, agency reporting code, object class, and object;

(2) indicate by position title, grade, and agency reporting code all staff budgeted for each District of Columbia public school, and indicate on an object class basis all other-than-personal-services financial resources allocated to each school; and

(3) indicate the amount and reason for all changes made to the initial fiscal year 1997 gross operating budget and appropriated funds request from the revised fiscal year 1996 gross operating budget required by subsection (b).

SEC. 2756. TECHNICAL AMENDMENTS.

Section 1120A of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6322) is amended—

(1) in subsection (b)(1), by—

(A) striking "(A) Except as provided in subparagraph (B), a State" and inserting "A State"; and

(B) striking subparagraph (B); and

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

"(d) EXCLUSION OF FUNDS.—For the purpose of complying with subsections (b) and (c), a State or local educational agency may exclude supplemental State or local funds expended in any school attendance area or school for programs that meet the intent and purposes of this part.".

Subtitle K—Personal Accountability and Preservation of School-Based Resources

SEC. 2801. PRESERVATION OF SCHOOL-BASED STAFF POSITIONS.

(a) RESTRICTIONS ON REDUCTIONS OF SCHOOL-BASED EMPLOYEES.—To the extent that a reduction in the number of full-time equivalent positions for the District of Columbia public schools is required to remain within the number of full-time equivalent positions established for the public schools in appropriations Acts, no reductions shall be made from the full-time equivalent positions for school-based teachers, principals, counselors, librarians, or other school-based educational positions that were established as of the end of fiscal year 1995, unless the Authority makes a determination based on student enrollment that—

(1) fewer school-based positions are needed to maintain established pupil-to-staff ratios; or

(2) reductions in positions for other than school-based employees are not practicable.

(b) DEFINITION.—The term "school-based educational position" means a position located at a District of Columbia public school or other position providing direct support to students at such a school, including a position for a clerical, stenographic, or secretarial employee, but not including any part-time educational aide position.

SEC. 2802. MODIFICATIONS OF BOARD OF EDUCATION REDUCTION-IN-FORCE PROCEDURES.

The District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Code, sec. 1–601.1 et seq.) is amended—

(1) in section 301 (D.C. Code, sec. 1.603.1)—

(A) by inserting after paragraph (13), the following new paragraph:

"(13A) The term 'nonschool-based personnel' means any employee of the District of Columbia public schools who is not based at a local school or who does not provide direct services to individual students."; and

(B) by inserting after paragraph (15), the following new paragraph:

"(15A) The term 'school administrators' means principals, assistant principals, school program directors, coordinators, instructional supervisors, and support personnel of the District of Columbia public schools.";

(2) in section 801A(b)(2) (D.C. Code, sec. 1–609.1(b)(2)(L)—

(A) by striking "(L) reduction-in-force" and inserting "(L)(i) reduction-in-force"; and

(B) by inserting after subparagraph (L)(i), the following new clause:

"(ii) Notwithstanding any other provision of law, the Board of Education shall not issue rules that require or permit nonschool-based personnel or school administrators to be assigned or reassigned to the same competitive level as classroom teachers;"; and

(3) in section 2402 (D.C. Code, sec. 1–625.2), by adding at the end the following new subsection:

"(f) Notwithstanding any other provision of law, the Board of Education shall not require or permit nonschool-based personnel or school administrators to be assigned or reassigned to the same competitive level as classroom teachers.".

SEC. 2803. PUBLIC SCHOOL EMPLOYEE EVALUATIONS.

Notwithstanding any other provision of law, rule, or regulation, the evaluation process and instruments for evaluating District of Columbia public school employees shall be a nonnegotiable item for collective bargaining purposes.

SEC. 2804. PERSONAL AUTHORITY FOR PUBLIC SCHOOL EMPLOYEES.

(a) IN GENERAL.—Notwithstanding any other provision of law, rule, or regulation, an employee of a District of Columbia public school shall be—

(1) classified as an educational service employee;

(2) placed under the personnel authority of the Board of Education; and

(3) subject to all Board of Education rules.

(b) SCHOOL-BASED PERSONNEL.—School-based personnel shall constitute a separate competitive area from nonschool-based personnel who shall not compete with school-based personnel for retention purposes.

Subtitle L—Establishment and Organization of the Commission on Consensus Reform in the District of Columbia Public Schools

SEC. 2851. COMMISSION ON CONSENSUS REFORM IN THE DISTRICT OF COLUMBIA PUBLIC SCHOOLS.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established within the District of Columbia Government a Commission on Consensus Reform in the District of Columbia Public Schools, consisting of 7 members to be appointed in accordance with paragraph (2).

(2) MEMBERSHIP.—The Consensus Commission shall consist of the following members:

(A) 1 member to be appointed by the President chosen from a list of 3 proposed members submitted by the Majority Leader of the Senate.

(B) 1 member to be appointed by the President chosen from a list of 3 proposed members submitted by the Speaker of the House of Representatives.

(C) 2 members to be appointed by the President, of which 1 shall represent the local business community and 1 of which shall be a teacher in a District of Columbia public school.

(D) The President of the District of Columbia Congress of Parents and Teachers.

(E) The President of the Board of Education.

(F) The Superintendent.

(G) The Mayor and District of Columbia Council Chairman shall each name 1 nonvoting ex officio member.

(H) The Chief of the National Guard Bureau who shall be an ex officio member.

(3) TERMS OF SERVICE.—The members of the Consensus Commission shall serve for a term of 3 years.

(4) VACANCIES.—Any vacancy in the membership of the Consensus Commission shall be filled by the appointment of a new member in the same manner as provided for the vacated membership. A member appointed under this paragraph shall serve the remaining term of the vacated membership.

(5) QUALIFICATIONS.—Members of the Consensus Commission appointed under subparagraphs (A), (B), and (C) of paragraph (2) shall be residents of the District of Columbia and shall have a knowledge of public education in the District of Columbia.

(6) CHAIR.—The Chair of the Consensus Commission shall be chosen by the Consensus Commission from among its members, except that the President of the Board of Education and the Superintendent shall not be eligible to serve as Chair.

(7) NO COMPENSATION FOR SERVICE.—Members of the Consensus Commission shall serve without pay, but may receive reimbursement for any reasonable and necessary expenses incurred by reason of service on the Consensus Commission.

(b) EXECUTIVE DIRECTOR.—The Consensus Commission shall have an Executive Director who shall be appointed by the Chair with the consent of the Consensus Commission. The Executive Director shall be paid at a rate determined by the Consensus Commission, except that such rate may not exceed the highest rate of pay payable for level EG–16 of the Educational Service of the District of Columbia.

(c) STAFF.—With the approval of the Chair and the Authority, the Executive Director may appoint and fix the pay of additional personnel as the Executive Director considers appropriate, except that no individual appointed by the Executive Director may be paid at a rate greater than the rate of pay for the Executive Director.

(d) SPECIAL RULE.—The Board of Education, or the Authority, shall reprogram such funds, as the Chair of the Consensus Commission shall in writing request, from amounts available to the Board of Education.

SEC. 2852. PRIMARY PURPOSE AND FINDINGS.

(a) PURPOSE.—The primary purpose of the Consensus Commission is to assist in developing a long-term reform plan that has the support of the District of Columbia community through the participation of representatives of various critical segments of such community in helping to develop and approve the plan.

(b) FINDINGS.—The Congress finds that—

(1) experience has shown that the failure of the District of Columbia educational system has been due more to the failure to implement a plan than the failure to develop a plan;

(2) national studies indicate that 50 percent of secondary school graduates lack basic literacy skills, and over 30 percent of the 7th grade students in the District of Columbia public schools drop out of school before graduating;

(3) standard student assessments indicate only average performance for grade level and fail to identify individual students who lack basic skills, allowing too many students to graduate lacking these basic skills and diminishing the worth of a diploma;

(4) experience has shown that successful schools have good community, parent, and business involvement;

(5) experience has shown that reducing dropout rates in the critical middle and secondary school years requires individual student involvement and attention through such activities as arts or athletics; and

(6) experience has shown that close coordination between educators and business persons is required to provide noncollege-bound students the skills necessary for employment, and that personal attention is vitally important to assist each student in developing an appropriate career path.

SEC. 2853. DUTIES AND POWERS OF THE CONSENSUS COMMISSION.

(a) PRIMARY RESPONSIBILITY.—The Board of Education and the Superintendent shall have primary responsibility for developing and implementing the long-term reform plan for education in the District of Columbia.

(b) DUTIES.—The Consensus Commission shall—

(1) identify any obstacles to implementation of the long-term reform plan and suggest ways to remove such obstacles;

(2) assist in developing programs that—

(A) ensure every student in a District of Columbia public school achieves basic literacy skills;

(B) ensure every such student possesses the knowledge and skills necessary to think critically and communicate effectively by the completion of grade 8; and

(C) lower the dropout rate in the District of Columbia public schools;

(3) assist in developing districtwide assessments, including individual assessments, that identify District of Columbia public school students who lack basic literacy skills, with particular attention being given to grade 4 and the middle school years, and establish procedures to ensure that a teacher is made accountable for the performance of every such student in such teacher's class;

(4) make recommendations to improve community, parent, and business involvement in District of Columbia public schools and public charter schools;

(5) assess opportunities in the District of Columbia to increase individual student involvement and attention through such activities as arts or athletics, and make recommendations on how to increase such involvement; and

(6) assist in the establishment of procedures that ensure every District of Columbia public school student is provided the skills necessary for employment, including the development of individual career paths.

(c) POWERS.—The Consensus Commission shall have the following powers:

(1) To monitor and comment on the development and implementation of the long-term reform plan.

(2) To exercise its authority, as provided in this subtitle, as necessary to facilitate implementation of the long-term reform plan.

(3) To review and comment on the budgets of the Board of Education, the District of Columbia public schools and public charter schools.

(4) To recommend rules concerning the management and direction of the Board of Education that address obstacles to the development or implementation of the long-term reform plan.

(5) To review and comment on the core curriculum for kindergarten through grade 12 developed under subtitle D.

(6) To review and comment on a core curriculum for prekindergarten, vocational and technical training, and adult education.

(7) To review and comment on all other educational programs carried out by the Board of Education and public charter schools.

(8) To review and comment on the districtwide assessments for measuring student achievement in the core curriculum developed under subtitle D.

(9) To review and comment on the model professional development programs for teachers using the core curriculum developed under subtitle D.

(d) LIMITATIONS.—

(1) IN GENERAL.—Except as otherwise provided in this subtitle, the Consensus Commission shall have no powers to involve itself in the management or operation of the Board of Education with respect to the implementation of the long-term reform plan.

(2) SPECIAL RULE.—If the Consensus Commission determines that the Board of Education has failed to take an action necessary to develop or implement the long-term reform plan or that the Board of Education is unable to do so, the Consensus Commission shall request the Authority to take appropriate action, and the Authority shall take such action as the Authority deems appropriate, to develop or implement, as the case may be, the long-term reform plan.

SEC. 2854. IMPROVING ORDER AND DISCIPLINE.

(a) COMMUNITY SERVICE REQUIREMENT FOR SUSPENDED STUDENTS.—

(1) IN GENERAL.—Any student suspended from classes at a District of Columbia public school who is required to serve the suspension outside the school shall perform community service for the period of suspension. The community service required by this subsection shall be subject to rules and regulations promulgated by the Mayor.

(2) EFFECTIVE DATE.—This subsection shall take effect on the first day of the 1996–1997 academic year.

(b) EXPIRATION DATE.—This section, and sections 2101(b)(1)(K) and 2851(a)(2)(H), shall cease to be effective on the last day of the 1997–1998 academic year.

(c) REPORT.—The Consensus Commission shall study the effectiveness of the policies implemented pursuant to this section in improving order and discipline in District of Columbia public schools and report its findings to the appropriate congressional committees not later than 60 days prior to the last day of the 1997–1998 academic year.

SEC. 2855. EDUCATIONAL PERFORMANCE AUDITS.

(a) IN GENERAL.—The Consensus Commission may examine and request the Inspector General of the District of Columbia or the Authority to audit the records of the Board of Education to ensure, monitor, and evaluate the performance of the Board of Education with respect to compliance with the long-term reform plan and such plan's overall educational achievement. The Consensus Commission shall conduct an annual review of the educational performance of the Board of Education with respect to meeting the goals of such plan for such year. The Board of Education shall cooperate and assist in the review or audit as requested by the Consensus Commission.

(b) AUDIT.—The Consensus Commission may examine and request the Inspector General of the District of Columbia or the Authority to audit the records of any public charter school to assure, monitor, and evaluate the performance of the public charter school with respect to the content standards and districtwide assessments described in section 2411(b). The Consensus Commission shall receive a copy of each public charter school's annual report.

SEC. 2856. INVESTIGATIVE POWERS.

The Consensus Commission may investigate any action or activity which may hinder the progress of any part of the long-term reform plan. The Board of Education shall cooperate and assist the Consensus Commission in any investigation. Reports of the findings of any such investigation shall be provided to the Board of Education, the Superintendent, the Mayor, the District of Columbia Council, the Authority, and the appropriate congressional committees.

SEC. 2857. RECOMMENDATIONS OF THE CONSENSUS COMMISSION.

(a) IN GENERAL.—The Consensus Commission may at any time submit recommendations to the Board of Education, the Mayor, the District of Columbia Council, the Authority, the Board of Trustees of any public charter school and the Congress with respect to actions the District of Columbia Government or the Federal Government should take to ensure implementation of the long-term reform plan.

(b) AUTHORITY ACTIONS.—Pursuant to the District of Columbia Financial Responsibility and Management Assistance Act of 1995 or upon the recommendation of the Consensus Commission, the Authority may take whatever actions the Authority deems necessary to ensure the implementation of the long-term reform plan.

SEC. 2858. EXPIRATION DATE.

Except as otherwise provided in this subtitle, this subtitle shall be effective during the period beginning on the date of enactment of this Act and ending 7 years after such date.

Subtitle M—Parent Attendance at Parent-Teacher Conferences

SEC. 2901. POLICY.

Notwithstanding any other provision of law, the Mayor is authorized to develop and implement a policy encouraging all residents of the District of Columbia with children attending a District of Columbia public school to attend and participate in at least one parent-teacher conference every 90 days during the academic year.

Subtitle N—Low-Income Scholarships

SEC. 2921. DEFINITIONS.

As used in this subtitle—

(1) the term "Board" means the Board of Directors of the Corporation established under section 2922(b)(1);

(2) the term "Corporation" means the District of Columbia Scholarship Corporation established under section 2922(a);

(3) the term "eligible institution"—

(A) in the case of an eligible institution serving a student who receives a tuition scholarship under section 2923(d)(1), means a private or independent elementary or secondary school; and

(B) in the case of an eligible institution serving a student who receives an enhanced achievement scholarship under section 2923(d)(2), means an elementary or secondary school, or an entity that provides services to a student enrolled in an elementary or secondary school to enhance such student's achievement through activities described in section 2923(d)(2); and

(4) the term "poverty line" means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

SEC. 2922. DISTRICT OF COLUMBIA SCHOLARSHIP CORPORATION.

(a) GENERAL REQUIREMENTS.—

(1) IN GENERAL.—There is authorized to be established a private, nonprofit corporation, to be known as the "District of Columbia Scholarship Corporation", which is neither an agency nor establishment of the United States Government or the District of Columbia Government.

(2) DUTIES.—The Corporation shall have the responsibility and authority to administer, publicize, and evaluate the scholarship program in accordance with this subtitle, and to determine student and school eligibility for participation in such program.

(3) CONSULTATION.—The Corporation shall exercise its authority—

(A) in a manner consistent with maximizing educational opportunities for the maximum number of interested families; and

(B) in consultation with the Board of Education, the Superintendent, the Consensus Commission, and other school scholarship programs in the District of Columbia.

(4) APPLICATION OF PROVISIONS.—The Corporation shall be subject to the provisions of this subtitle, and, to the extent consistent with this subtitle, to the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29–501 et seq.).

(5) RESIDENCE.—The Corporation shall have its place of business in the District of Columbia and shall be considered, for purposes of venue in civil actions, to be a resident of the District of Columbia.

(6) FUND.—There is hereby established in the District of Columbia general fund a fund that shall be known as the "District of Columbia Scholarship Fund".

(7) DISBURSEMENT.—The Mayor shall disburse to the Corporation, before October 15 of each fiscal year or not later than 15 days after the date of enactment of an Act making appropriations for the District of Columbia for such year,

whichever occurs later, such funds as have been appropriated to the District of Columbia Scholarship Fund for the fiscal year for which such disbursement is made.

(8) AVAILABILITY.—Funds authorized to be appropriated under this subtitle shall remain available until expended.

(9) USES.—Funds authorized to be appropriated under this subtitle shall be used by the Corporation in a prudent and financially responsible manner, solely for scholarships, contracts, and administrative costs.

(10) AUTHORIZATION.—

(A) IN GENERAL.—There are authorized to be appropriated to the District of Columbia Scholarship Fund—

(i) $5,000,000 for fiscal year 1996;

(ii) $7,000,000 for fiscal year 1997; and

(iii) $10,000,000 for each of fiscal years 1998 through 2000.

(B) LIMITATION.—Not more than $250,000 of the amount appropriated to carry out this subtitle for any fiscal year may be used by the Corporation for any purpose other than assistance to students.

(b) ORGANIZATION AND MANAGEMENT; BOARD OF DIRECTORS.—

(1) BOARD OF DIRECTORS; MEMBERSHIP.—

(A) IN GENERAL.—The Corporation shall have a Board of Directors comprised of 7 members, with 6 members of the Board appointed by the President not later than 30 days after receipt of nominations from the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the Majority Leader of the Senate, and the Minority Leader of the Senate.

(B) HOUSE NOMINATIONS.—The President shall appoint 2 members of the Board from a list of at least 6 individuals nominated by the Speaker of the House of Representatives, and 1 member of the Board from a list of at least 3 individuals nominated by the Minority Leader of the House of Representatives.

(C) SENATE NOMINATIONS.—The President shall appoint 2 members of the Board from a list of at least 6 individuals nominated by the Majority Leader of the Senate, and 1 member of the Board from a list of at least 3 individuals nominated by the Minority Leader of the Senate.

(D) DEADLINE.—The Speaker and Minority Leader of the House of Representatives and Majority Leader and Minority Leader of the Senate shall submit their nominations to the President not later than 30 days after the date of the enactment of this Act.

(E) APPOINTEE OF MAYOR.—The Mayor shall appoint 1 member of the Board not later than 60 days after the date of the enactment of this Act.

(F) POSSIBLE INTERIM MEMBERS.—If the President does not appoint the 6 members of the Board in the 30-day period described in subparagraph (A), then the Speaker of the House of Representatives and the Majority Leader of the Senate shall each appoint 2 members of the Board, and the Minority Leader of the House of Representatives and the Minority Leader of the Senate shall each appoint 1 of the Board, from among the individuals nominated pursuant to subparagraphs (A) and (B), as the case may be. The appointees under the preceding sentence together with the appointee of the Mayor, shall serve as an interim Board with all the powers and other duties of the Board described in this subtitle, until the President makes the appointments as described in this subsection.

(2) POWERS.—All powers of the Corporation shall vest in and be exercised under the authority of the Board.

(3) ELECTIONS.—Members of the Board annually shall elect 1 of the members of the Board to be chairperson of the Board.

(4) RESIDENCY.—All members appointed to the Board shall be residents of the District of Columbia at the time of appointment and while serving on the Board.

(5) NONEMPLOYEE.—No member of the Board may be an employee of the United States Government or the District of Columbia Government when appointed to or during tenure on the Board, unless the individual is on a leave of absence from such a position while serving on the Board.

(6) INCORPORATION.—The members of the initial Board shall serve as incorporators and shall take whatever steps are necessary to establish the Corporation under the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29–501 et seq.).

(7) GENERAL TERM.—The term of office of each member of the Board shall be 5 years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor was appointed shall be appointed for the remainder of such term.

(8) CONSECUTIVE TERM.—No member of the Board shall be eligible to serve in excess of 2 consecutive terms of 5 years each. A partial term shall be considered as 1 full term. Any vacancy on the Board shall not affect the Board's power, but shall be filled in a manner consistent with this subtitle.

(9) NO BENEFIT.—No part of the income or assets of the Corporation shall inure to the benefit of any Director, officer, or employee of the Corporation, except as salary or reasonable compensation for services.

(10) POLITICAL ACTIVITY.—The Corporation may not contribute to or otherwise support any political party or candidate for elective public office.

(11) NO OFFICERS OR EMPLOYEES.—The members of the Board shall not, by reason of such membership, be considered to be officers or employees of the United States Government or of the District of Columbia Government.

(12) STIPENDS.—The members of the Board, while attending meetings of the Board or while engaged in duties related to such meetings or other activities of the Board pursuant to this subtitle, shall be provided a stipend. Such stipend shall be at the rate of $150 per day for which the member of the Board is officially recorded as having worked, except that no member may be paid a total stipend amount in any calendar year in excess of $5,000.

(13) CONGRESSIONAL INTENT.—Subject to the results of the program appraisal under section 2933, it is the intention of the Congress to turn over to District of Columbia officials the control of the Board at the end of the 5-year period beginning on the date of enactment of this Act, under terms and conditions to be determined at that time.

(c) OFFICERS AND STAFF.—

(1) EXECUTIVE DIRECTOR.—The Corporation shall have an Executive Director, and such other staff, as may be appointed by the Board for terms and at rates of compensation, not to exceed level EG–16 of the Educational Service of the District of Columbia, to be fixed by the Board .

(2) STAFF.—With the approval of the Board, the Executive Director may appoint and fix the salary of such additional personnel as the Executive Director considers appropriate.

(3) ANNUAL RATE.—No staff of the Corporation may be compensated by the Corporation at an annual rate of pay greater than the annual rate of pay of the Executive Director.

(4) SERVICE.—All officers and employees of the Corporation shall serve at the pleasure of the Board.

(5) QUALIFICATION.—No political test or qualification may be used in selecting, appointing, promoting, or taking other personnel actions with respect to officers, agents, or employees of the Corporation.

(d) POWERS OF THE CORPORATION.—

(1) GENERALLY.—The Corporation is authorized to obtain grants from, and make contracts with, individuals and with private, State, and Federal agencies, organizations, and institutions.

(2) HIRING AUTHORITY.—The Corporation may hire, or accept the voluntary services of, consultants, experts, advisory boards, and panels to aid the Corporation in carrying out this subtitle.

(e) FINANCIAL MANAGEMENT AND RECORDS.—

(1) AUDITS.—The financial statements of the Corporation shall be—

(A) maintained in accordance with generally accepted accounting principles for nonprofit corporations; and

(B) audited annually by independent certified public accountants.

(2) REPORT.—The report for each such audit shall be included in the annual report to Congress required by section 2933(c).

SEC. 2923. SCHOLARSHIPS AUTHORIZED.

(a) ELIGIBLE STUDENTS.—The Corporation is authorized to award tuition scholarships under subsection (d)(1) and enhanced achievement scholarships under subsection (d)(2) to students in kindergarten through grade 12—

(1) who are residents of the District of Columbia; and

(2) whose family income does not exceed 185 percent of the poverty line.

(b) SCHOLARSHIP PRIORITY.—

(1) FIRST.—The Corporation shall first award scholarships to students described in subsection (a) who—

(A) are enrolled in a District of Columbia public school or preparing to enter a District of Columbia kindergarten, except that this subparagraph shall apply only for academic years 1996, 1997, and 1998; or

(B) have received a scholarship from the Corporation in the year preceding the year for which the scholarship is awarded.

(2) SECOND.—If funds remain for a fiscal year for awarding scholarships after awarding scholarships under paragraph (1), the Corporation shall award scholarships to students described in subsection (a) who are not described in paragraph (1).

(c) SPECIAL RULE.—The Corporation shall attempt to ensure an equitable distribution of scholarship funds to students at diverse academic achievement levels.

(d) USE OF SCHOLARSHIP.—

(1) TUITION SCHOLARSHIPS.—A tuition scholarship may be used only for the payment of the cost of the tuition and mandatory fees for, and transportation to attend, an eligible institution located within the geographic boundaries of the District of Columbia.

(2) ENHANCED ACHIEVEMENT SCHOLARSHIP.—An enhanced achievement scholarship may be used only for the payment of—

(A) the costs of tuition and mandatory fees for, and transportation to attend, a program of nonsectarian instruction provided by an eligible institution which enhances student achievement of the core curriculum and is operated outside of regular school hours to supplement the regular school program;

(B) the costs of tuition and mandatory fees for, and transportation to attend, after-school activities that do not have an academic focus, such as athletics or music lessons; or

(C) the costs of tuition and mandatory fees for, and transportation to attend, vocational, vocational-technical, and technical training programs.

(e) NOT SCHOOL AID.—A scholarship under this subtitle shall be considered assistance to the student and shall not be considered assistance to an eligible institution.

SEC. 2924. SCHOLARSHIP PAYMENTS AND AMOUNTS.

(a) AWARDS.—From the funds made available under this subtitle, the Corporation shall award

a scholarship to a student and make payments in accordance with section 2930 on behalf of such student to a participating eligible institution chosen by the parent of the student.

(b) NOTIFICATION.—Each eligible institution that desires to receive payment under subsection (a) shall notify the Corporation not later than 10 days after—

(1) the date that a student receiving a scholarship under this subtitle is enrolled, of the name, address, and grade level of such student;

(2) the date of the withdrawal or expulsion of any student receiving a scholarship under this subtitle, of the withdrawal or expulsion; and

(3) the date that a student receiving a scholarship under this subtitle is refused admission, of the reasons for such a refusal.

(c) TUITION SCHOLARSHIP.—

(1) EQUAL TO OR BELOW POVERTY LINE.—For a student whose family income is equal to or below the poverty line, a tuition scholarship may not exceed the lesser of—

(A) the cost of tuition and mandatory fees for, and transportation to attend, an eligible institution; or

(B) $3,000 for fiscal year 1996, with such amount adjusted in proportion to changes in the Consumer Price Index for all urban consumers published by the Department of Labor for each of fiscal years 1997 through 2000.

(2) ABOVE POVERTY LINE.—For a student whose family income is greater than the poverty line, but not more than 185 percent of the poverty line, a tuition scholarship may not exceed the lesser of—

(A) 50 percent of the cost of tuition and mandatory fees for, and transportation to attend, an eligible institution; or

(B) $1,500 for fiscal year 1996, with such amount adjusted in proportion to changes in the Consumer Price Index for all urban consumers published by the Department of Labor for each of fiscal years 1997 through 2000.

(d) ENHANCED ACHIEVEMENT SCHOLARSHIP.—

(1) EQUAL TO OR BELOW POVERTY LINE.—For a student whose family income is equal to or below the poverty line, an enhanced achievement scholarship may not exceed the lesser of—

(A) the costs of tuition and mandatory fees for, and transportation to attend, a program of nonsectarian instruction at an eligible institution; or

(B) $1,500 for 1996, with such amount adjusted in proportion to changes in the Consumer Price Index for all urban consumers published by the Department of Labor for each of fiscal years 1997 through 2000.

(2) ABOVE POVERTY LINE.—For a student whose family income is greater than the poverty line, but not more than 185 percent of the poverty line, an enhanced achievement scholarship may not exceed the lesser of—

(A) 50 percent of the costs of tuition and mandatory fees for, and transportation to attend, a program of nonsectarian instruction at an eligible institution; or

(B) $750 for fiscal year 1996 with such amount adjusted in proportion to changes in the Consumer Price Index for all urban consumers published by the Department of Labor for each of fiscal years 1997 through 2000.

(e) ALLOCATION OF FUNDS.—

(1) FEDERAL FUNDS.—

(A) PLAN.—The Corporation shall submit to the District of Columbia Council a proposed allocation plan for the allocation of Federal funds between the tuition scholarships under section 2923(d)(1) and enhanced achievement scholarships under section 2923(d)(2).

(B) CONSIDERATION.—Not later than 30 days after receipt of each such plan, the District of Columbia Council shall consider such proposed allocation plan and notify the Corporation in writing of its decision to approve or disapprove such allocation plan.

(C) OBJECTIONS.—In the case of a vote of disapproval of such allocation plan, the District of Columbia Council shall provide in writing the District of Columbia Council's objections to such allocation plan.

(D) RESUBMISSION.—The Corporation may submit a revised allocation plan for consideration to the District of Columbia Council.

(E) PROHIBITION.—No Federal funds provided under this subtitle may be used for any scholarship until the District of Columbia Council has approved the allocation plan for the Corporation.

(2) PRIVATE FUNDS.—The Corporation shall annually allocate unrestricted private funds equitably, as determined by the Board, for scholarships under paragraphs (1) and (2) of section 2923(d), after consultation with the public, the Mayor, the District of Columbia Council, the Board of Education, the Superintendent, and the Consensus Commission.

SEC. 2925. CERTIFICATION OF ELIGIBLE INSTITUTIONS.

(a) APPLICATION.—An eligible institution that desires to receive a payment on behalf of a student who receives a scholarship under this subtitle shall file an application with the Corporation for certification for participation in the scholarship program under this subtitle. Each such application shall—

(1) demonstrate that the eligible institution has operated with not less than 25 students during the 3 years preceding the year for which the determination is made unless the eligible institution is applying for certification as a new eligible institution under subsection (c);

(2) contain an assurance that the eligible institution will comply with all applicable requirements of this subtitle;

(3) provide the most recent audit of the financial statements of the eligible institution by an independent certified public accountant using generally accepted auditing standards, completed not earlier than 3 years before the date such application is filed;

(4) describe the eligible institution's proposed program, including personnel qualifications and fees;

(5) contain an assurance that a student receiving a scholarship under this subtitle shall not be required to attend or participate in a religion class or religious ceremony without the written consent of such student's parent;

(6) contain an assurance that funds received under this subtitle will not be used to pay the costs related to a religion class or a religious ceremony, except that such funds may be used to pay the salary of a teacher who teaches such class or participates in such ceremony if such teacher also teaches an academic class at such eligible institution;

(7) contain an assurance that the eligible institution will abide by all regulations of the District of Columbia Government applicable to such eligible institution; and

(8) contain an assurance that the eligible institution will implement due process requirements for expulsion and suspension of students, including at a minimum, a process for appealing the expulsion or suspension decision.

(b) CERTIFICATION.—

(1) IN GENERAL.—Except as provided in paragraph (3), not later than 60 days after receipt of an application in accordance with subsection (a), the Corporation shall certify an eligible institution to participate in the scholarship program under this subtitle.

(2) CONTINUATION.—An eligible institution's certification to participate in the scholarship program shall continue unless such eligible institution's certification is revoked in accordance with subsection (d).

(3) EXCEPTION FOR 1996.—For fiscal year 1996 only, and after receipt of an application in accordance with subsection (a), the Corporation shall certify the eligibility of an eligible institution to participate in the scholarship program under this subtitle at the earliest practicable date.

(c) NEW ELIGIBLE INSTITUTION.—

(1) IN GENERAL.—An eligible institution that did not operate with at least 25 students in the 3 years preceding the year for which the determination is made may apply for a 1-year provisional certification to participate in the scholarship program under this subtitle for a single year by providing to the Corporation not later than July 1 of the year preceding the year for which the determination is made—

(A) a list of the eligible institution's board of directors;

(B) letters of support from not less than 10 members of the community served by such eligible institution;

(C) a business plan;

(D) an intended course of study;

(E) assurances that the eligible institution will begin operations with not less than 25 students;

(F) assurances that the eligible institution will comply with all applicable requirements of this subtitle; and

(G) a statement that satisfies the requirements of paragraph (2), and paragraphs (4) through (8), of subsection (a).

(2) CERTIFICATION.—Not later than 60 days after the date of receipt of an application described in paragraph (1), the Corporation shall certify in writing the eligible institution's provisional certification to participate in the scholarship program under this subtitle unless the Corporation determines that good cause exists to deny certification.

(3) RENEWAL OF PROVISIONAL CERTIFICATION.—After receipt of an application under paragraph (1) from an eligible institution that includes an audit of the financial statements of the eligible institution by an independent certified public accountant using generally accepted auditing standards completed not earlier than 12 months before the date such application is filed, the Corporation shall renew an eligible institution's provisional certification for the second and third years of the school's participation in the scholarship program under this subtitle unless the Corporation finds—

(A) good cause to deny the renewal, including a finding of a pattern of violation of requirements described in section 2926(a); or

(B) consistent failure of 25 percent or more of the students receiving scholarships under this subtitle and attending such school to make appropriate progress (as determined by the Corporation) in academic achievement.

(4) DENIAL OF CERTIFICATION.—If provisional certification or renewal of provisional certification under this subsection is denied, then the Corporation shall provide a written explanation to the eligible institution of the reasons for such denial.

(d) REVOCATION OF ELIGIBILITY.—

(1) IN GENERAL.—The Corporation, after notice and hearing, may revoke an eligible institution's certification to participate in the scholarship program under this subtitle for a year succeeding the year for which the determination is made for—

(A) good cause, including a finding of a pattern of violation of program requirements described in section 2926(a); or

(B) consistent failure of 25 percent or more of the students receiving scholarships under this subtitle and attending such school to make appropriate progress (as determined by the Corporation) in academic achievement.

(2) EXPLANATION.—If the certification of an eligible institution is revoked, the Corporation shall provide a written explanation of its decision to such eligible institution and require a

pro rata refund of the payments received under this subtitle.

SEC. 2926. PARTICIPATION REQUIREMENTS FOR ELIGIBLE INSTITUTIONS.

(a) REQUIREMENTS.—Each eligible institution participating in the scholarship program under this subtitle shall—

(1) provide to the Corporation not later than June 30 of each year the most recent audit of the financial statements of the eligible institution by an independent certified public accountant using generally accepted auditing standards completed not earlier than 3 years before the date the application is filed; and

(2) charge a student that receives a scholarship under this subtitle the same amounts for the cost of tuition and mandatory fees for, and transportation to attend, such eligible institution as other students who are residents of the District of Columbia and enrolled in such eligible institution.

(b) COMPLIANCE.—The Corporation may require documentation of compliance with the requirements of subsection (a), but neither the Corporation nor any governmental entity may impose additional requirements upon an eligible institution as a condition of participation in the scholarship program under this subtitle.

SEC. 2927. CIVIL RIGHTS.

(a) IN GENERAL.—An eligible institution participating in the scholarship program under this subtitle shall be deemed to be a recipient of Federal financial assistance for the purposes of the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

(b) REVOCATION.—Notwithstanding section 2926(b), if the Secretary of Education determines that an eligible institution participating in the scholarship program under this subtitle is in violation of any of the laws listed in subsection (a), then the Corporation shall revoke such eligible institution's certification to participate in the program.

SEC. 2928. CHILDREN WITH DISABILITIES.

(a) IN GENERAL.—Nothing in this subtitle shall affect the rights of students or the obligations of the District of Columbia public schools under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(b) PRIVATE OR INDEPENDENT SCHOOL SCHOLARSHIPS.—

(1) DETERMINATION OF ELIGIBLITY FOR SERVICES.—If requested by either a parent of a child with a disability who attends a private or independent school receiving funding under this subtitle or by the private or independent school receiving funding under this subtitle, the Board of Education shall determine the eligibility of such child for services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(2) REQUIREMENTS.—If a child is determined eligible for services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) pursuant to paragraph (1), the Board of Education shall—

(A) develop an individualized education program, as defined in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401), for such child; and

(B) negotiate with the private or independent school to deliver to such child the services described in the individualized education program.

(3) APPEAL.—If the Board of Education determines that a child is not eligible for services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) pursuant to paragraph (1), such child shall retain the right to appeal such determination under such Act as if such child were attending a District of Columbia public school.

SEC. 2929. CONSTRUCTION PROHIBITION.

No funds under this subtitle may be used for construction of facilities.

SEC. 2930. SCHOLARSHIP PAYMENTS.

(a) IN GENERAL.—

(1) PROPORTIONAL PAYMENT.—The Corporation shall make scholarship payments to participating eligible institutions on a schedule established by the Corporation.

(2) PRO RATA AMOUNTS FOR STUDENT WITHDRAWAL.—

(A) BEFORE PAYMENT.—If a student receiving a scholarship withdraws or is expelled from an eligible institution before a scholarship payment is made, the eligible institution shall receive a pro rata payment based on the amount of the scholarship and the number of days the student was enrolled in the eligible institution.

(B) AFTER PAYMENT.—If a student receiving a scholarship withdraws or is expelled after a scholarship payment is made, the eligible institution shall refund to the Corporation on a pro rata basis the proportion of any scholarship payment received for the remaining days of the school year. Such refund shall occur not later than 30 days after the date of the withdrawal or expulsion of the student.

(b) FUND TRANSFERS.—The Corporation shall make scholarship payments to participating eligible institutions by electronic funds transfer. If such an arrangement is not available, then the eligible institution shall submit an alternative payment proposal to the Corporation for approval.

SEC. 2931. APPLICATION SCHEDULE AND PROCEDURES.

The Corporation shall implement a schedule and procedures for processing applications for awarding student scholarships under this subtitle that includes a list of certified eligible institutions, distribution of information to parents and the general public (including through a newspaper of general circulation), and deadlines for steps in the scholarship application and award process.

SEC. 2932. REPORTING REQUIREMENTS.

(a) IN GENERAL.—An eligible institution participating in the scholarship program under this subtitle shall report not later than July 30 of each year in a manner prescribed by the Corporation, the following data:

(1) Student achievement in the eligible institution's programs.

(2) Grade advancement for scholarship students.

(3) Disciplinary actions taken with respect to scholarship students.

(4) Graduation, college admission test scores, and college admission rates, if applicable for scholarship students.

(5) Types and amounts of parental involvement required for all families of scholarship students.

(6) Student attendance for scholarship and nonscholarship students.

(7) General information on curriculum, programs, facilities, credentials of personnel, and disciplinary rules at the eligible institution.

(8) Number of scholarship students enrolled.

(9) Such other information as may be required by the Corporation for program appraisal.

(b) CONFIDENTIALITY.—No personal identifiers may be used in such report, except that the Corporation may request such personal identifiers solely for the purpose of verification.

SEC. 2933. PROGRAM APPRAISAL.

(a) STUDY.—Not later than 4 years after the date of enactment of this Act, the Department of Education shall provide for an independent evaluation of the scholarship program under this subtitle, including—

(1) a comparison of test scores between scholarship students and District of Columbia public school students of similar backgrounds, taking into account the students' academic achievement at the time of the award of their scholarships and the students' family income level;

(2) a comparison of graduation rates between scholarship students and District of Columbia public school students of similar backgrounds, taking into account the students' academic achievement at the time of the award of their scholarships and the students' family income level; and

(3) the satisfaction of parents of scholarship students with the scholarship program.

(b) PUBLIC REVIEW OF DATA.—All data gathered in the course of the study described in subsection (a) shall be made available to the public upon request except that no personal identifiers shall be made public.

(c) REPORT TO CONGRESS.—Not later than September 1 of each year, the Corporation shall submit a progress report on the scholarship program to the appropriate congressional committees. Such report shall include a review of how scholarship funds were expended, including the initial academic achievement levels of students who have participated in the scholarship program.

(d) AUTHORIZATION.—There are authorized to be appropriated for the study described in subsection (a), $250,000, which shall remain available until expended.

SEC. 2934. JUDICIAL REVIEW.

The United States District Court for the District of Columbia shall have jurisdiction over any constitutional challenges to the scholarship program under this subtitle and shall provide expedited review.

And the Senate agree to the same.

JAMES T. WALSH,
HENRY BONILLA,
JACK KINGSTON,
RODNEY P. FRELINGHUYSEN,
MARK W. NEUMANN,
BOB LIVINGSTON,
Managers on the Part of the House.

JIM JEFFORDS,
BEN NIGHTHORSE CAMPBELL,
MARK O. HATFIELD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2546) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1996, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the actions agreed upon by the managers and recommended in the accompanying conference report.

The conference agreement on the District of Columbia Appropriations Act, 1996, incorporates some of the provisions of both the House and Senate versions of the bill. The language and allocations set forth in House Report 104–294 and Senate Report 104–144 are to be complied with unless specifically addressed in the accompanying bill and statement of the managers to the contrary. The conference agreement also includes various technical changes to titles, headings and section numbers.

LIMITATION ON OPERATING EXPENDITURES

The conference agreement includes a limitation on operating expenditures of

$4,994,000,000, instead of $4,867,283,000 as proposed by the House and $5,137,083,000 as proposed by the Senate. The conference agreement is $154,347,000 below the District's August 8, 1995 request of $5,148,347,000. Language under "Personal and Nonpersonal Services Adjustments" requires a net reduction of $150,907,000 in personal and nonpersonal services to meet the limitation on operating expenditures. The language also provides that the reduction is to be made by the District's Chief Financial Officer on behalf of the Mayor in accordance with the direction of the District of Columbia Financial Responsibility and Management Assistance Authority.

CONGRESSIONAL CONCERNS REFERRED TO THE AUTHORITY

House Report 104-294 identified 28 items of congressional concern which were referred to the District of Columbia Financial Responsibility and Management Assistance Authority. The conferees request the Authority to resolve those items at the local level and to report to the House and Senate Committees on Appropriations by April 1, 1996 instead of March 1, 1996 as required in the House report, concerning the disposition of those that have been resolved and recommendations to resolve the others. The conferees recognize that between the present and March 1, 1996 the members and staff of the Authority will be focused on fulfilling one of the requirements of title II of the District of Columbia Financial Responsibility and Management Assistance Act pertaining to the consideration and approval of the fiscal year 1997 financial plan and budget. However, the conferees recognize too that an important part of title II, specifically section 222, addresses the need to improve the management and delivery of services of the District government. The conferees believe that both the financial and management problems of the District government must be addressed together as the Authority conducts its work. According to information from the General Accounting Office, a common action taken in cities in financial trouble was an improvement in city management. The conferees believe that the Authority should give equal attention to this area as it does to the financial area in working to remedy the fiscal problems of the District.

CONGRESSIONAL SUPPORT OF THE AUTHORITY

The conferees fully support the Financial Management Authority and its actions and are confident that the Authority will take appropriate actions in the future that are necessary to restore financial stability to the District of Columbia. The financial difficulties encountered by the District government are grave, but by no means insurmountable. The conferees recognize the leadership demonstrated by the Financial Management Authority in challenging the status quo to bring about a profound change in the District's direction which was headed toward financial insolvency and is now being redirected toward financial stability. The conferees are pleased with the actions taken by the Authority and its staff and recognize that even more difficult and unpopular decisions lie ahead. Those decisions, which now rest with the Authority, have been avoided for far too long and have led to disastrous consequences. The conferees recognize the difficulty and strongly support the Authority and its staff in their actions.

CHILDREN'S NATIONAL MEDICAL CENTER

The conferees strongly support the work of Children's National Medical Center's Community Pediatric Health Centers (CPHC) which bring primary health care services to approximately 7,000 low income, high risk children annually in the Shaw and Adams Morgan neighborhoods.

For twenty-eight years, the Community Pediatric Health Centers have contributed services to an underserved population, some of which are third generation clients. This program has succeeded in significantly reducing hospitalization rates and the impact of childhood diseases by providing early intervention and comprehensive primary care and preventive health care services at a cost-savings to the District government in fiscal year 1995 of approximately $146,000 based on 15,000 visits. Only 1 percent of CPHC patients have been hospitalized, and they have a 98 percent immunization rate by age two.

The conferees are aware that the District government has canceled its health services contracts with the Community Pediatric Health Centers effective March 1995. The contract included a subsidy of $18.77 per visit which totaled $262,000 annually. According to information supplied to the conferees, this subsidy, which was made available primarily to the uninsured who have no alternative source for funding, was only a portion of the total direct per visit cost of providing care to these children and has not increased in a decade. The conferees are informed that Children's National Medical Center has used its own operating revenues to subsidize the clinics for years, but the District's actions have threatened the viability of the clinics by doubling their annual operating deficit to $700,000.

It appears that Children's National Medical Center will be forced to close or severely reduce services provided at the clinics unless immediate funding requirements are met to sustain operations. The conferees are concerned about the financial impact to the District government if the closure of these clinics occurs. The conferees therefore expect District officials to immediately reassess their priorities and evaluate the potential additional costs to the District government should these patients be forced to seek alternative medical care, including hospitalization. This reassessment must be reflected in the budget and financial plan for fiscal years 1996 and 1997 submitted to the Financial Management Authority on February 1, 1996.

YCARE 2000 PRIVATE-PUBLIC PARTNERSHIP

The conferees fully support the YCARE 2000 program sponsored by the YMCA of Metropolitan Washington. The program provides work-readiness, conflict resolution training, tutoring, socialization and other skills to at-risk District youth who are in the age range of 5 to 18 years old. The conferees believe that YCARE 2000 is an example of an efficient and well-managed private-public partnership which can provide social services to improve the lives and futures of the city's young people. The conferees note that the Council of the District of Columbia has formally recognized the achievements of the YCARE 2000 initiative in a July 11, 1995 resolution.

In order to provide and facilitate private-public partnerships such as YCARE 2000, the conferees request that the Mayor consult with representatives of private, not-for-profit community organizations with demonstrated experience and expertise in providing services to children and youth in the District and, to the extent financial constraints permit, make funds available to such groups on the condition that the groups themselves provide equal matching amounts.

DISTRICT OF COLUMBIA APPROPRIATIONS

Senate Amendment: The Senate deleted the entire House bill after the enacting clause and inserted the text of the Senate passed bill (S. 1244). The conference agreement includes a revised bill consisting of titles I and II.

A comparative summary showing amounts appropriated by title starting with the fiscal year 1995 approved budget to the fiscal year 1996 recommended level is included at the end of this joint statement.

TITLE I—FISCAL YEAR 1996 APPROPRIATIONS

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

The conference action inserts a title and fiscal year heading to separate appropriations matter from education reform legislation relative to the District of Columbia public schools which is in Title II. The conference action also appropriates a Federal payment of $660,000,000 as proposed by the House and the Senate.

FEDERAL CONTRIBUTION TO RETIREMENT FUNDS

The conference action appropriates $52,070,000 instead of $52,000,000 as proposed by the House and the Senate. The increase of $70,000 above the House and Senate allowances reflects the amount authorized as well as the amount requested by the District government.

FEDERAL CONTRIBUTION FOR EDUCATION REFORM

The conference action appropriates $14,930,000 for Education Reform for the District of Columbia Public Schools and requires that the amount be placed in an escrow account of the District of Columbia Financial Responsibility and Management Assistance Authority and disbursed by the Authority in accordance with title II of this Act. Language is included in the bill prohibiting the use of these funds for any indirect cost charges by the D.C. Board of Education, the D.C. public school system, or the District government. A detailed explanation on the use of these funds is included in title II of this joint statement. A listing of the allocation follows:

$200,000 for charter schools;

$300,000 for the Public Charter School Board;

$2,000,000 for Even Start programs;

$500,000 for the Federal General Services Administration for engineering plans relative to D.C. public school facilities;

$100,000 to develop plans for a residential school;

$702,000 for the District Education and Learning Technologies Advancement Council which is part of the Partnerships With Business program;

$1,404,000 for the District Employment and Learning Center within the Partnerships With Business program;

$1,000,000 for a professional development program for teachers and administrators which is also within the Partnerships With Business program;

$1,404,000 for Jobs for D.C. Graduates within the Partnerships With Business program;

$70,000 for the Everybody Wins program;

$100,000 for the Fit Kids program;

$250,000 for the operations of the Consensus Commission on Public School Reform; and

$5,000,000 for low-income scholarships.

GOVERNMENTAL DIRECTION AND SUPPORT

The conference action appropriates $149,130,000 and 1,498 full-time equivalent positions including $117,464,000 and 1,158 full-

time equivalent positions from local funds, $2,464,000 and 5 full-time equivalent positions from Federal funds, $4,474,000 and 71 full-time equivalent positions from other funds, and $24,728,000 and 264 full-time equivalent positions from intra-District funds instead of $149,793,000 and 1,465 full-time equivalent positions including $118,167,000 and 1,125 full-time equivalent positions from local funds, $2,464,000 and 5 full-time equivalent positions from Federal funds, $4,474,000 and 71 full-time equivalent positions from other funds, and $24,688,000 and 264 full-time equivalent positions from intra-District funds as proposed by the House and $150,721,000 and 1,465 full-time equivalent positions as proposed by the Senate. The Senate did not allocate the appropriation and full-time equivalent positions by source of funding.

The net decrease of $1,591,000 below the Senate allowance consists of an increase of $889,000 for the Board of Elections and Ethics and a reduction of $2,480,000 associated with the decrease of 160 full-time equivalent positions recommended by the Financial Management Authority as adjusted to reflect the restoration of 5 full-time equivalent positions for the operation of the Contract Appeals Board.

The conferees have included $3,015,000 and 63 full-time equivalent positions for the Board of Elections and Ethics instead of $2,606,000 and 35 full-time equivalent positions as recommended by the Financial Management Authority and proposed by the House and $2,126,000 and 35 full-time equivalent positions as requested by the District government and proposed by the Senate. The increase of $889,000 and 28 full-time equivalent positions above the Senate allowance will provide the funds and positions necessary to conduct the District's two primary elections in fiscal year 1996. This increase is based on correspondence from the Chairman of the Council of the District of Columbia and officials of the Board of Elections and Ethics.

The conference agreement provides $511,000 and 5 full-time equivalent positions for the Contract Appeals Board as requested in the District's revised budget dated August 8, 1995.

The conference action prohibits the use of revenues from Federal sources to support the operations or activities of the Statehood Commission and Statehood Compact Commission and requires the District to identify the sources of funding for Admission to Statehood from its own locally-generated revenues as proposed by the Senate. The House bill had no similar provision.

Capital needs study and new FMS.—The conference agreement provides $29,500,000 for pay-as-you-go capital projects of which $1,500,000 is for a capital needs assessment study and $28,000,000 is for the possible purchase of a new financial management system that would serve all District agencies including those that are considered independent such as the Board of Education and the Courts as proposed by the House and the Senate. The conference action also provides that $2,000,000 of the $28,000,000 shall be made available immediately for the first two phases of the project and that the remaining $26,000,000 be made available after the evaluation and assessment resulting from phases one and two have been reviewed during a 30-day Congressional layover. The House proposal required that the Financial Management Authority submit a report to the General Accounting Office within 90 days after the date of enactment of this Act for a 60-day review period to be followed by a 30-day Congressional layover. The Senate proposal required the Financial Management Authority to give prior approval to the work plan and procurement documents for necessary hardware and software before commencing work on phase 3, as described in the Authority's report dated August 15, 1995.

The conferees note that the present FMS was designed and installed as a state-of-the-art system 15 years ago at which time it was estimated to cost $16,000,000. However, because of various matters that were overlooked or not thoroughly evaluated the cost of the system more than doubled to $38,000,000. The conferees also note that the General Accounting Office reported on June 21, 1995 that: "* * * Millions of dollars of bills are not entered into the Financial Management System until months and sometimes years after they are paid.". The conferees expect such problems to be addressed and corrected as part of the phased approach to evaluate the present system's capabilities.

The conferees expect the evaluation and assessment report to specify the deficiencies in the present financial management system and to recommend improvements to the present system as well as options other than purchasing a new financial management system. To provide the best cost estimates possible and to insure the proper identification of the problems with the present FMS as well as to avoid any delays in installing a new FMS, should one be needed, the General Accounting Office is requested to review and monitor the assessment process closely as it is being performed so that a thorough and completely objective and competent assessment is provided to the Congress.

The following summary shows the allocation of the Governmental Direction and Support appropriation by agency from the fiscal year 1995 approved budget to the fiscal year 1996 conference approved level:

GOVERNMENTAL DIRECTION AND SUPPORT

Agency/Activity	Fiscal year 1995 approved	Budget estimates, fiscal year 1996	Revised request fiscal year 1996	Authority recommended fiscal year 1996	House recommendation	Senate recommendation	Conference allowance [1]
Council of the District of Columbia	$8,848,000	$8,380,000	$8,380,000	$8,284,000	$8,284,000	$8,380,000	$8,380,000
Office of the District of Columbia Auditor	1,029,000	1,057,000	961,000	961,000	961,000	961,000	961,000
Advisory Neighborhood Commissions	1,196,000	572,000	572,000	572,000	572,000	572,000	572,000
Office of the Mayor	1,552,000	1,753,000	1,753,000	1,753,000	1,753,000	1,753,000	1,753,000
Office of the Secretary	2,380,000	2,721,000	2,497,000	2,529,000	2,529,000	2,497,000	2,497,000
Office of Inspector General	1,283,000	792,000	728,000	760,000	760,000	728,000	728,000
Office of Communications	339,000	300,000	300,000	284,000	284,000	300,000	300,000
Office of Intergovernmental Relations	1,528,000	1,831,000	1,735,000	1,623,000	1,623,000	1,735,000	1,735,000
Office of City Administrator/Deputy Mayor of Operations	10,509,000	2,776,000	4,776,000	4,680,000	4,680,000	4,776,000	4,776,000
Office of Personnel	0	12,217,000	11,828,000	11,716,000	11,716,000	11,828,000	11,220,000
Department of Administrative Services	40,720,000	29,621,000	39,496,000	38,496,000	38,496,000	39,168,000	38,288,000
Contract Appeals Board	647,000	607,000	511,000	479,000	479,000	511,000	511,000
Office of the Deputy Mayor for Finance	318,000	320,000	320,000	320,000	320,000	320,000	320,000
Office of the Budget	2,645,000	2,606,000	4,042,000	3,946,000	3,946,000	4,042,000	4,010,000
Office of Financial Management	15,146,000	23,417,000	43,329,000	43,377,000	43,377,000	43,329,000	43,009,000
Department of Finance and Revenue	21,218,000	25,143,000	21,535,000	21,487,000	21,487,000	21,535,000	21,183,000
Board of Elections and Ethics	2,612,000	3,086,000	2,126,000	2,606,000	2,606,000	2,126,000	3,015,000
Office of Campaign Finance	1,018,000	997,000	933,000	805,000	805,000	933,000	773,000
Public Employee Relations Board	502,000	486,000	486,000	470,000	470,000	486,000	470,000
Office of Employee Appeals	1,741,000	1,509,000	1,477,000	1,429,000	1,429,000	1,477,000	1,413,000
D.C. Retirement Board	12,432,000	0	0	0	0	0	0
Metreopolitan Washington Council of Governments	400,000	400,000	400,000	400,000	400,000	400,000	400,000
Statehood Commission	150,000	0	0	0	0	0	0
Office of Grants Management and Development	2,864,000	2,864,000	2,864,000	2,816,000	2,816,000	2,864,000	2,816,000
Total, Government Direction and Support	131,077,000	123,455,000	150,721,000	149,793,000	149,793,000	150,721,000	149,130,000

[1] Does not reflect allocation of Personal and Nonpersonal Services Adjustment of −$150,907,000 to be made by Mayor under the direction of the District of Columbia Financial Responsibility and Management Assistance Authority.

ECONOMIC DEVELOPMENT AND REGULATION

The conference action appropriates $140,983,000 and 1,692 full-time equivalent positions, including $68,203,000 and 698 full-time equivalent positions from local funds, $38,792,000 and 509 full-time equivalent positions from Federal funds, $17,658,000 and 258 full-time equivalent positions from other funds, and $16,330,000 and 227 full-time equivalent positions from intra-District funds instead of $139,285,000 and 1,692 full-time equivalent positions including $66,505,000 and 696 full-time equivalent positions from local funds, $38,792,000 and 509 full-time equivalent positions from Federal funds, $17,658,000 and 260 full-time equivalent positions from other funds, and $16,330,000 and 227 full-time equivalent positions from intra-District funds as proposed by the House and $142,711,000 and 1,692 full-time equivalent positions as proposed by the Senate. The Senate did not allocate the appropriation and full-time equivalent positions by source of funding.

The decrease below the Senate allowance reflects a reduction of $1,728,000 associated with the decrease of 108 full-time equivalent positions as recommended by the Financial Management Authority.

The following summary shows the allocation of the Economic Development and Regulation appropriation by agency from the fiscal year 1995 approved budget to the fiscal year 1996 conference approved level:

ECONOMIC DEVELOPMENT AND REGULATION

Agency/Activity	Fiscal year 1995 approved	Budget estimates, fiscal year 1996	Revised request fiscal year 1996	Authority recommended fiscal year 1996	House recommendation	Senate recommendation	Conference allowance[1]
Assistant City Administrator for Economic Development	$4,531,000	$4,039,000	$4,039,000	$3,847,000	$3,847,000	$4,039,000	$3,943,000
Office of Banking and Financial Institutions	627,000	296,000	296,000	296,000	296,000	296,000	296,000
Office of Tourism and Promotion	463,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000
Office of Planning	3,116,000	2,019,000	2,019,000	1,955,000	1,955,000	2,019,000	1,955,000
Office of Zoning	611,000	653,000	589,000	523,000	523,000	589,000	541,000
Department of Housing and Community Development	17,154,000	16,196,000	16,036,000	15,508,000	15,508,000	16,036,000	15,988,000
Department of Public and Assisted Housing	76,573,000	73,176,000	8,500,000	8,420,000	8,420,000	8,500,000	8,420,000
Department of Employment Services	.....	65,909,000	64,821,000	63,397,000	63,397,000	64,821,000	63,925,000
Board of Appeals and Review	130,000	147,000	147,000	131,000	131,000	147,000	131,000
Board of Real Property Assessments and Appeals	453,000	386,000	370,000	338,000	338,000	370,000	338,000
Department of Consumer and Regulatory Affairs	37,149,000	36,701,000	36,797,000	36,285,000	36,285,000	36,797,000	36,349,000
Public Service Commission	6,192,000	5,600,000	5,600,000	6,080,000	6,080,000	5,600,000	5,600,000
Office of the People's Counsel	2,859,000	2,497,000	2,497,000	1,505,000	1,505,000	2,497,000	2,497,000
Total, Economic Development and Regulation	149,858,000	208,619,000	142,711,000	139,285,000	139,285,000	142,711,000	140,983,000

[1] Does not reflect allocation of Personal and Nonpersonal Services Adjustment of −$150,907,000 to be made by Mayor under the direction of the District of Columbia Financial Responsibility and Management Assistance Authority.

PUBLIC SAFETY AND JUSTICE

The conference action appropriates $963,848,000 and 11,544 full-time equivalent positions, including $940,631,000 and 11,365 full-time equivalent positions from local funds, $8,942,000 and 70 full-time equivalent positions from Federal funds, $5,160,000 and 4 full-time equivalent positions from other funds, and $9,115,000 and 105 full-time equivalent positions from intra-District funds instead of $954,106,000 and 11,544 full-time equivalent positions including $930,889,000 and 11,365 full-time equivalent positions from local funds, $8,942,000 and 70 full-time equivalent positions from Federal funds, $5,160,000 and 4 full-time equivalent positions from other funds, and $9,115,000 and 105 full-time equivalent positions from intra-District funds as proposed by the House and $960,747,000 and 11,544 full-time equivalent positions as proposed by the Senate. The Senate did not allocate the appropriation and full-time equivalent positions by source of funding.

The net increase of $3,101,000 above the Senate allowance reflects an increase of $3,325,000 for the Police and Firefighters Retirement Fund and a reduction of $224,000 associated with the decrease of 14 full-time equivalent positions recommended by the Financial Management Authority.

The conference action provides $220,000,000 for the Police and Firefighters Retirement Fund instead of $216,908,000 as proposed by the House and $216,675,000 as proposed by the Senate. The House allowance is based on the recommendations of the Financial Management Authority and the Senate allowance is based on the District's revised budget request. The conference allowance of $220,000,000 is based on the certification of the D.C. Retirement Board as required by section 142(c)(2) of the D.C. Retirement Reform Act (Public Law 96–122, approved November 17, 1979; 93 Stat. 880). District officials failed to include the statutorily required amount in their budget request.

The conference action allocates funds under the Metropolitan Police Department for the Georgetown Summer Detail ($250,000), East of the River Detail ($200,000), Adams Morgan detail ($100,000), and the Capitol Hill Summer Detail ($100,000) as proposed by the Senate.

The conferees did not approve bill language proposed by the Senate that would have limited the number of inmates housed in District operated or contracted community correctional centers to no more than 1,000 on any given date.

The following summary shows the allocation of the Public Safety and Justice appropriation by agency from the fiscal year 1995 approved budget to the fiscal year 1996 conference approved level:

PUBLIC SAFETY AND JUSTICE

Agency/Activity	Fiscal year 1995 approved	Budget estimates, fiscal year 1996	Revised request fiscal year 1996	Authority recommended fiscal year 1996	House recommendation	Senate recommendation	Conference allowance[1]
Metropolitan Police Department	$231,168,000	$246,357,000	$245,717,000	$246,011,000	$246,011,000	$245,717,000	$245,717,000
Fire and Emergency Medical Services Department	73,149,000	87,292,000	87,292,000	86,860,000	86,860,000	87,292,000	87,292,000
Police and Fire Retirement System	204,900,000	216,675,000	216,675,000	216,908,000	216,908,000	216,675,000	220,000,000
Judges' Retirement System	5,100,000	4,700,000	4,700,000	4,700,000	4,700,000	4,700,000	4,700,000
Court of Appeals	6,041,000	6,390,000	5,974,000	6,182,000	6,182,000	5,974,000	5,974,000
Superior Court	78,095,000	82,135,000	80,919,000	80,372,000	80,327,000	80,919,000	80,919,000
Court System	33,383,000	35,285,000	34,677,000	34,981,000	34,981,000	34,677,000	34,677,000
Office of the Corporation Counsel	17,434,000	18,266,000	16,954,000	17,610,000	17,610,000	16,954,000	16,954,000
Settlements and Judgments	11,000,000	14,800,000	14,800,000	14,800,000	14,800,000	14,800,000	14,800,000
Public Defender Service	7,315,000	7,702,000	7,702,000	0	0	7,702,000	7,702,000
Pretrial Services Agency	4,658,000	4,759,000	4,407,000	4,599,000	4,599,000	4,407,000	4,407,000
Department of Corrections	219,793,000	233,518,000	232,302,000	232,628,000	232,628,000	232,302,000	232,302,000
Board of Parole	5,458,000	5,386,000	5,322,000	5,370,000	5,370,000	5,322,000	5,322,000
National Guard	1,056,000	1,030,000	902,000	742,000	742,000	902,000	678,000
Office of Emergency Preparedness	2,563,000	2,226,000	2,194,000	2,178,000	2,178,000	2,194,000	2,194,000
Commission on Judicial Disabilities and Tenure	127,000	130,000	130,000	130,000	130,000	130,000	130,000
Judicial Nomination Commission	89,000	80,000	80,000	80,000	80,000	80,000	80,000
Civilian Complaint Review Board	1,173,000	0	0	0	0	0	0
Total, Public Safety and Justice	902,466,000	966,731,000	960,747,000	954,106,000	954,106,000	960,747,000	963,848,000

[1] Does not reflect allocation of Personal and Nonpersonal Services Adjustment of −$150,907,000 to be made by Mayor under the direction of the District of Columbia Financial Responsibility and Management Assistance Authority.

PUBLIC EDUCATION SYSTEM

The conference action appropriates $795,201,000 and 11,670 full-time equivalent positions, (including $676,251,000 and 9,996 full-time equivalent positions from local funds, $87,385,000 and 1,227 full-time equivalent positions from Federal funds, $21,719,000 and 234 full-time equivalent positions from other funds, and $9,846,000 and 213 full-time equivalent positions from intra-District funds instead of $788,983,000 and 11,670 full-time equivalent positions including $670,833,000 and 9,996 full-time equivalent positions from local funds, $87,385,000 and 1,227 full-time equivalent positions from Federal funds, $21,719,000 and 234 full-time equivalent positions from other funds, and $9,046,000 and 213 full-time equivalent positions from intra-District funds as proposed by the House and $800,080,000 and 11,670 full-time equivalent positions as proposed by the Senate. The Senate did not allocate the appropriation and full-time equivalent positions by source of funding.

The net decrease of $4,879,000 below the Senate allowance consists of an increase of $2,625,000 for the Teachers' Retirement System and a decrease of $7,504,000 associated with the reduction of 469 full-time equivalent positions recommended by the Financial Management Authority.

The conference action also allocates to the public schools of the District of Columbia $580,996,000 and 10,167 full-time equivalent positions including $498,310,000 and 9,014 full-time equivalent positions from local funds, $75,786,000 and 1,058 full-time equivalent positions from Federal funds, $4,343,000 and 44 full-time equivalent positions from other funds, and $2,557,000 and 51 full-time equivalent positions from intra-District funds instead of $577,242,000 and 10,167 full-time equivalent positions including $494,556,000 and 9,014 full-time equivalent positions from local funds, $75,786,000 and 1,058 full-time equivalent positions from Federal funds, $4,343,000 and 44 full-time equivalent positions from other funds, and $2,557,000 and 51 full-time equivalent positions from intra-District funds as proposed by the House and $585,956,000 and 10,167 full-time equivalent positions as proposed by the Senate. The Senate did not allocate the appropriation and full-time equivalent positions by source of funding.

The conference action provides an additional $14,930,000 in Federal funds appropriated under title I for the District's public schools for Education Reform which are explained in title II of this joint statement.

The conferees urge that as resources permit, every effort be made by District officials to provide funds to support improvements to the Bell Multicultural High School building facility and its academic programs.

The conference action allocates $111,800,000 including $111,000,000 from local funds and $800,000 from intra-District funds for the Teachers' Retirement Fund instead of $109,175,000 allocated by the House and the Senate. The conference allowance of $111,800,000 is based on the certification of the D.C. Retirement Board to the Mayor and Council as required by the D.C. Retirement Reform Act (Public Law 96–122, approved November 17, 1979). District officials failed to include the statutorily required amount in their budget request.

The conference action allocates to the University of the District of Columbia $79,396,000 and 1,079 full-time equivalent positions including $45,377,000 and 572 full-time equivalent positions from local funds, $10,611,000 and 156 full-time equivalent positions from Federal funds, $16,922,000 and 189 full-time equivalent positions from other funds, and $6,486,000 and 162 full-time equivalent positions from intra-District funds instead of $79,269,000 and 1,079 full-time equivalent positions including $45,250,000 and 572 full-time equivalent positions from local funds, $10,611,000 and 156 full-time equivalent positions from Federal funds, $16,922,000 and 189 full-time equivalent positions from other funds, and $6,486,000 and 162 full-time equivalent positions from intra-District funds as proposed by the House and $81,940,000 and 1,079 full-time equivalent positions as proposed by the Senate. The Senate did not allocate the appropriation and full-time equivalent positions by source of funding.

The decrease of $2,544,000 below the Senate allowance reflects the amount associated with the decrease of 159 full-time equivalent positions recommended by the Financial Management Authority.

The conference action allocates to the Public Library $20,742,000 and 415 full-time equivalent positions including $19,839,000 and 408 full-time equivalent positions from local funds, $446,000 and 6 full-time equivalent positions from Federal funds, $454,000 and 1 full-time equivalent positions from other funds, and $3,000 from intra-District funds instead of $21,062,000 and 415 full-time equivalent positions including $20,159,000 and 408 full-time equivalent positions from local funds, $446,000 and 6 full-time equivalent positions from Federal funds, $454,000 and 1 full-time equivalent positions from other funds, and $3,000 from intra-District funds as proposed by the House and $20,742,000 and 415 full-time equivalent positions as proposed by the Senate. The Senate did not allocate the appropriation and full-time equivalent positions by source of funding.

The conference action allocates to the Commission on the Arts and Humanities $2,267,000 and 9 full-time equivalent positions as proposed by the House and the Senate including $1,725,000 and 2 full-time equivalent positions from local funds and $542,000 and 7 full-time equivalent positions from Federal funds as proposed by the House. The Senate did not allocate the appropriation and full-time equivalent positions by source of funding.

The conference action deletes the allocation of $64,000 from local funds for the District of Columbia School of Law and the reduction of $96,000 for the Education Licensure Commission proposed by the House based on the recommendation of the Financial Management Authority and stricken by the Senate.

The following summary shows the allocation of the Public Education System appropriation by agency from the fiscal year 1995 approved budget to the fiscal year 1996 conference approved level:

PUBLIC EDUCATION SYSTEM

Agency/Activity	Fiscal year 1995 approved	Budget estimates, fiscal year 1996	Revised request fiscal year 1996	Authority recommended fiscal year 1996	House recommendation	Senate recommendation	Conference allowance [1]
Board of Education (Public Schools)	$621,100,000	$585,956,000	$585,956,000	$577,242,000	$577,242,000	$585,956,000	$580,996,000
Teachers' Retirement System	87,100,000	109,175,000	109,175,000	109,175,000	109,175,000	109,175,000	111,800,000
University of the District of Columbia	89,768,000	84,820,000	81,940,000	79,269,000	79,269,000	81,940,000	79,396,000
D.C. School of Law	8,288,000	0	0	64,000	64,000	0	0
Educational Licensure Commission	0	320,000	0	(96,000)	(96,000)	0	0
Public Library	22,213,000	21,382,000	20,742,000	21,062,000	21,062,000	20,742,000	20,742,000
Commission on the Arts and Humanities	3,834,000	2,267,000	2,267,000	2,267,000	2,267,000	2,267,000	2,267,000
Total, Public Education System	832,303,000	803,920,000	800,080,000	788,983,000	788,983,000	800,080,000	795,201,000

[1] Does not reflect allocation of Personal and Nonpersonal Services Adjustment of −$150,907,000 to be made by Mayor under the direction of the District of Columbia Financial Responsibility and Management Assistance Authority.

EDUCATION REFORM

The conference action provides $14,930,000 for Education Reform as authorized under title II of this Act. An explanation of the programs involved is included under title II of this joint statement.

HUMAN SUPPORT SERVICES

The conference action appropriates $1,855,014,000 and 6,469 full-time equivalent positions, including $1,076,856,000 and 3,650 full-time equivalent positions from local funds, $726,685,000 and 2,639 full-time equivalent positions from Federal funds, $46,799,000 and 66 full-time equivalent positions from other funds, and $4,674,000 and 114 full-time equivalent positions from intra-District funds instead of $1,845,638,000 and 6,469 full-time equivalent positions including $1,067,516,000 and 3,650 full-time equivalent positions from local funds, $726,685,000 and 2,639 full-time equivalent positions from Federal funds, $46,763,000 and 66 full-time equivalent positions from other funds, and $4,674,000 and 114 full-time equivalent positions from intra-District funds as proposed by the House and $1,859,622,000 and 6,469 full-time equivalent positions as proposed by the Senate. The Senate did not allocate the appropriation and full-time equivalent positions by source of funding.

The decrease of $4,608,000 below the Senate allowance reflects the amount associated with the decrease of 288 full-time equivalent positions as recommended by the Financial Management Authority.

LaShawn General Receivership.—On August 23, 1995, the United States District Court for the District of Columbia issued an order in the matter of *LaShawn A.* v. *Barry*. The court appointed a General Receiver for the District of Columbia child welfare system, including responsibility for programs located in several District agencies, and directed the Receiver to propose a comprehensive annual budget for fiscal year 1996 to the Court and to the District of Columbia Financial Responsibility and Management Assistance Authority. The order further directed the "creation of an independent budget function" and "independent fiduciary mechanism for receipt and disbursement of funds to operate the child welfare system." On November 27, 1995, the Receiver submitted a proposed budget to the Court and the Financial Management Authority in the amount of $130,569,925.

Unlike the receiver controlling the District's public housing program, the LaShawn receiver is responsible for programs and functions that cut across departmental lines. The judge's order identifies child welfare functions in the Department of Human Services, the Department of Administrative Services, the District of Columbia Office of Personnel, and the Department of Consumer and Regulatory Affairs.

As with all court orders, and particularly court-appointed receivers, the LaShawn Receivership reduces the District's ability to set budgets based on local priorities. It also makes the job that Congress has charged the Financial Management Authority with carrying out more difficult. It is that relationship between the receiver and the Financial Management Authority that is potentially most troublesome. Certainly, the conferees agree that the children in the District's foster care program as well as other elements of the child welfare system should be cared for adequately and appropriately. The conferees hope that the receivership and the Financial Management Authority will work together to ensure that adequate resources are available.

Human Support Services Appropriation.—The following summary shows the allocation of the Human Support Services appropriation by agency from the fiscal year 1995 approved budget to the fiscal year 1996 conference approved level:

HUMAN SUPPORT SERVICES

Agency/Activity	Fiscal year 1995 approved	Budget estimates, fiscal year 1996	Revised request, fiscal year 1996	Authority recommended, fiscal year 1996	House recommendation	Senate recommendation	Conference allowance [1]
Department of Human Services	$1,404,633,000	$1,718,211,000	$1,709,827,000	$1,694,979,000	$1,694,979,000	$1,709,827,000	$1,705,427,000

HUMAN SUPPORT SERVICES—Continued

Agency/Activity	Fiscal year 1995 approved	Budget estimates, fiscal year 1996	Revised request, fiscal year 1996	Authority recommended, fiscal year 1996	House recommendation	Senate recommendation	Conference allowance [1]
Department of Recreation and Parks	30,635,000	35,877,000	31,653,000	32,613,000	32,613,000	31,653,000	31,653,000
Office on Aging	19,082,000	19,089,000	19,025,000	19,009,000	19,009,000	19,025,000	19,009,000
D.C. General Hospital Payment	46,735,000	56,735,000	56,735,000	56,735,000	56,735,000	56,735,000	56,735,000
Unemployment Compensation Fund	7,944,000	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000
Disability Compensation Fund	20,800,000	26,000,000	26,000,000	26,000,000	26,000,000	26,000,000	26,000,000
Department of Human Rights and Minority Business Development	1,796,000	1,621,000	1,301,000	1,429,000	1,429,000	1,301,000	1,301,000
Office on Latino Affairs	1,128,000	657,000	657,000	657,000	657,000	657,000	657,000
Commission for Women	282,000	20,000	20,000	20,000	20,000	20,000	20,000
Energy Office	9,613,000	4,404,000	4,404,000	4,196,000	4,196,000	4,404,000	4,212,000
Total, Human Support Services	1,542,648,000	1,872,614,000	1,859,622,000	1,845,638,000	1,845,638,000	1,859,622,000	1,855,014,000

[1] Does not reflect allocation of Personal and Nonpersonal Services Adjustment of −$150,907,000 to be made by Mayor under the direction of the District of Columbia Financial Responsibility and Management Assistance Authority.

PUBLIC WORKS

The conference action appropriates $297,568,000 and 1,914 full-time equivalent positions as proposed by the House and the Senate including $225,915,000 and 1,158 full-time equivalent positions from local funds, $2,682,000 and 32 full-time equivalent positions from Federal funds, $18,342,000 and 68 full-time equivalent positions from other funds, and $50,629,000 and 656 full-time equivalent positions from intra-District funds instead of $297,326,000 and 1,914 full-time equivalent positions including $225,673,000 and 1,158 full-time equivalent positions from local funds, $2,682,000 and 32 full-time equivalent positions from Federal funds, $18,342,000 and 68 full-time equivalent positions from other funds, and $50,629,000 and 656 full-time equivalent positions from intra-District funds as proposed by the House. The Senate did not allocate the appropriation and full-time equivalent positions by source of funding.

D.C. Canine Facility.—The Metropolitan Police Department has had a long-standing need to construct a modernized canine training facility at a location near D.C. Village. The design plan has been finalized, requests for proposal have been issued, construction proposals have been received, and the project is ready to commence but awaits the necessary funds. The funding for this project is available from the Washington Metropolitan Area Transit Authority as a result of earlier agreements but is being withheld until payment by DPW of certain highway trust funds owed to WMATA. The canine program is an integral component of the entire public safety program in the District and the availability of these funds represents an opportunity that should not be ignored. The conferees direct the Department of Public Works and other appropriate authorities to work out the transfer of these funds between DPW and WMATA and expedite this project as quickly as possible. The conferees further direct DPW and WMATA to submit a report on the first of each month to the House and Senate Committees on Appropriations on their efforts to begin the construction of this facility. These reports are to be submitted until a construction contract has been signed with periodic reports thereafter on the status of construction and completion dates.

Washington Metropolitan Area Transit Authority.—The conference action provides $130,899,000 as proposed by the House and the Senate for the District's share of the operating expenses and debt service for Metrorail and Metrobus operations. The conferees expect the District to meet its obligations to the Washington Metropolitan Area Transit Authority on time and in full. The District's obligation to make payments to WMATA is determined through regional agreements and service levels in place and is not discretionary in nature. The conferees strongly urge the District to uphold its regional commitments to avoid the associated adverse impacts for other jurisdictions in the region. Further, the conferees fear that any level of funding below that recommended could jeopardize those regional agreements and result in significant service curtailments in the District, thus impeding the ability of residents to access employment opportunities throughout the region.

A discussion of the D.C. Canine Facility precedes the above paragraph and is called to the attention of WMATA officials. The conferees urge WMATA and DPW officials to expedite the transfer of the necessary funds and to submit monthly reports on their progress until a construction contract is signed, as required above.

Public Works Appropriation.—The following summary shows the allocation of the Public Works appropriation by agency from the fiscal year 1995 approved budget to the fiscal year 1996 conference approved level:

PUBLIC WORKS

Agency/Activity	Fiscal year 1995 approved	Budget estimates, fiscal year 1996	Revised request fiscal year 1996	Authority recommended fiscal year 1996	House recommendation	Senate recommendation	Conference allowance [1]
Department of Public Works	$156,348,000	$164,848,000	$161,227,000	$160,985,000	$160,985,000	$161,227,000	$161,227,000
Pay-as-you-go	0	0	0	288,000	288,000	0	0
Taxicab Commission	1,787,000	1,661,000	1,501,000	1,213,000	1,213,000	1,501,000	1,501,000
Washington Metropolitan Area Transit Commission	96,000	96,000	96,000	96,000	96,000	96,000	96,000
Washington Metropolitan Area Transit Authority (Metro)	117,051,000	126,899,000	130,899,000	130,899,000	130,899,000	130,899,000	130,899,000
School transit subsidy	4,345,000	3,845,000	3,845,000	3,845,000	3,845,000	3,845,000	3,845,000
Total, Public Works	279,627,000	297,349,000	297,568,000	297,326,000	297,326,000	297,568,000	297,568,000

[1] Does not reflect allocation of personal and nonpersonal services adjustment of −$150,907,000 to be made by Mayor under the direction of the District of Columbia Financial Responsibility and Management Assistance Authority.

WASHINGTON CONVENTION CENTER FUND TRANSFER PAYMENT

The conference action revises the heading as proposed by the Senate and appropriates $5,400,000 as proposed by the House and the Senate from local funds as proposed by the House. The Senate did not allocate the appropriation by source of funding.

REPAYMENT OF LOANS AND INTEREST

The conference action appropriates $327,787,000 from local funds as proposed by the House instead of $257,787,000 as proposed by the Senate. The Senate did not allocate the appropriation by source of funding.

REPAYMENT OF GENERAL FUND RECOVERY DEBT

The conference action appropriates $38,678,000 as proposed by the House and the Senate to be derived from local funds as proposed by the House. The Senate did not allocate the appropriation by source of funding.

REPAYMENT OF INTEREST ON SHORT-TERM BORROWING

The conference action changes the heading and appropriating language for Repayment of Interest on Short-Term Borrowing as proposed by the Senate and appropriates $9,698,000 from local funds as proposed by the House and the Senate to be derived from local funds as proposed by the House. The Senate did not allocate the appropriation by source of funding.

PAY RENEGOTIATION OR REDUCTION IN COMPENSATION

The conference action requires a reduction in personal services of $46,409,000 as proposed by the House and the Senate. The reduction is to be derived by reducing the rates of compensation for District government employees, who are subject to collective bargaining agreements, to the extent possible through the renegotiation of existing agreements. The bill language as requested by the District government and proposed by the House and the Senate provides that if a sufficient reduction through renegotiating existing agreements is not realized from employees who are subject to collective bargaining agreements, the Mayor shall decrease rates of compensation for such employees, notwithstanding the provisions of any collective bargaining agreements.

In addition, the conference action includes bill language ratifying and approving legislation enacted during fiscal year 1995 by the Council of the District of Columbia reducing the compensation and benefits of all employees of the District of Columbia government during that fiscal year. Because of the District's fiscal crisis, the Council passed a series of emergency, temporary, and permanent measures during fiscal year 1995 to provide immediate and concrete savings in personal services through reducing the wages of all District government employees in the latter half of fiscal year 1995 and into fiscal

year 1996. These measures affected both union and non-union employees. The terms, nature, and effective dates of these reductions varied, both for those groups of employees who negotiated reduction plans with District representatives and those groups of employees who did not. The reductions were made effective through acts of the Council which were ultimately included in the Omnibus Budget Support Act of 1995, D.C. Law 11-52, effective September 26, 1995, 42 DCR 3684, 5604. Substantial savings were achieved during fiscal year 1995 through these reductions. In ratifying the actions of the Council in enacting these wage reductions, some of which have been challenged in the courts, it is the express intent of the conferees that the savings realized in fiscal year 1995 be preserved and that wage reductions be continued into fiscal year 1996 and future years.

RAINY DAY FUND

The conference action appropriates $4,563,000 for the rainy day fund as proposed by the House and the Senate to be derived from local funds as proposed by the House. The Senate did not allocate the appropriation by source of funding.

INCENTIVE BUYOUT PROGRAM

The conference action appropriates $19,000,000 as proposed by the House and the Senate for costs associated with the incentive buyout program. The Senate did not allocate the appropriation by source of funding.

OUTPLACEMENT SERVICES

The conference action changes the heading and appropriating language for Outplacement Services as proposed by the Senate and appropriates $1,500,000 as proposed by the House and the Senate.

BOARDS AND COMMISSIONS

The conference action requires a reduction of $500,000 as proposed by the House and the Senate to reflect the elimination of stipends for most boards and commissions.

GOVERNMENT RE-ENGINEERING PROGRAM

The conference action requires a reduction of $16,000,000 as proposed by the House and the Senate to be realized by consolidating and eliminating agencies, procurement reform, privatization, and program service re-engineering.

The following summary shows the allocation of the various "Financing and Other Uses" appropriations from the fiscal year 1995 approved budget to the fiscal year 1996 conference approved level:

FINANCING AND OTHER USES

Agency/Activity	Fiscal year 1995 approved	Budget estimates, fiscal year 1996	Revised request fiscal year 1996	Authority recommended fiscal year 1996	House recommendation	Senate recommendation	Conference allowance [1]
Washington Convention Center transfer payment	$12,850,000	$5,400,000	$5,400,000	$5,400,000	$5,400,000	$5,400,000	$5,400,000
Repayment of loans and interest	306,768,000	285,787,000	257,787,000	327,787,000	327,787,000	257,787,000	327,787,000
Repayment of General Fund recovery debt	38,678,000	38,678,000	38,678,000	38,678,000	38,678,000	38,678,000	38,678,000
Short-term borrowing	5,000,000	9,698,000	9,698,000	9,698,000	9,698,000	9,698,000	9,698,000
Optical and dental benefits	3,312,000	0	0	0	0	0	0
Restructure health benefits program	0	0	0	0	0	0	0
Pay adjustment	106,095,000	0	0	0	0	0	0
Pay renegotiation or reduction in compensation	0	(46,409,000)	(46,409,000)	(46,409,000)	(46,409,000)	(46,409,000)	(46,409,000)
Incentive buyout payments	0	8,000,000	19,000,000	19,000,000	19,000,000	19,000,000	19,000,000
Outplacement services	0	0	1,500,000	1,500,000	1,500,000	1,500,000	1,500,000
D.C. General Hospital deficit payment	10,000,000	0	0	0	0	0	0
Rainy day fund	22,508,000	0	4,563,000	4,563,000	4,563,000	4,563,000	4,563,000
Job-producing economic development incentives	22,600,000	0	0	0	0	0	0
Cash reserve fund	3,957,000	0	0	0	0	0	0
Boards and Commissions reduction	0	(500,000)	(500,000)	(500,000)	(500,000)	(500,000)	(500,000)
Government re-engineering program	0	(20,000,000)	(16,000,000)	(16,000,000)	(16,000,000)	(16,000,000)	(16,000,000)
Personal and nonpersonal services adjustment	(13,632,000)	0	0	0	(148,411,000)	(11,264,000)	(150,907,000)
Sec. 138 spending reductions	(140,000,000)	0	0	0	0	0	0
Total, financing and other uses	378,136,000	280,654,000	273,717,000	343,717,000	195,306,000	262,453,000	192,810,000

[1] Does not reflect allocation of personal and nonpersonal services adjustment of −$150,907,000 to be made by Mayor under the direction of the District of Columbia Financial Responsibility and Management Assistance Authority.

CAPITAL OUTLAY

(INCLUDING RESCISSIONS)

The conference action restores "(Including Rescissions)" in the heading as proposed by the House and stricken by the Senate and appropriates $168,222,000 (including $82,850,000 from local funds and $85,372,000 from Federal funds) instead of $168,222,000 as proposed by the House and $82,850,000 proposed by the Senate. The House and Senate did not allocate the appropriation by source of funding. The conference action restores the provisos under capital outlay proposed by the House and stricken by the Senate requiring that each project shall be managed and controlled in accordance with all procedures and limitations of the financial management system (FMS); that all funds provided shall be available only for the specific projects and purposes intended; that authorizations and funds for projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968 shall expire on September 30, 1997 unless funds have been obligated in whole or in part prior to September 30, 1997; and provides that funds for expiring projects shall lapse.

WATER AND SEWER ENTERPRISE FUND

The conference action appropriates $242,253,000 and 1,024 full-time equivalent positions, including $237,076,000 and 924 full-time equivalent positions from local funds, $433,000 from other funds, and $4,744,000 and 100 full-time equivalent positions from intra-District funds instead of $193,398,000 and 1,024 full-time equivalent positions including $188,221,000 and 924 full-time equivalent positions from local funds, $433,000 from other funds, and $4,744,000 and 100 full-time equivalent positions from intra-District funds as proposed by the House and $243,853,000 and 1,024 full-time equivalent positions as proposed by the Senate. The Senate did not allocate the appropriation and full-time equivalent positions by source of funding.

The decrease of $1,600,000 below the Senate reflects the reduction associated with the decrease of 100 full-time equivalent positions recommended by the Financial Management Authority.

The conference action appropriates $39,477,000 from Federal funds for capital outlay projects with the necessary bill language as proposed by the House. The House bill did not allocate the appropriation by source of funding. The Senate bill did not include an appropriation or bill language for this purpose.

Language in section 154 establishes two separate accounts within the Water and Sewer Enterprise Fund—one for waste water treatment user charges and the other for EPA grants and other construction appropriations and funds.

The conferees are concerned about reports that District officials have diverted to other programs at least $233 million in user charges and other funds collected for the construction, operation and maintenance of the Blue Plains Wastewater Treatment Facility and waste water treatment works. As a result of this diversion of funds, issues have surfaced concerning the availability of resources necessary to ensure the safe and effective maintenance and operation of the facility. The conferees are also concerned that construction grant funds for wastewater treatment works from the United States Environmental Protection Agency have been used by District officials for other purposes contrary to law. To address these concerns, statutory provisions have been added in section 154 to require that the District government maintain separate accounts or subaccounts for user charges collected and monies paid by user jurisdictions specifically for the operation and maintenance, including debt service and capital costs, of the waste water treatment works and for grant funds received by the District government from EPA for construction of the Blue Plains Wastewater Treatment Facility and related waste water treatment works.

The conferees have learned that the District of Columbia government has failed to pay certain outstanding contractor and vendor invoices for construction and operation and maintenance of the Blue Plains facility. This practice is unacceptable and must be addressed and must be reflected in the budget and financial plan for fiscal years 1996 and 1997 submitted to the Financial Management Authority on February 1, 1996. The conferees direct that the District government submit to the House and Senate Committee on Appropriations a report by April 1, 1996, on the status of the actions taken to resolve these financial issues.

The conferees intend that these statutory provisions not be construed to impede any plans to turn the Blue Plains Wastewater Treatment Plant over to a regional authority or some other entity upon approval of such plans by the appropriate parties. The conferees request that the April 1, 1996 report referred to above provide an update on progress made to establish a regional authority which would be responsible for the overall management of the Blue Plains Wastewater Treatment Facility and related waste water treatment works.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

The conference action appropriates $229,950,000 and 88 full-time equivalent positions as proposed by the Senate including $7,950,000 and 88 full-time equivalent positions for administrative expenses and $222,000,000 for non-administrative expenses from revenue generated by the Lottery Board instead of $229,907,000 and 88 full-time equivalent positions including $8,099,000 and 88 full-time equivalent positions for administrative expenses and $221,808,000 for non-administrative expenses from revenue generated by the Lottery Board as proposed by the House. The Senate did not allocate the appropriation and full-time equivalent positions by source of funding.

The decrease of $192,000 and 12 full-time equivalent positions below the Senate allowance reflects a reduction in the Board's administrative expenses.

CABLE TELEVISION ENTERPRISE FUND

The conference action appropriates $2,351,000 and 8 full-time equivalent positions including $2,019,000 and 8 full-time equivalent positions from local funds and $332,000 from other funds instead of $2,469,000 including $2,137,000 from local funds and $332,000 from other funds as proposed by the House and $2,351,000 and 8 full-time equivalent positions as proposed by the Senate. The Senate did not allocate the appropriation and full-time equivalent positions by source of funding.

The conference action transfers $572,000 to the general fund as proposed by the Senate instead of $690,000 as proposed by the House.

STARPLEX FUND

The conference action appropriates $6,580,000 from other funds instead of $8,637,000 from other funds as proposed by the House and $6,580,000 as proposed by the Senate. The Senate did not allocate the appropriation by source of funding.

D.C. GENERAL HOSPITAL

The conference action appropriates $115,034,000 of which $56,735,000 is to be derived by transfer as intra-District funds from the general fund, $52,684,000 is to be derived from other funds and $5,615,000 is to be derived from intra-District funds instead of a reduction of $2,487,000 and a reduction of 180 full-time equivalent positions as proposed by the House in accordance with the recommendation of the Financial Management Authority and $115,034,000 of which $56,735,000 is to be derived by transfer from the general fund as proposed by the Senate.

D.C. RETIREMENT BOARD

The conference action appropriates $13,440,000 and 11 full-time equivalent positions from the earnings of the applicable retirement funds as proposed by the Senate instead of $13,417,000 and 11 full-time equivalent positions from the earnings of the applicable retirement funds as proposed by the House.

CORRECTIONAL INDUSTRIES FUND

The conference action appropriates $10,516,000 and 66 full-time equivalent positions including $3,415,000 and 22 full-time equivalent positions from other funds and $7,101,000 and 44 full-time equivalent positions from intra-District funds instead of $10,048,000 including $3,415,000 and 22 full-time equivalent positions from other funds and $6,633,000 and 44 full-time equivalent positions from intra-District funds as proposed by the House and $10,516,000 and 66 full-time equivalent positions as proposed by the Senate. The Senate did not allocate the appropriation and full-time equivalent positions by source of funding.

WASHINGTON CONVENTION CENTER ENTERPRISE FUND

The conference action appropriates $37,957,000 of which $5,400,000 shall be derived by transfer from the general fund and $32,557,000 from other funds for the Washington Convention Center Enterprise as proposed by the House and the Senate.

D.C. FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY

The conference action appropriates $3,500,000 from local funds for the District of Columbia Financial Responsibility and Management Assistance Authority as proposed by the House and the Senate.

PERSONAL AND NONPERSONAL SERVICES ADJUSTMENTS

The conference agreement requires a general net reduction of 165,837,000 in personal and nonpersonal services for fiscal year 1996 instead of $148,411,000 as proposed by the House and $11,264,000 proposed by the Senate. The conference agreement also provides that the net reduction is to be made by the District's Chief Financial Officer on behalf of the Mayor in accordance with the direction of the Financial Management Authority pursuant to section 208 of Public Law 104–8, approved April 17, 1995, as proposed by the House. The Senate language required by the Mayor, in consultation with the Council and the Financial Management Authority, to reduce appropriations and expenditures for personal services costs in the amount of $11,264,000. The conferees direct that the allocation of this reduction to the departments, agencies and programs be made within 30 days after the date of enactment of this Act and reflected in the financial plan that will be transmitted to the Congress by March 1, 1996 with the District's fiscal year 1996 supplemental budget request.

The District's judicial branch of government is one of the better managed entities in the District government. All personnel including those in supervisory roles appear to be well trained and dedicated to excellence. Its financial management and information systems appear to be well designed with state-of-the-art automation. Requests for financial information such as obligations incurred, accounts receivable and payable, and balances are readily available which is not always the case elsewhere in the District government. While the conferees understand the need for independence by the District's judicial branch of government, the conferees also expect its full cooperation with the executive and legislative branches of the District government as well as the Financial Management Authority in addressing the District's financial crisis. The conferees do not expect the judicial branch to make budget reductions that are proportionately greater than those experienced by the executive and legislative branches. However, at a minimum, the judicial branch must meet the level of reductions applied to the executive and legislative branches. The conferees believe the high quality and caliber of all court personnel including the management staff provide the courts with the capability to meet the challenges posed by the current financial crisis without sacrificing standards and public service. Although language in Public Law 104–8, approved April 17, 1995, specifically exempts the courts from oversight by the Financial Management Authority, that exemption applies only to the independence of the courts which are still an integral part of the District government and therefore must share proportionately in all budget and full-time equivalent position reductions as recommended by the Financial Management Authority. The exemption allows the courts to determine how to allocate the reductions; it does not absolve the courts from making them and should not be interpreted otherwise. Section 445 of the Home Rule Act (Public Law 93–198, approved December 24, 1973) requires that the courts' budget as prepared by the courts be transmitted by the Mayor and Council without change but subject to their comments and recommendations. The conferees expect the District's Chief Financial Officer and the Financial Management Authority to likewise comment and make recommendations on the courts' budget.

The following summary shows the allocation of the various appropriations for enterprise funds by agency from the fiscal year 1995 approved budget to the fiscal year 1996 conference approved level:

ENTERPRISE FUNDS

Agency/Activity	Fiscal year 1995 approved	Budget estimates, fiscal year 1996	Revised request, fiscal year 1996	Authority recommended, fiscal year 1996	House recommendation	Senate recommendation	Conference allowance [1]
Department of Public Works (Utility Administration)	254,563,000	204,329,000	204,329,000	193,398,000	193,398,000	204,329,000	202,729,000
Washington Aqueduct	21,013,000	39,524,000	39,524,000	0	0	39,524,000	39,524,000
Total, Water and Sewer Enterprise Fund	275,576,000	243,853,000	243,853,000	193,398,000	193,398,000	243,853,000	242,253,000
Lottery and Charitable Games	192,068,000	229,950,000	229,950,000	229,907,000	229,907,000	229,950,000	229,950,000
Cable Television	2,654,000	2,351,000	2,351,000	2,469,000	2,469,000	2,351,000	2,351,000
Sports Commission (STARPLEX)	6,392,000	6,580,000	6,580,000	8,637,000	8,637,000	6,580,000	6,580,000
D.C. General Hospital	143,920,000	115,034,000	115,034,000	(2,487,000)	(2,487,000)	115,034,000	58,299,000
Retirement Board	0	13,440,000	13,440,000	13,417,000	13,417,000	13,440,000	13,440,000
Correctional Industries Fund	7,642,000	10,516,000	10,516,000	10,048,000	10,048,000	10,516,000	10,516,000
Washington Convention Center	19,541,000	37,957,000	37,957,000	37,957,000	37,957,000	37,957,000	32,557,000
D.C. Financial Responsibility and Management Assistance Authority	0	0	3,500,000	3,500,000	3,500,000	3,500,000	3,500,000
Total, Enterprise Funds	647,793,000	659,681,000	663,181,000	496,846,000	496,846,000	663,181,000	599,446,000

[1] Does not reflect allocation of Personal and Nonpersonal Services Adjustment of −$150,907,000 to be made by Mayor under the direction of the District of Columbia Financial Responsibility and Management Assistance Authority.

GENERAL PROVISIONS

The conference action amends section 110 by requiring that the District's fiscal year 1997 budget be transmitted to Congress "no later than April 15, 1996 or as provided for under the provisions of Public Law 104–8, approved April 17, 1995" instead of by April 15, 1996 as proposed by the House and the Senate. This change allows for additional time that may be required by the Financial Management Authority to review the District's budget as provided in Public Law 104–8.

The conference action amends section 117 to take cognizance of the Financial Management Authority's role in the re-programming process. The Financial Management Authority was established by Public Law 104–8, approved April 17, 1995.

The conference action deletes section 124 proposed by the Senate which would have extended for one year the period of time the District could sell general obligation bonds through a private sale on a negotiated basis rather than on a competitive bid basis.

Section 466 of the Home Rule Act (Public Law 93–198, approved December 24, 1973; 87 Stat. 806) requires that all general obligation bonds be sold at public sale with sealed proposals. To acclimate the District to the bond market, the Home Rule Act was amended in 1981 by Public Law 97–105 to give the District a 3-year grace period when it could sell bonds "at either a public sale or at a private sale on a negotiated basis in such manner as the Mayor may determine to be in the public interest".

The purpose of the grace period was to give the District some exposure or "experience" in the municipal bond market. The District did not enter the bond market until after the grace period had expired. To provide for the 3-year grace period, the District requested one-year extensions for negotiated sales in the appropriations bills. Those requests were approved in each of the last 10 years. The normal 3-year grace period ended in 1988.

The conference action deletes section 131 proposed by the House and deleted by the Senate that would have amended section 602(a) of the Home Rule Charter (Public Law 93–198, approved December 24, 1973) to prohibit the District government from enacting legislation that obligates funds for any abortion or appropriates funds to any facility owned or operated by the District in which any abortion is performed, except where the life of the mother would be endangered if the fetus were carried to term, or in cases of forcible rape reported within 30 days to a law enforcement agency, or cases of incest reported to a law enforcement agency or child abuse agency prior to the performance of the abortion.

The conference action amends section 132 proposed by the Senate by changing the section number to 131 and prohibiting the use of any funds in this Act for any abortion except to save the life of the mother or in cases of rape or incest.

The conference action deletes section 132 proposed by the House and stricken by the Senate which would have prohibited the use of funds appropriated in this Act on any proposed change in either the use or configuration of, or on any improvement to, the Municipal Fish Wharf until the proposed change or improvement had been reviewed and approved by Federal and local authorities.

The conference action deletes section 133 proposed by the House and stricken by the Senate that expressed the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American made.

The conference action deletes section 134 proposed by the House and stricken by the Senate which would have prohibited the use of any funds in the bill to implement or enforce any system of registration of unmarried, cohabiting couples whether they are homosexual, lesbian, or heterosexual, including but not limited to registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis that such benefits are extended to legally married couples. The language also would have repealed the District's Health Care Benefits Expansion Act (D.C. Law 9–114, D.C. Code, sec. 36–1401 et seq.) commonly referred to as the Domestic Partners Act. Section 132 of this Act reflects section 140 as proposed by the Senate amended to continue current law which prohibits the use of any appropriated funds to (1) implement or enforce any registration system of unmarried, cohabiting couples and (2) implement or enforce the Domestic Partners Act.

The conference action amends section 140 proposed by the Senate by changing the section number to 132 and striking the word "Federal" thereby prohibiting the use of any funds in this Act to implement or enforce (1) the District's Health Care Benefits Expansion Act of 1992 (commonly referred to as the Domestic Partners Act) or (2) any system of registration of unmarried cohabiting couples whether they are homosexual, lesbian, or heterosexual.

The conference action amends section 146 proposed by the House and section 145 proposed by the Senate by changing the section number to 144 and revising the maximum ceiling for full-time equivalent positions funded in this Act to 35,984 instead of 35,771 as proposed by the House and recommended by the Financial Management Authority and 39,778 as proposed by the Senate. The following summary shows the number of full-time equivalent positions by agency from the FY approved budget to the FY 1996 conference allowance:

(The summary referred to follows:)

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1996 (H.R. 2546) SUMMARY FULL-TIME EQUIVALENT POSITIONS BY AGENCY, FISCAL YEAR 1995–1996

	Fiscal year 1995 approved	Fiscal year 1996 original request	Fiscal year 1996 revised request	Fiscal year 1996 authority recom.	Fiscal year 1996 House allowance	Fiscal year 1996 Senate allowance	Fiscal year 1996 conference allowance
Governmental Direction and Support:							
Council of the District of Columbia	170	149	143	143	143	143	143
Office of the D.C. Auditor	15	15	12	12	12	12	12
Office of the Mayor	31	25	25	25	25	25	25
Office of the Secretary	50	46	34	34	34	34	34
Office of Inspector General	18	9	7	7	7	7	7
Office of Communications	7	6	5	5	5	5	5
Office of Intergovernmental Relations	42	35	22	22	22	22	22
Office of the City Administrator/Deputy Mayor for Operations	44	35	29	29	29	29	29
Office of Personnel	0	265	230	192	192	192	192
Department of Administrative Services	434	329	272	217	217	217	217
Contract Appeals Board	8	8	5	0	0	0	5
Office of the Deputy Mayor for Finance	5	5	5	5	5	5	5
Office of the Budget	54	52	44	42	42	42	42
Office of Financial Management	291	279	234	214	214	214	214
Department of Finance and Revenue	507	492	473	451	451	451	451
Board of Elections and Ethics	52	65	35	35	35	35	63
Office of Campaign Finance	22	22	20	10	10	10	10
Public Employee Relations Board	4	4	4	3	3	3	3
Office of Employee Appeals	23	18	17	13	13	13	13
Retirement Board	14	0	0	0	0	0	0
Office of Grants Management	9	9	9	6	6	6	6
Total, Governmental Direction and Support	1,800	1,868	1,625	1,465	1,465	1,465	1,498
Economic Development and Regulation:							
Deputy Mayor for Economic Development	47	37	31	25	25	25	25
Office of Banking and Financial Institutions	8	5	5	5	5	5	5
Office of Tourism and Promotion	6	4	4	4	4	4	4
Office of Planning	42	27	27	23	23	23	23
Office of Zoning	12	10	8	5	5	5	5
Department of Housing and Community Development	219	212	172	169	169	169	169
Department of Public and Assisted Housing	879	923	10	5	5	5	5
Department of Employment Services	0	915	814	730	758	758	758
Board of Appeals and Review	2	2	2	1	1	1	1
Board of Equalization and Review	5	4	3	1	1	1	1
Department of Consumer and Regulatory Affairs	736	658	640	584	612	610	612
Public Service Commission	93	86	60	120	60	60	60
Office of People's Counsel	38	30	24	48	24	24	24
Total, Economic Development and Regulation	2,087	2,913	1,800	1,720	1,692	1,690	1,692
Human Resources Development:							
Assistant City Administrator for Human Resources	24	0	0	0	0	0	0
Office of Personnel	285	0	0	0	0	0	0

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1996 (H.R. 2546) SUMMARY FULL-TIME EQUIVALENT POSITIONS BY AGENCY, FISCAL YEAR 1995–1996—Continued

	Fiscal year 1995 approved	Fiscal year 1996 original request	Fiscal year 1996 revised request	Fiscal year 1996 authority recom.	Fiscal year 1996 House allowance	Fiscal year 1996 Senate allowance	Fiscal year 1996 conference allowance
Department of Employment Services	948	0	0	0	0	0	0
Education Licensure Commission	6	0	0	0	0	0	0
Total, Human Resources Development	1,263	0	0	0	0	0	0
Public Safety and Justice:							
Metropolitan Police Department	5,430	4,564	4,512	4,512	4,512	4,512	4,512
Fire and Emergency Medical Services	1,821	1,817	1,790	1,790	1,790	1,790	1,790
Court of Appeals	97	96	83	83	83	83	83
Superior Court	1,277	1,255	1,142	1,142	1,142	1,142	1,142
D.C. Court System	108	122	103	103	103	103	103
Office of the Corporation Counsel	340	330	289	289	289	289	289
Public Defender Service	152	139	139	0	0	0	0
Pretrial Services Agency	101	104	93	93	93	93	93
Department of Corrections	3,949	3,759	3,369	3,369	3,369	3,369	3,369
Parole Board	125	115	113	113	113	113	113
National Guard	34	30	26	12	12	12	12
Office of Emergency Preparedness	49	38	35	35	35	35	35
Commission on Judicial Disabilities and Tenure	2	2	2	2	2	2	2
Judicial Nomination Commission	1	1	1	1	1	1	1
Civilian Complaint Review Board	24	0	0	0	0	0	0
Total, Public Safety and Justice	13,510	12,372	11,697	11,544	11,544	11,544	11,544
Public Education System:							
Public Schools	12,299	11,559	10,477	10,167	10,167	10,167	10,167
University of the District of Columbia	1,538	1,426	1,238	1,079	1,079	1,079	1,079
District of Columbia School of Law	78	0	0	0	0	0	0
Education Licensure Commission	0	6	0	0	0	0	0
Public Library	469	435	414	415	415	415	415
Commission on the Arts and Humanities	20	9	9	9	9	9	9
Total, Public Education System	14,404	13,435	12,139	11,670	11,670	11,670	11,670
Human Support Services:							
Department of Human Services	7,758	7,529	6,162	5,859	5,887	5,887	5,887
Department of Recreation and Parks	822	719	515	515	515	515	515
Office on Aging	33	31	27	26	26	26	26
Department of Human Rights & Minority Business Development	45	37	25	25	25	25	25
Office on Latino Affairs	13	3	3	3	3	3	3
Commission for Women	7	0	0	0	0	0	0
Energy Office	39	26	25	13	13	13	13
Total, Human Support Services	8,717	8,345	6,757	6,441	6,469	6,469	6,469
Public Works:							
Department of Public Works	2,509	2,219	1,896	1,896	1,896	1,896	1,896
D.C. Taxicab Commission	32	28	18	18	18	18	18
Total, Public Works	2,541	2,247	1,914	1,914	1,914	1,914	1,914
Sec. 141 Limitation on FTEs and Retirement Incentives	(2,000)	0	(1,000)	0	0	0	0
Total, General Fund	42,322	41,180	35,932	34,754	34,754	34,752	34,787
Enterprise Funds:							
Department of Public Works (Utility Administration)	1,711	1,793	1,124	1,024	1,024	1,024	1,024
Washington Aqueduct	267	271	0	0	0	0	0
Lottery and Charitable Games Control Board	124	117	100	88	88	88	88
Office of Cable Television	30	8	8	8	8	8	8
D.C. Retirement Board	0	14	11	11	11	11	11
Correctional Industries	63	106	66	66	66	66	66
D.C. General Hospital	2,562	1,760	0	(180)	(180)	0	0
Total, Enterprise Funds	4,757	4,069	1,309	1,017	1,017	1,197	1,197
Total, Operating Funds	47,079	45,249	36,241	35,771	35,771	35,949	35,984

Excludes 3,083 FTE positions for agencies shifted to off-budget status for FY 1996 that continue to be paid by District Government:

Department of Public and Assisted Housing	913
Public Defender Service	193
Washington Aqueduct	271
D.C. General Hospital	1,760
Total	3,083

The conference action also restores language in subsection (d) of the new section 144 proposed by the House and stricken by the Senate which includes personnel of the District of Columbia Court System in the exemption from Council action for the filling of vacant positions. As noted earlier under the appropriation for "Personal and Nonpersonal Services Adjustments", the conferees recognize the need for independence by the District's judicial branch of government; however, the conferees also expect the judicial branch to meet the level of reductions applied to the executive and legislative branches by the District's Chief Financial Officer and the Financial Management Authority. The conferees expect the judicial branch to allocate the recommended reductions and do not expect those reductions to be proportionately greater than those experienced by the executive and legislative branches.

The conference action amends section 147 proposed by the House and section 146 proposed by the Senate by changing the section number to 148 and by requiring that the reports on capital project employees also be provided to the Financial Management Authority. The language proposed by the Senate required that the reports be provided to the Committees on Appropriations of the House of Representatives and the Senate. The requirement for these reports was included in the District's fiscal year 1996 budget request.

The conference action deletes section 150 proposed by the Senate which would have extended by two years the time for the conveyance of property of Columbia Hospital for Women for the National Women's Health Resource Center. The request for the extension was withdrawn by the Hospital.

The conference action restores section 151 proposed by the House and stricken by the Senate and changes the section number to 150 and places a ceiling of $4,994,000,000 (of which $165,339,000 shall be from intra-District funds) on the total amount available for obligation from all funding sources appropriated for operating expenses for the District of Columbia for fiscal year 1996 under the caption "Division of Expenses" instead of $4,867,283,000 as proposed by the House. The Senate did not have a similar provision. The conference action also amends section 150 by adding language that allows the District government to accept and spend Federal and other grants that are not included in this Act subject to prior approval by the Financial Management Authority with monthly reports to the Council and the House and Senate Committees on Appropriations. The language also prohibits the obligation or expenditure from the general fund or any other fund for grant programs in anticipation of the approval and receipt of a grant. However,

this language is not intended to prohibit the use of any funds for the development of grant proposals and applications.

The conference action restores section 152 proposed by the House and stricken by the Senate and changes the section number to 151 and amends the bill language to require that plans for the Lorton Correctional Complex (1) be submitted by March 15, 1996 rather than February 15, 1996 as proposed by the House and (2) include options other than the closing of the facility. The amended language requires that the options are to include the use of alternative Federal or private arrangements for housing District inmates with an appropriate transition period not to exceed five years. The conferees agree that each option considered for Lorton facility location and management is to be identified and the costs and benefits of each option documented. There should also be a justification supporting the recommendation or rejection of each option. In addition, the plans are to address how and to what extent the District can use the private sector for the operation of correctional facilities to house District inmates, including site selection, design, financing, construction, and operation of the facilities. The conferees agree that each plan is to include a description of any proposed legislation required to implement the plan and an implementation schedule, together with specific performance measures and timetables, and be consistent with the financial plan and budget developed for the District government under subtitle A of title II of the D.C. Financial Responsibility and Management Assistance Act of 1995. The conferees are aware that the National Institute of Corrections, which provides technical assistance, training, and information services to State and local corrections departments, is performing an in-depth study of the District's Department of Corrections as requested by the House and Senate Committees on Appropriations in their report accompanying the fiscal year 1995 appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies. The NIC report should provide a foundation for further actions by the District to address the problems that exist at the Lorton complex.

The conference action amends section 153 proposed by the House and stricken by the Senate by restoring the language proposed by the House prohibiting adoptions by unmarried couples. The conference action adds language that allows unmarried couples to file joint petitions in those cases where the co-petitioner is the natural parent of the child. The conference action also changes the section number to 152.

The conference action amends section 154 proposed by the House and stricken by the Senate by changing the section number to 153 and restoring the language proposed by the House concerning technical corrections to the Financial Responsibility and Management Assistance Act (Public Law 104–8, approved April 17, 1995). These technical corrections were offered as an amendment on the House floor by the committee of jurisdiction with the explanation that the amendment is noncontroversial and conforms to the legislative intent of Public Law 104–8. A brief description of the technical changes is reflected in the following paragraphs.

The conference action restores subsection (a) as proposed by the House which revises section 103(f) of Public Law 104–8 by striking "may provide" and inserting "shall promptly provide". This revision provides the General Services Administration with the appropriate degree of discretion and clarifies that GSA has a duty to provide the administration services requested by the Financial Management Authority in a prompt manner.

The conference action restores subsection (b) as proposed by the House which—

(1) amends section 102(e)(1)(A) of Public Law 104–8 to insure that Federal employees joining the Financial Management Authority's staff may elect to have their service with the Authority treated as if performed within the Federal government for purposes of the thrift savings plan, health insurance, life insurance, and any other Federal benefit program. The statute already provides such persons that election for purposes of the Federal retirement program.

(2) amends section 102(e)(2)(B) of Public Law 104–8 to clarify congressional intent and make clear that an individual electing coverage under the Federal programs referred to in section 102(e)(1)(A) will not be entitled to double coverage under comparable District government programs.

(3) amends section 102(e)(3) of Public Law 104–8 to provide that the Office of Personnel Management, in promulgating regulations authorized by section 102(e) must consult with the Financial Management Authority as well as with the District government. When OPM first promulgated interim regulations as authorized by the statute, it failed to consult with the Authority or even send on its own initiative a copy of the proposed regulations.

(4) adds a new section 102(f) to Public Law 104–8 to carry out the policy mandate created in section 102(e) and clarify that persons employed by the Financial Management Authority have an election to be treated as if they were employees of the Federal government or employees of the District government for purposes of the retirement system, health insurance, and any other employee benefit programs. Section 102(e) deals only with employees of the Authority who come from the Federal government. Several other categories of persons are becoming employees of the Authority, including Federal retirees, District employees, and private sector employees. This new section gives these employees the same options as persons joining the Authority from the Federal government. It will help to insure that qualified employees will not be discouraged from seeking employment with the Authority by clarifying legislative intent so as to provide that such persons would not lose benefits.

The conference action restores subsection (c) as proposed by the House which amends section 104 of Public Law 104–8 to protect the Financial Management Authority and those who act on its behalf from claims arising from their official actions.

The conference action restores subsection (d) as proposed by the House which deletes in its entirety section 203(a)(3)(C) of Public Law 104–8. The language being deleted exempted emergency legislation from review by the Financial Management Authority and, in practice, would have effectively undermined the fundamental responsibilities of the Authority, contrary to the clear legislative intent of the statute as a whole. A significant amount of District legislation is now being enacted on an emergency basis, and since emergency legislation goes into effect immediately, rights could be created or claimed under the emergency legislation and objections asserted to any subsequent disapproval by the Authority if and when the legislation were subsequently submitted as permanent legislation. Emergency legislation can clearly have a substantial fiscal impact while it is in force and effect. Therefore, the current subparagraph (C) is not only an undesirable and significant dilution of the Authority's intended ability to function, but it also casts doubt on the Authority's ability to require that emergency legislation be reviewed, separate and apart from the issue of approval or disapproval.

The conference action inserts a new section 154 to establish two separate accounts within the Water and Sewer Enterprise Fund—one for waste water treatment user charges and the other for EPA grants and other construction appropriations and funds. An explanation concerning the establishment of these accounts can be found under the heading "Water and Sewer Enterprise Fund" earlier in this statement.

The conference action inserts a new section 155 requested by the Mayor in a letter dated December 12, 1995, that allows up to 50 police officers and up to 50 Fire and Emergency Medical Services members with less than 20 years of departmental service who were hired prior to February 14, 1980 and who retire on disability before the end of calendar year 1996 to be excluded from the computation of the rate of disability retirement under subsection 145(a) of the District of Columbia Retirement Reform Act of 1979 (Public Law 96–122, approved November 17, 1979). The conferees have included language in subsection (c) that delays the effective date of section 155 until 30 days after the Mayor transmits the actuarial report required by section 142(d) of Public Law 96–122, approved November 17, 1979. The conferees direct the Mayor to forward all future requests that affect the District's finances and budget through the Financial Management Authority.

The conference action amends title II—District of Columbia School Reform proposed by the House and stricken by the Senate and title II—District of Columbia Schools Improvements Act proposed by the Senate. The following paragraphs contain a brief description of the conference action.

TITLE II—DISTRICT OF COLUMBIA SCHOOL REFORM

The concluding of this conference agreement culminates a year of debate, discussion, and negotiation from the local school level to the Congress regarding the amount, shape and pace of education reform necessary in the District of Columbia. The catalysts for this latest debate include the January 1995 report by the D.C. Committee on Public Education (COPE) entitled "Our Children Are Still Waiting" and a renewed interest by Congress in ensuring greater educational opportunity for D.C. children.

The January 1995 COPE report recounts the lack of real progress in implementing education reform since the first COPE report in June, 1989. The opening line of the 1995 COPE report reads "in 1989, the Committee on Public Education issued a report that described a school system in need of serious reform." The report states that "no progress and setbacks in other areas paint a grim picture." These are not the words of a harsh critic or an unsympathetic observer, instead they represent a concerned community. COPE reported that:

By almost any measure, student academic performance worsened;

No significant progress had been made in improving the teaching workforce;

Problems persist in providing timely and adequate material support to local schools;

School buildings need renovations and repairs (totaling $1.2 billion according to the Superintendent's task force);

Schools are still shackled by an oppressive bureaucracy that hopes to exploit divisions within the Board and between the Board and the Superintendent.

COPE argues that "so little progress has been made because, quite frankly, this community has not really tried reform." COPE cites as reasons the following:

All too many are invested in the status quo;

Serious fragmentation of responsibility and accountability exist in the school governance structure;

The school system does not systematically recognize good teaching, nor does it aggressively weed-out non-performers;

The Board of Education's micromanagement of the schools undermines the Superintendent and his reform efforts; and

There has been a lack of focus and consistent follow-through within the school system.

At the same time as the District of Columbia community was recognizing the need for fundamental and comprehensive education reform, the Members of the Congress became committed to supporting such reform.

Title II of this conference agreement, the "District of Columbia School Reform Act of 1995," goes a long way toward creating the local structure to address the concerns expressed by the community, particularly through local education reform groups such as the Committee on Public Education.

The conference action extends the definition of District-wide assessments to clarify the type of assessments that should be used and the professional standards they need to meet, as proposed by the Senate.

The conference action adds a definition of an electronic data system to be developed by the District of Columbia public schools as proposed by the Senate.

The conference action amends the definition of who is an eligible chartering authority, striking the House proposal designating local universities and adding the charter schools board created in Subtitle B, as proposed by the Senate.

The conference action includes a definition of individual career path, a course of study to prepare older students for the workforce, as proposed by the Senate.

The conference action adds a definition of literacy as proposed by the Senate.

The conference action changes the definition of student with special needs to limit it to a student with a disability.

Subtitle A requires that the Superintendent of Schools, with approval of the Board of Education, develop a long term reform plan for the District of Columbia Public School System. This provision builds on the efforts currently underway by the District. The long term reform plan outlined in the legislation uses the same philosophy outlined by the Schools Board President and the Superintendent in the one-year action plan entitled "Accelerating Education Reform in the District of Columbia: Building on BESST" that was submitted to Congress on July 13, 1995. The agreement requires that the plan be consistent with the financial plan and budget for the District of Columbia required by the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (Public Law 104-8).

The conference action amends the District of Columbia public schools long term reform plan, adding items to be required in the plan, as proposed by the Senate. These items were proposed by the House for inclusion in Subtitle H, Progress Reports and Accountability but the conferees determined that it is only possible to hold the school system accountable for these actions after it is required by this Act to develop a reform plan addressing these issues.

The conference action adds several items to be included in the long term reform plan, including improving students' health and establishment of after-school programs, as proposed by the Senate.

In Subtitle B, the agreement authorizes the establishment of public charter schools. On October 23, 1995, the Education and Libraries Committee of the D.C. Council passed, by a vote of 4-0, very similar legislation authorizing the establishment of independent public charter schools. Prior to that, a recommendation that either the D.C. Council or the Congress enact legislation authorizing independent public charter schools was included in the reform plan submitted by the President of the D.C. Board of Education and the Superintendent to Congress on July 13, 1995.

The conferees find that public charter schools represent a new type of public education, but one that retains essential elements: public charter schools are funded by the public, are open to the public, and are accountable to the public for results. They are different from traditional public schools, however, in that they are not required to be managed by a government bureaucracy. Educators may establish new schools and have an opportunity to establish their vision. Such schools may not charge tuition, except to non-residents, and must be open to students with a broad range of aptitudes. A public charter school may limit admission based on grade levels and may choose to have an instructional focus, such as the arts, science, or advanced technology.

A number of accountability provisions are included. Eligible chartering authorities are responsible for reviewing the quality of a charter applicant's petition, as well as determining whether a school has been effective and its five-year charter should be renewed. Parental choice, informed by a school's performance on the District-wide assessments as well as other factors, constitutes another form of accountability. Further, the charter of a school may be revoked at any time for financial mismanagement.

The conferees find that public charter schools represent a key component of comprehensive reform. They encourage innovation and entrepreneurialism by educators and ensure freedom from the many burdensome rules and regulations that frustrate so many good teachers. Within certain limitations defined in the agreement, public charter schools have full control over their day-to-day operations, including budgeting, personnel, and contracting, but they are nonsectarian and nonprofit.

The conference action adds several items to the petition that applicants to establish public charter schools are required to file, as proposed by the Senate. These include a description of the proposed scope and size of the school, any special area of focus for the proposed school, and the employment relationship between the public charter school and its employees, and assurances that the public charter school will seek accreditation or licensing, as appropriate.

The conference action adds to the criteria that must be considered in approving or disapproving charter petitions whether the applicant can implement the petition, as proposed by the Senate. The conference action leaves to the discretion of the charter-approving entity whether to approve a petition even in cases where it determines that the petition satisfies all of the provisions of this title, as proposed by the Senate.

The conference action includes a provision limiting the number of charters that may be approved in the first year to ten, and limiting the number to five per charter-approving entity in future years, as proposed by the Senate.

The conference action adds a provision applying Part B of the Individuals with Disabilities Act and Section 504 of the Rehabilitation Act to public charter schools, proposed by the Senate. The conference agreement allows each public charter school to determine whether it is to be treated as a regular District of Columbia public school or as a Local Education Agency (LEA), for the purposes of those two laws.

The conference action adds a section establishing a public charter schools board, which would be a charter-approving body in the District of Columbia government, as proposed by the Senate. The agreement calls for the charter schools board to be appointed by the Mayor from nominees provided by the Secretary of Education.

The agreement encourages a number of federal agencies and institutions to explore the feasibility of establishing public charter schools, including the Smithsonian, the National Science Foundation, and others, as proposed by the House. The conference action adds the Department of Education to the list of entities encouraged to consider establishing public charter schools, as proposed by the Senate.

Subtitle C of the agreement creates a District of Columbia Even Start program, expanding the federal Even Start program in the District, as proposed by the House. The inclusion of Even Start as a part of the agreement is a reflection of the conferees' belief in the power of family literacy to ensure positive educational outcomes for young children. In a recent national adult literacy survey there were approximately 40 million adults who scored in the lowest level of the literacy scale. Twenty percent of the population of this country have been found to have minimal basic skills. Even Start is based on the knowledge that children who have parents who can help and support them in their educational endeavors are more likely to succeed than those who have parents with low literacy skills and little knowledge of how to help their children succeed in school.

The District of Columbia Even Start initiative requires programs to be built on the findings of the "National Evaluation of the Even Start Family Literacy Programs," including the provision of intensive services in parent training and adult literacy or adult education. In addition the Chapter 1 Even Start Program is amended through this legislation to include comparable language on intensity of services. It is estimated that a quality Even Start Program requires $225,000 per year to operate. The District of Columbia Program authorization level assumes this level of funding for each program by limiting the number of projects which can be funded in a given year.

The agreement includes the National Center for Family Literacy, a recognized authority in this field, for technical assistance to eligible entities. It is expected that the National Center for Family Literacy will assist in ensuring that funded projects are of high quality and provide the intensity of services necessary for success.

The agreement also includes an independent evaluation of District of Columbia Even Start programs in order to determine their effectiveness in providing high quality family literacy services.

Subtitle D of the conference agreement provides for assistance to the District of Columbia Public Schools in the development of a world-class core curriculum and District-wide student assessments, as proposed by the House, and content standards, as proposed by the Senate. The core of education is the curriculum. There is a need to ensure that students' competence in this core curriculum represent a high level of achievement, in fact that it be world class.

The provisions establishing such a task force originated with a request by the President of the D.C. Board of Education and the Superintendent—as part of the draft reform plan submitted to Congress on July 13, 1995—for approximately $2,000,000 to be used for a new curriculum and assessments.

The conference action deletes the World Class Schools Panel, to have been appointed by Congress, the President, and the Mayor, replacing it with a grant to a nonprofit entity described as the "World Class Schools Task Force," as proposed by the Senate. The "World Class Schools Task Force" must meet several criteria in order to receive the grant (including a national reputation for advocating rigorous core curriculum and experience working with large urban school districts on content standards). The conferees expect that the Council for Basic Education (CBE) will serve as the World Class Schools Task Force.

Because even the formal adoption of a high-quality curriculum constitutes only the first step in enabling students to master such a curriculum, assessments that describe how well students are performing in the new curriculum are also vital. To be of maximum use, assessments need to inform parents of their own child's progress, as well as the progress of the school. Such information needs to be placed in the context of the performance of other schools. In order to judge whether such performance is truly "world class," it must be placed in the context of student achievement in other nations, such as Germany, France, Japan, and South Korea. Tools useful for developing assessments providing such comparisons are becoming increasingly available, such as the Third International Mathematics and Science Study (TIMSS). Further, it is also important that such assessments satisfy professional technical standards, such as validity, reliability and freedom from bias, as established by the American Psychological Association and the American Education Research Association.

The conference action deletes the requirement that information from assessments be comparable with information from other states and the nation as a whole, as proposed by the Senate. The agreement maintains, however, the expectation that assessments, to the extent feasible, provide comparable information with students from other nations.

The establishment of new criteria for grade promotion, taking into account the new curriculum and assessments, was also included in the reform plan submitted by the President of the D.C. Board of Education and the Superintendent to Congress on July 13, 1995. The conference action amends the grades for which criteria for student promotion ("promotion gates") are to established to include at least grades four, eight and twelve, as proposed by the Senate.

Subtitle E of the conference agreement directs the District of Columbia to develop a per pupil formula for funding K–12 education starting in FY 1997. This uniform formula will be used to provide operating budgets on the basis of enrollment for the school system as a whole and for individual public charter schools. According to the January 1995 report by COPE, "Of the 40 largest school systems in the country, the District ranked first in per pupil expenditures."

In the context of low student academic achievement, this information is disturbing and as a result the District of Columbia is directed to establish a uniform and efficient formula for funding public education. The same formula will be used for students enrolled in individual public charter schools authorized in subtitle B of this agreement and the District of Columbia Public School System. The formula may take into account such variations as students at different grade levels and students with special needs. Such a formula will clarify and focus decisions regarding funding for public education around students' needs.

For each of fiscal years 1996 through 2000, funds are authorized to pay for transition costs associated with starting public charter schools. These funds are necessary because the school years begin in September while the fiscal year begins in October, therefore resulting in a one month funding gap for new public charter schools.

The conference action amends a House proposal to direct the General Accounting Office (GAO) to determine the number of students in the District of Columbia Public Schools, instead directing the Board of Education to arrange with the Financial Responsibility and Management Assistance Authority to conduct an independent audit of the school system's count, as proposed by the Senate.

Subtitle F of the conference agreement seeks to begin addressing the facilities problems that plague the District of Columbia Public Schools. On August 14, 1995, the Superintendent received the report of his task force on education infrastructure for the 21st century, "Preliminary Facilities Master Plan 2005." The report describes the physical state of public school facilities and the necessary steps to remedy that state. It sets out in plain terms the current condition of the public schools:

Sixty-two percent of the District's public schools are over forty-five years old but only 8 of the 163 operating schools have ever had total renovations.

There is an inability to accommodate educational programs, initiatives, and technology.

There is no school building able to support a comprehensive vocational or career focus to prepare students for work in the 21st century.

The Superintendent's task force put a price tag of $1.2 billion to restore the buildings to a state of good repair, modernize schools and provide infrastructure support for technology.

The agreement encourages assistance by the private sector and government agencies to bring new life to the bricks and mortar of the school buildings. The Superintendent and the Administrator of the General Services Administration (GSA) are expected to enter into an agreement whereby the GSA will provide technical assistance for donated work from the private sector. The conferees have included $500,000 to offset GSA expenses related to the engineering work.

In addition, the agreement calls on the Mayor and the District of Columbia Council, in consultation with the Administrator, the Financial Responsibility and Management Assistance Authority, the Board of Education and the Superintendent, to design a long-term facilities revitalization program and designate a new or existing agency or to carry out this program.

The conference action gives the District of Columbia Public School system the authority to accept gifts on behalf of the District of Columbia, as proposed by the Senate.

Subtitle G of the conference agreement authorizes funds for the planning and initial capital costs to develop a residential school within the District of Columbia, as proposed by the House.

In a July 13, 1995 reform plan submitted to Congress, the President of the Board of Education and the Superintendent proposed allowing the District of Columbia to establish a public residential school. This amendment provides funds to the District to establish such a school. The District of Columbia Public School System has indicated that it intends for such a school to be designed for highly disruptive or troubled youth and this is the expectation. Several school systems have public residential schools operating, including in Texas and North Carolina. The city of Chicago is experimenting with the idea in a public housing complex.

The conference agreement changes the distribution of the $2 million authorized for a residential school in the House proposal. Instead of the entire amount authorized in FY 1996, there are authorized $100,000 in FY 1996 for developing a comprehensive implementation plan and $1,900,000 in FY 1997 for the capital costs associated with preparing a school facility.

Subtitle H of the conference agreement requires the Superintendent to report by December 1, 1996, on the progress of the District of Columbia Public School system in implementing the long-term reform plan described in subtitle A. Conference action deleted a number of specific items proposed by the House for this report, as proposed by the Senate. These items were moved to subtitle A as items to be addressed in the long-term reform plan. Since the Superintendent is expected to report on the implementation of those goals on December 1, the report should address many of these same issues.

The agreement also requires the Chairperson of the D.C. Council to report, by April 1, 1996, on legislative actions taken or planned by the D.C. Council to support implementation of the goals of the long-term reform plan. Among other topics, the Council Chairperson will also be expected to report on actions taken or planned in response to the Council's responsibility under subtitle G to develop a long-term facilities revitalization program and to designate, or create, an agency or authority to implement such a program.

The conference agreement includes in subtitle I the House proposal for "Partnerships with Business." Within the context of limited public resources and an ever increasing demand for additional and more effective services—this subtitle is intended to facilitate a process and develop an infrastructure under which private sector contributions are effectively leveraged to bring about positive change in the community.

The DELTA Council is designed to be the formal private sector entity that will solicit, organize, and coordinate private sector contributions that would be made available to the D.C. public schools under this initiative. The Council will be particularly important in securing in-kind contributions of technology, equipment, hardware, and software, and pro bono contributions of time and expertise of private sector personnel. An individual is appointed as a member of the Council on the basis of the commitment of the individual, and the private sector entity the

individual is representing, to provide time, energy, and resources to the Council.

The private nonprofit corporation that establishes the DELTA Council under this subtitle will work cooperatively with the Superintendent, school administrators, teachers, parents, and students to devise plans for how private sector resources will be utilized in the schools for maximum impact. The corporation will coordinate plans with the schools for private sector contributions to career academies, school-to-work opportunities, voluntary assistance with repairs and improvements, and other related activities intended to benefit the students of the District.

The private nonprofit corporation will have a number of specified duties to increase private sector assistance for the school system. Such duties and activities would include: devising a short term and long term plan to ensure access to needed technology in the schools; the design and establishment of a model District Employment and Learning Center; promoting the participation of local employers in career academy programs and school-to-work opportunities; voluntary assistance in support of repairs and improvements to schools; establishing a professional development program for teachers and administrators; and developing a program of rewards for student accomplishment in cooperation with participating local businesses.

Most of these duties require on-going cooperation with the Superintendent, school administrators, teachers, parents, students, and the corporate donors. It is expected, therefore, that funds made available to the corporation to carry out its duties under this subtitle may be used for staff expertise and other costs associated with the design, start-up, and administrative responsibilities necessary to accomplish major duties that may not be covered by private sector contributions.

It is expected that the designated nonprofit corporation will solicit the expertise and resources of private sector businesses, universities, nonprofit entities, teachers, and school administrators to help establish a professional development program for teachers and administrators. As with other key initiatives under this subtitle, it is expected that participating entities will donate time, expertise, resources, equipment, and facilities to the success of the professional development program.

This subtitle requires that the professional development program will, at a minimum, provide for: training of teachers in core curriculum subjects; private sector training of teachers in the use, application, and operation of state-of-the-art technology in education; and training for principals in effective private sector management practices. In FY 1996, the focus of curriculum training will be on curriculum for elementary grades in reading and mathematics that have been demonstrated to be effective for students from low-income backgrounds.

As a collaborative venture with the private sector, particularly those businesses contributing technology to the schools, the professional development program is expected to provide teachers with a wide variety of world-class applications for educational technologies. For students to get the maximum benefit from advanced technology, it is important that teachers gain a sophisticated knowledge of technology and understand its role in the modern workplace. As a result, teacher knowledge and principals' management skills are important goals of the professional development program.

The unemployment rate for 18–25 year olds in the District of Columbia is simply too high. There needs to be an effective effort, beyond school reform, to assist these individuals in gaining the skills necessary to obtain and retain employment. This subtitle provides for the District Employment and Learning Center, "DEAL Center". The center will provide the District with a regional institute to provide job training and employment assistance for these individuals. The basic premise behind this programs is that one of the most effective approaches to employment programs is the combination of on-the-job and classroom training. As such, the center will focus on job placement, including temporary work assignments, combined with training opportunities. This training may be supported with needs-based payments in order to make training a viable option for those individuals who may otherwise not be able to afford the time to participate in such a program.

The center will use funds from a variety of sources (beyond what is made available under this section), including funds leveraged through the private sector by the DELTA council and through partnerships with other governmental agencies and appropriate federal employment and training programs.

It is recognized that there are currently efforts in this Congress aimed at streamlining the multitude of Federal job training and employment programs and providing a simpler framework for state and local implementation of such federal program. This subtitle encourages such reforms to be started within the District by the Mayor as soon as possible and further supports full accountability for these funds. The conferees encourage the Mayor and other local officials to coordinate the design and implementation of such reforms with the efforts of the DELTA council and with the efforts of the DEAL Center.

It is recognized that the DEAL Center does not currently exist and must be established. The Congress intends that the Center be established as a demonstration program which may serve as a model to be replicated. It is recognized that it will take considerable effort in the first year to establish the Center, design curriculum, enter into partnership agreements with education providers such as universities and community and technical colleges, enter into agreements with employers, and enroll students. It is expected that a greater portion of the funds appropriated for the Center will be used for start-up costs in the first year than in subsequent years.

It is expected that, in designing the curriculum for programs under the Center, particular attention will be given to identifying sectors where jobs are, or will be, available. As part of the private sector commitment to these youth, it is expected that the wages paid to students during any worksite training experience with employers will be paid for largely with private sector funds. It is expected that employers who engage in training the Center's participants will hire successful graduates of the programs.

As a regional institute, the DEAL Center will draw on a variety of employment and training opportunities throughout the Washington metropolitan area. Training assistance and job opportunities for D.C. youth will be funded from resources provided under this subtitle or from other resources identified by the Center.

This subtitle also recognizes the value of implementing nationally-proven programs. One such example is the Jobs for America's Graduates (JAG) program. According to the 1994 Annual Report issued by JAG, the program has benefited over 175,000 young people in 22 different states and 400 communities. Over 90 percent of them have successfully completed high school and over 80 percent, at the end of nine months after leaving school are either on the job, in the military or enrolled in postsecondary education or training.

This subtitle authorizes funding for a Jobs for D.C. Graduates Program modeled after the JAG program and consistent with Jobs for America's Graduates, Inc. This program would assist schools in workforce preparation initiatives. Specifically, these initiatives assist at-risk and disadvantaged youth in graduating from high school and in finding and maintaining quality jobs thereafter. It is expected that FY 1996 funding would serve approximately half of all 12th grade students and funding authorized in future years would include all interested 12th grade students.

Subtitle J of the conference agreement includes measures that are designed to enhance management and fiscal accountability in the District of Columbia Public School system, some of which had been added to the D.C. budget by the D.C. Council.

The agreement includes a requirement that the Superintendent contract for food and security services unless he determines that it is not feasible.

The agreement includes a requirement that the District of Columbia Public School system work with the Financial Responsibility and Management Assistance Authority to develop management and data systems that are consistent with those being developed across the District of Columbia government. The agreement provides that the Board of Education pay for these upgrades with $1.5 million out of the Board's own budget, which is currently being used to pay for Board members' salaries, Board staff, and other Board expenses.

The agreement requires the Board of Education to report on positions and staff in the District of Columbia public schools.

The agreement requires that the Board of Education develop revised annual budgets that are consistent with the D.C. Appropriations Act, including all staff allocated to each public school, zero-based budgeting, and school-by-school budgets.

Subtitle K of the conference agreement includes provisions that had been added to the D.C. Budget by the D.C. Council. These include protection for school-based personnel in the case of a Reduction In Force (RIF), reforms of personnel laws, and removal of evaluation of teachers from collective bargaining.

Subtitle L of the agreement establishes a seven member Commission on Consensus Reform in the District of Columbia Public School system, as proposed by the Senate. The conference action deletes sections of the Senate proposal that would give a Consensus Reform Commission authority to approve the long-term reform plan to be developed by the District of Columbia Board of Education under subtitle A, or to direct the Board of Education to take specific actions to implement the long-term reform plan, as proposed by the House. The Consensus Commission will play a key role in the implementation of reforms in the District of Columbia public schools as it will monitor the effectuation of the long-term reform plan. As part of that role, the Consensus Commission will identify any obstacles to the realization of the reform plan and suggest ways to remove those

obstacles, up to and including recommending actions to the Financial Responsibility and Management Assistance Authority to remove such obstacles.

In Subtitle M, the conference action removes a House proposal to link federal AFDC benefits to attendance at parent-teacher conferences. The conferees retain language proposed by the House authorizing the Mayor to encourage parents to attend parent-teacher conferences.

In Subtitle N, the conference agreement includes the House proposal to establish a "Low-Income Scholarships" program that, in the context of Title II, the "District of Columbia School Reform Act of 1995," would provide low-income residents of the District of Columbia with greater equality of educational opportunity. The Senate recedes on the "Low-Income Scholarships" program with substantial amendments.

It is widely agreed that adequate improvement in all of the District of Columbia public schools, especially those schools that primarily serve low-income families, will take a number of years. At least until such a time, low-income parents deserve the same opportunity as higher-income parents to seek out the best education for their children. Further, some point out that even after adequate improvement has been made in the public schools, and the Consensus Commission as entities that must be consulted by the non-profit corporation in administering the scholarship program, as proposed by the Senate.

The conference action establishes an account in the District of Columbia General Fund, with the Mayor required to disburse funds to the non-profit corporation.

The conference action limits the federal funds that may be used by the nonprofit corporation for administrative expenses to $250,000, as proposed by the Senate, a reduction from the House proposal of $500,000.

The conference agreement establishes the following nominating process for Presidentially-appointed members of the Board of the scholarship corporation: two will be appointed from nominees submitted by the Speaker, one will be appointed from nominees submitted by the House minority leader, two will be appointed from nominees submitted by the Senate majority leader, and one will be appointed from nominees submitted by the Senate minority leader. The Mayor retains one appointment.

The conference action adds a provision stating that it is the intention of the Congress to turn over to the District of Columbia control of the scholarship program established under this subtitle at the end of five years, as proposed by the Senate.

The conference action strikes a proposal by the House that only U.S. citizens may serve on the Board of the nonprofit corporation, or as staff to, the nonprofit corporation, as proposed by the Senate.

The conference action adds a provision directing the nonprofit corporation to attempt to ensure an equitable distribution of scholarship funds among eligible students with a range of academic achievement, as proposed by the Senate.

The conference action extends from one year to three years the period during which the nonprofit corporation must place a priority on serving students who are either enrolled in the District of Columbia public schools or are preparing to enter kindergarten, as proposed by the Senate.

The conference agreement permits tuition scholarships to be used for the cost of tuition at private religious or non-religious schools in the District.

The conference agreement extends permissible uses for tuition scholarships to include the costs to recipients of mandatory fees and transportation to schools.

The conference agreement authorizes "enhanced achievement" scholarships for the following purposes: the costs of non-sectarian, after-school instruction focused on helping students learn the new core curriculum (established under this Act for the District of Columbia public schools); the costs of non-academic, after-school programs, such as music lessons or athletics, and, tuition, transportation costs, and mandatory fees for vocational and technical training programs for older students.

The conference action increases the maximum amount of scholarships for after-school activities from no more than $500 in the House proposal to no more than $1,500 for students in families whose income is not more than the poverty rate, and no more than $750 for students in families whose income is more than the poverty rate but less than 185% of the poverty rate, as proposed by the Senate.

The conference agreement establishes a process for approval by the District of Columbia Council of the non-profit corporation's allocation of funds between tuition scholarships and enhanced achievement scholarships. The non-profit corporation will submit to the D.C. Council a proposed allocation of federal funds between the two types of scholarships. The D.C. Council will have thirty days to consider the proposed allocation and either approve or disapprove it. If the D.C. Council disapproves it, the non-profit corporation will resubmit a revised allocation. No federal funds may be spent on scholarship assistance to students by the nonprofit corporation until the D.C. Council has approved a proposed allocation between the two scholarships. Before such approval is secured, the non-profit corporation may spend federal funds on administration expenses, but not on direct assistance to students (i.e., through payments on their behalf to service providers).

The conference agreement expands the "provisional" certification process to include eligible institutions serving enhanced achievement scholarship students, as well as "schools." In addition, the conference agreement lengthens the period of time to three years for which schools are required to have been in operation in order to receive permanent (rather than provisional) certification. Thus a brand new school begun with scholarship students would need to apply for provisional certification for each of its first three years of operation before it could receive permanent certification.

The conference agreement requires that private schools and other organizations seeking to participate in the program provide assurances that they will not require students to participate in religious ceremonies or attend religion classes unless their parents provide written approval. This prohibition is only intended to apply to classes or activities whose sole or primary purpose is to encourage sectarian beliefs or practices. It would not apply, for example, to a comparative religion class where the general framework was analytic nor would it apply to passing references to religious or moral tenets in a social studies class.

The conference action requires that private schools and other organizations seeking to participate in the program provide assurances that they will not use federal scholarship funds to pay for religion classes or religious ceremonies, except for teacher salaries in the case where such teachers also teach academic classes, as proposed by the Senate.

The conference agreement requires that private schools and other organizations seeking to participate provide assurances that they will design and implement due process procedures for suspension or expulsion that must include an appeals process.

The conference agreement permits the nonprofit corporation to deny recertification for new schools, or to revoke eligibility for participating schools, for: good cause, including a pattern of violation of program requirements; or for consistent failure of at least twenty-five percent of scholarship students to make appropriate progress in academic achievement.

The conference agreement establishes a section that clarifies that private schools and other organizations that serve scholarship students shall be deemed to be recipients of federal financial assistance for the purpose of triggering application of relevant federal civil rights laws. The enforcement of such civil rights laws, as well as applicable local civil rights laws, is to be handled in the normal manner by the appropriate entities designated such responsibility.

The conference agreement provides that receipt of scholarship funds by a private school will be deemed receipt of Federal funds for purposes of section 504 of the Rehabilitation Act of 1973, ensuring that the section will apply to all such schools. The conference agreement also ensures that students with disabilities are identified for purposes of the Individuals with Disabilities Education Act (IDEA). At the request of the student's parent or the private school, D.C. public schools will be required to evaluate disabled students and develop an Individualized Education Program for qualified students.

The conference agreement requires that private schools and other organizations applying for certification to participate in the program provide assurances that they will abide by all local regulations applicable to such institutions. Primary responsibility for enforcing such compliance will remain with the public entities normally responsible for such enforcement.

The conference agreement prohibits the use of scholarship funds for construction of new facilities, such as school buildings. The use of scholarship funds for repair, renovation, or improvement of existing facilities is permitted.

The conference agreement includes a provision requiring that the evaluation of the scholarship program shall be provided for by the Department of Education and authorizing $250,000 for this purpose. The conference action also requires that the Department make available for public review the data gathered from this evaluation (with appropriate protections for students' privacy), as proposed by the House.

The conference action requires that the nonprofit corporation's annual report to Congress address how scholarship funds were expended, including the initial academic achievement of participating students, as proposed by the Senate.

Fundamental to the concept of this scholarship program—taken in the context of Title II as a whole, including the provision in Subtitle A requiring that the Board of Education's long-term reform plan include greater choice among District of Columbia public schools, as well as Subtitle B, which would allow choice among public charter schools—is the maximization of equality of opportunity for low-income families. Some First Amendment establishment clause concerns have been expressed regarding whether

this subtitle provides direct Federal assistance to sectarian schools. It does not, however, provide direct Federal assistance to any participating schools. Rather, the assistance is to the student. The intent of the bill is to make clear that the students are the primary beneficiaries of the scholarships, and not the schools. This subtitle envisions no discrimination for or against the participation of private schools in this program on the basis of religion, but instead neutrality.

The low-income scholarship program was carefully designed to satisfy Constitutional requirements under the First Amendment. Over the past twelve years, the U.S. Supreme Court consistently has upheld programs that provide assistance for students who attend private schools. In *Mueller* v. *Allen*, 463 U.S. 388 (1983), the Court upheld Minnesota's income tax credits for educational expenses, most of which were incurred in religious schools. In *Witters* v. *Department of Services for the Blind*, 474 U.S. 481 (1986), a program paying for a blind student to pursue training for the ministry at a religious seminary was upheld. In *Zobrest* v. *Catalina Foothills School Dist.*, 113 S. Ct. 2462 (1993), the Court sustained the use of funds under the Individuals with Disabilities Education Act to pay an interpreter for a deaf child attending a Catholic high school.

In these cases, the Court established that such assistance is permissible if: (1) the choice where to use such assistance is made by parents of students, not the government; (2) the program does not create a financial incentive to choose private schools; and (3) it does not involve the government in the school's affairs.

The proposed scholarship program, together with other provisions in the "District of Columbia School Reform Act of 1995", fulfills these criteria. Like the G.I. Bill and federal day-care assistance, the choice of where scholarship funds are expended is made not by the government but by the scholarship recipients. Because the tuition scholarships amount only to the cost of tuition and necessary expenses or some lesser amount, the program does not create a financial incentive to choose private schools. Scholarships are also available to pay the costs of supplemental services for public school students, who already receive a free education. Moreover, the program involves only the most limited regulations necessary to ensure that reasonable educational and public policy objectives are met, and does not create entanglement between the government and religious schools.

The conference action deletes the proposal by the House to establish a "D.C. Desk" in the Department of Education, as proposed by the Senate. The conferees are supportive of the work currently being done by the nonstatutorily authorized D.C. Desk in the Department's Office of Educational Research and Improvement (OERI), as well as the efforts of the Deputy Secretary to support education reform in the District of Columbia, but see no need to enact legislation in this regard at this time. The conferees encourage the Secretary of Education to upgrade activities supporting education reform in the District of Columbia and coordinate them Department-wide, perhaps by establishing a "D.C. Desk" in the Office of the Deputy Secretary.

OTHER GENERAL PROVISIONS

The conference action amends section 301 proposed by the Senate by changing the section number to 147 and restoring the language proposed by the Senate that prohibits the use of any funds in this Act for the renovation of Eastern Market located at 227 7th Street Southeast. The language permits the use of funds in this Act for the regular maintenance and upkeep of the current structure and grounds.

The conference action deletes section 302 proposed by the Senate that would have required the District government to reduce energy costs in facilities used by District agencies.

The conference action deletes section 303 proposed by the Senate that would have prohibited Members of Congress and the President from receiving basic pay because of Federal government shutdowns resulting from (1) a failure to enact a regular appropriations bill or continuing resolution or (2) the Federal government not being able to make payments or meet obligations because the public debt limit had been reached. The language would have also prohibited any retroactive pay.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1996 recommended by the Committee of Conference, with comparisons to the fiscal year 1995 amount, the 1996 budget estimates, and the House and Senate bills for 1996 follow:

Federal funds	
New budget (obligational) authority, fiscal year 1995	$712,070,000
Budget estimates of new (obligational) authority, fiscal year 1996	712,070,000
House bill, fiscal year 1996	712,000,000
Senate bill, fiscal year 1996	712,000,000
Conference agreement, fiscal year 1996	727,000,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1995	+14,930,000
Budget estimates of new (obligational) authority, fiscal year 1996	+14,930,000
House bill, fiscal year 1996	+15,000,000
Senate bill, fiscal year 1996	+15,000,000
District of Columbia funds	
New budget (obligational) authority, fiscal year 1995	$5,069,252.635
Budget estimates of new (obligational) authority, fiscal year 1996	5,250,386,000
House bill, fiscal year 1996	4,969,322,000
Senate bill, fiscal year 1996	5,114,273,000
Conference agreement, fiscal year 1996	5,096,039,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1995	+26,786,365
Budget estimates of new (obligational) authority, fiscal year 1996	−154,347,000
House bill, fiscal year 1996	126,717,000
Senate bill, fiscal year 1996	−18,234,000

JAMES T. WALSH,
HENRY BONILLA,
JACK KINGSTON,
RODNEY P. FRELINGHUYSEN,
MARK W. NEUMANN,
BOB LIVINGSTON,
Managers on the Part of the House.

JIM JEFFORDS,
BEN NIGHTHORSE CAMPBELL,
MARK O. HATFIELD,
Managers on the Part of the Senate.

□ 1530

BOYCOTT FRENCH PRESIDENT CHIRAC'S JOINT ADDRESS BEFORE CONGRESS

The SPEAKER pro tempore (Mr. HAYWORTH). Under a previous order of the House, the gentleman from American Samoa [Mr. FALEOMAVAEGA] is recognized for 60 minutes.

Mr. FALEOMAVAEGA. Mr. Speaker, I would like to premise my remarks this afternoon on a very serious issue, in my humble opinion, for my colleagues and certainly for the American public to be better informed about this very serious issue.

First of all, I hold no personal grudge or animosity toward the President of France, President Chirac, who will be visiting us today and is scheduled to address a joint session of the Congress tomorrow.

Second, I also hold no personal animosity toward the good people and the citizens of France. But, Mr. Speaker, it is out of fundamental principle that I take this special order on behalf of some 200,000 French citizens living in French Polynesia who all oppose President Chirac's ambitious plan to explode now six nuclear explosions in the South Pacific. I take this special order also in behalf of some 28 million men, women, and children who live in the Pacific region, whose lives depend on a good safe environment, especially the marine environment.

I take this special order on behalf of some 167 nations of the world who officially protested to President Chirac not to explode these nuclear bombs. Note also, Mr. Speaker, that 10 of the 15 member-countries of the European Union also protested against France for conducting nuclear explosions in the Pacific. Some have suggested, Mr. Speaker, earlier that the issue now is moot since 5 days ago France and Mr. Chirac has decided to end its nuclear testing program.

Mr. Speaker, on Monday, January 29, 3 short days before he is to arrive in Washington, and I presume he is now in Washington, President Chirac of France announced in a formal news release the end of his nuclear testing program in the South Pacific. Though he makes a pretty speech, just in time to come to Washington posing as a fervent advocate of nuclear disarmament and warm ties with America, I want to point out to my colleagues and to the American people, Mr. Speaker, the height of hypocrisy of Mr. Chirac's conduct and remarks.

Mr. Chirac began his news release with these words, and I quote:

Dear compatriots, I announce to you today the final end to French nuclear tests.

Thanks to the final series that has just taken place, France will have a durable, reliable and modern defense.

Point No. 1, Mr. Speaker. France already has the fourth largest Navy in the world. France also has the world's third largest arsenal of nuclear weapons. Before it even began its final series of nuclear tests, France had already exploded over 200 nuclear bombs in land, air, and water far from the home of enlightenment. In particular, Mr. Speaker, France had already exploded 178 nuclear bombs in the South Pacific.

Were those 200-plus nuclear bomb explosions not enough to ensure a durable, reliable, and modern defense, Mr. Speaker? If those 200 were not enough, why should we now believe that the 6 additional nuclear bombs France has just conducted in the South Pacific will be enough to stay its appetite in the future for an even more modern defense?

Point No. 2, Mr. Speaker. The, quote, final series of French nuclear tests were not even necessary. They were not even necessary. The United States freely offered France the technology it sought to ensure its so-called nuclear weapons reliability.

Why did France not accept the United States offer, I ask, Mr. Speaker? Because of a combination of two basic things, in my opinion: No. 1, French national pride, and I must give them that sense of credit; and, No. 2, there is French suspicion that the United States was withholding the state-of-the-art technology.

Mr. Speaker, Chirac wants to be perceived as promoting nuclear disarmament and expects to have warm ties now with America.

Mr. Speaker, this is the height of hypocrisy. One who defiantly violates a world moratorium and resumes unnecessary nuclear testing cannot and must not be regarded as a promoter of nuclear disarmament. And one who is suspicious of assistance from the U.S. offers cannot be regarded as promoting warm ties with America.

Mr. Speaker, President Chirac continued his speech by saying, and I quote, "The security of our country and our children is assured."

In turn, Mr. Speaker, I say at what price and whose children is President Chirac referring to? The sixth nuclear bomb explosion that France just exploded last Saturday, since violating the world's moratorium on nuclear testing, was over six times more powerful than the bomb that we dropped on Hiroshima 50 years ago. That atom bomb, Mr. Speaker, incidentally vaporized and killed some 150,000 men, women, and children in the city of Hiroshima, and later claimed another 50,000 who died as a result of nuclear contamination and related illnesses.

Mr. Speaker, in response to France's latest nuclear explosion in Fangataufa Atoll, the mayor of Hiroshima, Japan, said these words, and I quote:

I feel renewed anger. Nuclear tests aimed at developing and maintaining nuclear technology will do nothing but increase the risk of putting human beings on the brink of ruin.

Mr. Speaker, I might now ask, what kind of security has France really secured for our children? France's nuclear test sites are leaking cancerous radioactive waste into the swirling waters of the Pacific Ocean which cover one-third of the world's surface. I submit, Mr. Speaker, that France has put not only its children but all of our children on the brink of ruin by exposing them to nuclear contamination through a resulting toxic food chain.

Mr. Speaker, Chirac's reckless actions have also initiated the nuclear arms race all over again. Horrific environmental concerns aside, Chirac's decision to resume unnecessary nuclear testing in the South Pacific has opened a Pandora's box that holds chilling implications for nuclear and non-nuclear nations alike. Prime Minister Keating of Australia recently said, and I quote:

The French government is to be strongly condemned for the latest test at Fangataufa Atoll and for conducting it during negotiations for a comprehensive test ban treaty which are now entering the final stages in Geneva, Switzerland.

What implications, Mr. Speaker, does Chirac's reckless decision to initiate the nuclear arms race all over again hold for the security of the world?

Let me share, Mr. Speaker, the domino effect of Chirac's reckless decision last June. There is now a serious move by India to link the negotiations of a comprehensive test ban treaty in Geneva to its call for negotiations to start this year on removing all nuclear weapons in a specified time. The five nuclear superpowers are, of course, against this move, but joining India in this initiative, ironically, Mr. Speaker, is its archenemy Pakistan.

Adding to this difficulty, Mr. Speaker, India refuses to sign the nuclear nonproliferation treaty on the basis that the nuclear nations are still maintaining their nuclear arsenals, which in effect makes the whole treaty meaingless and discriminatory. India's representative to the current and disarmament conference in Geneva made this observation, and I quote:

We are of the view that to be meaningful, the treaty should be securely anchored in a global disarmament context and be linked through treaty language to the eliminating of all nuclear weapons in a time-bound framework.

In other words, Mr. Speaker, India is pushing for no loopholes in the nuclear nonproliferation treaty. As it currently stands, what assurances do non-nuclear nations have if nuclear nations retain their nuclear arsenals?

I submit, Mr. Speaker, if France's resumption of nuclear tests in the South Pacific is a case in point, non-nuclear nations have next to nothing in assurances from the five-nation nuclear club, comprised of one that is willing to defy world moratoriums at will and four that are willing to act in complicity by looking the other way.

I submit, Mr. Speaker, because of Chirac's reckless and selfish decision, India is now resisting Western pressure to forgo the nuclear option and is now initiating an ambitious ballistic missiles program. India is saying, "If France can defy world moratoriums to assure a durable, reliable and modern defense, then so can we."

Just this week, India successfully launched a new ballistic missile, the improved Prithvi No. 2, that has a range exceeding 150 miles and a capability of being fitted with nuclear warheads. This means, Mr. Speaker, that India has a missile with nuclear capabilities that can reach the capital of Pakistan.

□ 1545

Is it surprising that Pakistan now wants to utilize M–11 ballistic missiles from China? These M–11 missiles are also capable of carrying nuclear warheads, and can hit key cities throughout India.

But the chain reaction Chirac has created does not stop there, Mr. Speaker. India and China have just signed a contract for India to purchase uranium from China. Now, China, in an expression of its own security concerns, is developing warm relations with Russia. China's position is that it cannot depend on Western powers for its security, as renewed apprehension grows between Russia and the NATO powers. Meanwhile, China and Russia may still conduct nuclear tests and have not unconditionally accepted a genuine zero-yield comprehensive test ban treaty. All of this, Mr. Speaker, has been fueled in part by France's defiant violation of the international testing moratorium, which has contributed to a global atmosphere of distrust and paranoia where nations are reluctant to give up their nuclear options.

Australian Prime Minister Keating sums it up this way: "Such irresponsible actions send the worst possible signal to nations that aspire to possess nuclear weapons, and damages efforts to advance nuclear disarmament and nonproliferation. The French Government is to be strongly condemned."

Despite world condemnation, Mr. Speaker, Chirac arrogantly continued his speech of eurocentric rationale by marginalizing Asia-Pacific concerns. President Chirac states: "I know the decision I took last June may have caused worries and emotions." Mr. Speaker, can you believe this? Chirac thinks his decision only caused "worries and emotions." Is he still denying the environmental effects of his unnecessary nuclear bomb explosions in waters conveniently located halfway

around the world from Paris? Is he still claiming that his nuclear bomb explosions have no ecological consequences?

Is he unaware that he has initiated a nuclear arms race all over again? Or does he just take nuclear proliferation lightly, suggesting that it should cause nothing more than a few worries and emotions? What kind of world leader could be so barbaric in his interpretations, Mr. Speaker?

President Chirac continues by claiming that, "While my resolve was not affected, I was not insensitive to those movements of public opinion." How sensitive, Mr. Speaker, was he? Was he sensitive enough to stop nuclear explosions? Was he sensitive enough to consider the 28 million people living in the Pacific region whose lives will be affected for decades to come as a result of the nuclear nightmare Chirac's unaffected resolve created for them?

As Prime Minister Bolger of New Zealand has noted, and I quote, "Despite all suggestions from France that this is a totally safe and benign operation, there is no such thing as a safe nuclear test. They all create massive damage. It is just a matter of how much, when, and what leakage there is."

Even Philippines President Ramos also has this to say, Mr. Speaker, and I quote once again: "I condemn in the strongest terms the latest tests by France. This latest test is a continued defiance of the international communities' appeals to France."

Mr. Speaker, I might also note, this latest test comes shortly after all 10 Southeast Asian countries signed a treaty providing for a nuclear-free zone in that part of the world.

While President Chirac may claim sensitivity, the latest in French nuclear testings are an affront, a slap in the face to Asia-Pacific countries. Since when is a slap in the face, Mr. Speaker, considered to be an expression of sensitivity?

Promoting his propaganda to the hilt, Mr. Speaker, Chirac continues his response to the world's condemnation of French nuclear testing. These "movements," as Chirac likes to describe, "testified to the growing importance the world's inhabitants attach to collective security and safeguarding the environment. I share these concerns."

Mr. Speaker, I am appalled that the world's No. 1 nuclear proliferator, the man responsible for initiating the nuclear arms race all over again, would now try to convince us that he shares our concerns for collective security and safeguarding of the environment. If this were the case, why did he not just accept the technology the United States offered?

Why conduct unnecessary nuclear testing? Why reopen the nuclear arms race? Why create the paranoia? Why pit nuclear nations against nonnuclear nations? Why pit Western powers against non-Western powers? Why, on the one hand, claim that there are no ecological consequences of nuclear testings, but on the other hand, choose to conduct these nuclear tests far from the borders of France?

Whose environment is Chirac really interested in safeguarding, Mr. Speaker? And whose security is he really concerned about?

In a very patronizing way, Mr. Speaker, Chirac also said, and I quote, "I know that nuclear energy can be frightening, but in a world that is still dangerous, our weapon is a deterrent—that means a weapon that can serve peace. Today I have the feeling of having accomplished one of my most important duties by giving France, for decades to come, the capability for its independence and security."

I think that answers the question for us, Mr. Speaker, right there. It is French security and the French environment that Chirac is concerned about. To heck with everyone else's independence and security. France has its own rules. France does its own thing. If it wants to violate world moratoriums, it will. France, after all, comes first.

Mr. Speaker, excuse me, but I thought peace meant working together to create an equitable environment for all citizens of the world, not just French ones.

While I am on the subject, Mr. Speaker, I might question Chirac's use of the word "Independence." Does "Independence" in Chirac's vocabulary include freedom for the native people of French Polynesia who have felt the brunt of French colonial reign since the islands of French Polynesia were what Westerners would call "colonized" by France, after some 500 French soldiers with guns and cannons subdued the Tahitian chiefs and their warriors in the 1840's. Or is independence just a concept, like security, that Chirac applies only to the people of France?

Mr. Speaker, Chirac continued his dramatic monologue by saying, and I quote, "a new chapter is opening. France will play an active and determined role in world disarmament and for a better European defense," end of quote. Mr. Speaker, do I hear Chirac correctly? Do I hear him trying to justify his latest nuclear testings by saying he did it all to stabilize relations in Europe?

For him to suggest that the resumption of French nuclear testing was done to stabilize relations in Europe is ridiculous. When France first presented the idea of "concerted deterrence" and offered to extend its nuclear umbrella to its European partners, there were few takers, Mr. Speaker. In fact, Mr. Speaker, 10 of the 15 European Union countries voted with the United Nations, protesting the resumption of French nuclear testing.

Why, Mr. Speaker, are the European Union members not more anxious to be shielded by the French nuclear umbrella? This is partly because the European Union nations are more comfortable with the protection the United States has provided them for the past 50 years, and partly, Mr. Speaker, because historically, France just cannot be trusted.

Mr. Speaker, in the 1940's France surrendered to Nazi Germany. In 1966, at the height of the cold war, when nuclear missiles were pointed at every major country in Europe, France pulled out of the NATO alliance. Today France has still not officially joined NATO, and as we have clearly seen from September of 1995 to January of this year, France cannot even be trusted to honor a world moratorium it called for and agreed to only 3 short years ago. How can any nation, European or not, be assured of any French position?

Mr. Speaker, Chirac says, and I quote, "I will take intiatives in this direction in the coming weeks. As all of you, dear compatriots, I want peace—solid and durable peace. We all know that peace, like freedom, has to be built each day. That is the purpose of the decision I took and that will be the guideline for my action tomorrow."

Mr. Speaker, can we really put stock in Chirac's guideline for tomorrow? France's own urban minister said about Chirac's decision to explode six additional bombs in the South Pacific, and I quote, "He did what he said he would do, and he did the right thing."

Mr. Speaker, something is rotten in Denmark when world leaders consider that they have done the right thing by violating world moratoriums that they agreed to. Chirac's aide said Chirac will earn international respect for sticking determinedly to a decision almost as unpopular domestically as it was internationally.

Mr. Speaker, if the responses of world leaders from Australia, New Zealand, Japan, the Philippines, the Pacific nations and Europe is any indication of international sentiment, Chirac will be a long time in earning anybody's respect. Anyone with a social conscience, world leader or not, knows that the only interest Chirac considered in resuming nuclear testing was the higher interests of French military industrial lobbyists and their profitable $2.5 billion nuclear program.

Mr. Speaker, now Chirac wants to come to Washington and make a case for peace and act as a spokesperson for the world's poor. But, Mr. Speaker, did you know that France is now the top weapons exporter and weapons supplier in the world? Mr. Speaker, is it with irony or with hypocrisy that President Chirac will promote peace and act as a spokesman for the world's poor when France is the biggest exporter of weapons to developing nations?

Mr. Speaker, while Chirac may script his story for Eurocentric audiences, the people of the Pacific who feel the brunt of colonial reign have their own story to tell. It is a travesty that tomorrow their voices will be made mute in this Chamber by one who so arrogantly and so openly marginalizes not only their concerns, but the concerns of the world community as well.

Mr. Speaker, it is an act devoid of all social conscience that has afforded Mr. Chirac the opportunity of delivering his downright deceptive message from a Chamber that symbolically represents the highest of democratic values.

I urge my colleagues on both sides of the aisle to join together and support the privileged resolution, H.R. 350, introduced by the Honorable PATSY MINK of Hawaii, the distinguished gentleman from Guam, ROBERT UNDERWOOD, the Honorable PATRICIA SCHROEDER from Colorado, and myself, which requests the Speaker to withdraw the invitation to President Chirac to address a joint session of Congress. If the invitation is not revoked, then I urge my colleagues not to attend the joint session of Congress.

To attend the session is to act in complicity, to validate France's position that it is okay to violate world moratoriums, to resume nuclear testings that poison the Pacific, to initiate a nuclear arms race all over again, to place humanity on the brink of destruction.

As a member of both the Pacific island community and the U.S. House of Representatives, and as one who has sailed to the nuclear testing site of Mururoa and been arrested at the hands of French commandos in waters of French Polynesia, as one who has considered the kind of world that I want my children to live in—Mr. Speaker, I urge my colleagues, I cannot in good conscience be a party to such hypocrisy.

Mr. UNDERWOOD. Mr. Speaker, if the gentleman will yield, I thank the gentleman for yielding. I appreciate very much, and I want to recognize the leadership you have taken, I say to the gentleman from American Samoa [Mr. FALEOMAVAEGA], on this particular issue. The kind of research and the kind of energy that you have devoted to this has been remarkable. The fact that you are standing up on behalf of the peoples of the South Pacific is commendable, and I want to stress to those that are hearing this that the representation of the Pacific point of view in this institution as well as other institutions is limited because of the size of the islands that we represent. And I rise to urge, along with you and the other Members that you have mentioned, to urge my colleagues in this House to boycott the President Chirac address to a joint session of Congress tomorrow in protest of his decision to test nuclear weapons in the South Pacific.

I do not think people understand the kind of offense that these series of nuclear tests present for people in the Pacific who have been historically dealt with as if we are some kind of nuclear playground for world powers throughout the world.

□ 1600

A number of tests, over 200 nuclear tests have been conducted in the Pacific, and not in French Polynesia alone. It is this, despite the fact that apparently we all felt secure, that people acknowledged that this was an affront to the small peoples of the world. That a great power like France would insist and continue on this task, is not only an affront to the sensibilities of the world community, but, indeed, in particular to the lives, the peaceful lives, of the people in the Pacific.

Defying international criticism, France carried out six nuclear tests over the past 4 months to verify a new warhead and to perfect simulation technology that will be used to monitor the reliability of its nuclear weapons. As you have so eloquently pointed out, despite diplomatic objections, economic boycotts, world public opinion, and even French public opinion and letters from Members of this body, all were ignored summarily and arrogantly by President Chirac.

France maintained throughout this test that its underground blasts inflicted no damage on the fragile ecology of Mururoa Atoll, and last week we learned otherwise through an article in the Washington Post, something that we had suspected and you have pointed out over the past few months.

After years of denial, France has finally acknowledged that radioactive materials have indeed leaked into the lagoon near the Mururoa test site. The director of France's nuclear tests went so far as to state that radioactive material was usually "vented" into the lagoon when scientists drilled down into the rock to obtain samples after every blast. However, since the French do not allow any independent verification, it is impossible to assess the extent of damage during this testing period.

These latest accounts raise further questions about President Chirac's credibility. According to a confidential French Defense Ministry report, France has been aware, at least since 1979, that Mururoa's underwater foundation is cracked in several places. The report described underwater avalanches that followed the three tests as proof that the growing number of tests posed serious environmental risk to Mururoa Atoll, and, of course, we do not know how this will end up in the entire Pacific Basin, particularly for your area, which is much closer than my own.

Regardless of the environmental consequences, President Chirac arrogantly continued his testing program. Clearly he was not bothered by environmental contamination to the world's largest ocean and its ecosystem, perhaps as you have pointed out because he does not live there, and it begs the question as to whether President Chirac would have been more concerned about the environmental impact of his tests if they were conducted in France proper.

Last October France agreed to sign the protocols to the South Pacific Nuclear Free Zone Treaty. These protocols specifically prohibit nuclear testing within the South Pacific. Unfortunately, France refused to live by its own commitment. Agreeing to signing a treaty, but begging off on obeying it until it completes its own nuclear testing is the height of arrogance. Apparently France thought that by acceding to the protocols it would exonerate their past tests and their future tests for future nuclear blasts.

When I heard, and I am sure you felt the same way, when I heard that France conducted yet another test last Saturday, I knew that they would subsequently announce it as their last test in what is obviously, obviously, a cynical ploy to neutralize whatever objections people may raise to the French nuclear testing program as President Chirac, who is already in this country, comes to the United States.

I would point out what we need to understand is that this is the height of cynicism. This is a political ploy, pure and simple. The Congress should not and needs not be duped by President Chirac's double talk. With the latest acknowledgement of environmental contamination, President Chirac has lost all credibility. With the timing of nuclear tests to coincide with his visit here in the United States, he has lost any shred of credibility on this issue.

By the Members of this institution attending his address to the joint session of Congress tomorrow, Members of Congress will be giving President Chirac an audience that he simply does not deserve.

I urge my colleagues to join me and the distinguished gentleman from American Samoa, and other members of the Congressional Asian Pacific American Caucus, in protesting this address, in bringing attention to this serious problem. If he had perhaps admitted the duplicity of what they had been carrying out all along, perhaps we would be in a more forgiving mood, but he has not done so. By far, this is the most arrogant behavior by any world leader in the Pacific that I have borne witness to in the past 20 years.

I thank the gentleman for his eloquent remarks and for the time yielded to me. I also want to point out and support the comments that point out that France's very behavior on this, begging off, making a commitment but begging off, timing the tests, the whole nature of it simply threatens the whole nuclear nonproliferation treaty process.

Mr. FALEOMAVAEGA. I think one thing that I want to add, and also for our colleagues to know, this is not a Pacific issue. I think this is something that we need to kind of widen our perspectives and think just because you and I are from this region of the world that this makes it somewhat un-American.

The fact of the matter is, the United States is a Pacific Nation. The fact is that we conducted 160 nuclear bomb explosions in the Marshall Islands in the late fifities and early sixties. I might also add that we had to stop doing these tests because what happened was they found strontium 90, a by-product of nuclear contamination, in dairy products in the State of Wisconsin and other States. What happens, all of a sudden, everybody says, "Oh, it is a hazard to our health to conduct these nuclear tests." Despite our efforts to tell France, do not do this, they went right ahead and conducted these tests.

I might also note to the good gentleman's comments about the nuclear tests that were conducted in 1979. They drilled a hole or shaft in this atoll, which was supposed to be 2,600 feet, where the bomb was to explode. The thing went down halfway and got stuck. Guess what? They went right ahead and exploded that bomb, which caused not only a tidal wave, but tons of fish and all forms of marine life totally contaminated in the explosion they conducted in 1979. That is just one incident.

Another point I think my good friend and colleague should know, I think some 12,000 Tahitians, French Polynesians, were exposed directly to nuclear contamination. No records are kept, everything is held in secrecy. I say the issue is not moot. The issue is that our good friend from France, President Chirac, has got to come clean. He has got to tell the world that that Mururoa Atoll, which some scientists estimate is the equivalent of five Chernobyls, 181 nuclear bombs exploded in that one atoll alone, can you imagine what happens if that atoll starts to leak, starts to break apart? What is going to happen to the marine environment in the Pacific?

Oh, perhaps our good citizens from the State of California, maybe from the State of Washington or Oregon, might have something to say about nuclear contamination in the Pacific; of course, our good friends from the State of Hawaii.

I think it is outrageous. It is an outrage that we are going to allow this man to tell us what democracy is about, to tell us that France is a true democracy of the world, when just the opposite, exploding six nuclear bombs that are going to affect the health of these people that live in that part of the world. I think it is an insult to the people that live in the world, and I would surely hope that our colleagues will help us in this boycott.

Mr. UNDERWOOD. I would like to add that unlike the experience that the United States had in the Marshalls in the fifties, there is ample evidence that this is risky. This is something that is occurring some 40 years after the testing in the Marshall Islands, and perhaps we could excuse some of the earlier testing because we were unsure about the consequences. But in this particular instance we are very sure of the consequences, but France proceeded without any respect, without any attention to the kinds of outrage which were expressed in the Pacific.

I would like to commend again the gentleman from American Samoa for his diligent work on this issue and his leadership on this issue.

Mr. FALEOMAVAEGA. I thank my good friend from Guam.

[From the Washington Times, Jan. 31, 1996]

INDIA'S STAND COULD STOP TEST-BAN TREATY

(By Brahma Chellaney)

NEW DELHI.—After the halt to French nuclear testing in the South Pacific this week, India may stand as the biggest obstacle to American hopes for the completion of the Comprehensive Test Ban Treaty this year.

France, having conducted six nuclear tests the past five months, now favors an early conclusion to the CTB talks in Geneva. President Clinton listed the treaty as a priority in his State of the Union address.

China said yesterday it will continue testing until the implementation of the treaty, an outcome that is far from certain.

The CTB negotiations stand in jeopardy of being derailed by Indian Prime Minister P.V. Narasimha Rao's decision, announced in Geneva last week, to insist that the declared nuclear powers first agree to a timetable for total nuclear disarmament.

Analysts say there can be no credible treaty without the participation of India, which exploded a nuclear device in 1974. Pakistan, also on the verge of developing nuclear weapons, would not sign if India did not, and a number of other developing countries could be expected to follow suit.

Despite intense Western diplomatic pressure, India also plans to seek clauses in the treaty to bar the nuclear powers from updating their arsenals through laboratory testing, a move that would sharply raise the political and technical costs of the treaty.

"To be meaningful, the treaty should be securely anchored in the global disarmament context and be linked through treaty language to the elimination of all nuclear weapons in a time-bound framework," the Rao government said.

It said it would insert specific language into the treaty's draft text to prevent it from becoming "another flawed instrument aimed at curbing horizontal proliferation."

China's announcement that it will continue testing was another blow to nonproliferation efforts. Beijing, which is expected to carry out two or three nuclear tests this year, supports a comprehensive test ban but says it will abide by a pact only when it takes effect in international law.

"The position of the Chinese government on nuclear testing is clear-cut and remains unchanged," a Foreign Ministry spokesman said. "China has conducted a very limited number of nuclear tests, and things will continue to be that way".

Mr. Clinton has made the conclusion of a test-ban treaty a priority, renewing his call for a completion of the negotiations in his State of the Union address last week.

"We must end the race to create new nuclear weapons by signing a truly comprehensive nuclear test-ban treaty—this year," he said.

Mr. Clinton also has written to Mr. Rao seeking support for the treaty, but Indian officials said the prime minister has not replied to the letter.

The treaty negotiations are entering a critical phase in Geneva, where this year's session opened Jan. 22.

After a year of talks, there remain some 1,200 unsettled political and technical differences, including all the key provisions. With a number of countries working to influence the 104-page draft text, the final form of the treaty is very much in question.

The conference functions on the basis of consensus, bestowing effective veto power on each of its 37 members.

Although India could block Washington's plans by itself, it is building support among other non-aligned countries. It got a major boost last year when the U.N. General Assembly voted 106-39 to adopt a Burma-sponsored resolution calling for parallel negotiations on complete nuclear disarmament.

Mr. Rao, who is under growing domestic pressure to test and modernize his country's nuclear option, has argued that the permanent extension of the nuclear Non-Proliferation Treaty last May left India with no other way to pursue its goal of total nuclear disarmament.

[From the Washington Times, Jan. 31, 1996]

CHIRAC VISIT SIGNALS RECOGNITION OF U.S. DOMINANCE

(By Andrew Borowiec)

PARIS.—Western strategy in the post-communist era and France's closer links with the North Atlantic Treaty Organization will dominate French President Jacques Chirac's visit to the United States.

Mr. Chirac is to arrive in Washington today. After a stop in Chicago, he returns to France on Friday.

It is more than a routine call on Washington by the conservative French head of state. It signals France's concern about the shape of Europe's new geopolitical map and acknowledges the United States as a power with responsibilities in Europe.

For the time being, there is no question of complete French reintegration into NATO's military structure, from which the late Charles de Gaulle withdrew 30 years ago, officials say.

But the cautious process already has started, with France joining two key NATO military committees in December. Earlier this month, U.S. reconnaissance planes arrived at the French air base of Istres, with a backup unit of about 100 personnel.

Members of the ruling centrist-conservative coalition have called on Mr. Chirac to explain his intentions, or more specifically the contrast between consistent calls for closer European unity with its own defense and France's unquestionable. tendency to regard Washington as the key military power in the world.

According to an analysis by the Center of Strategic Studies in Paris, by seeking closer links with Washington, "France has chosen strategic considerations over political and ideological ones."

Officials close to Mr. Chirac stressed that the events in Bosnia "showed a political will by the United States rather than by Europe. Hence, the French government concluded that the United States is the only world power to be considered."

With few specific indications, it is not clear what shape Mr. Chirac's discussions in Washington will take. Some officials speak of a historic change that might emerge from the visit.

It has been made obvious that, after the initial applause for French-German military cooperation and the creation of the Eurocorps, the French are becoming more and more skeptical and believe that NATO, albeit under U.S. influence, is the best answer to future European security.

News from the presidential Elysee Palace frequently has been cryptic.

France exploded the sixth and last nuclear devise of the current tests Saturday, thus ending the experiments. But the controversy over testing the devices is not over.

Mr. Chirac told his nation the tests were essential to make the French independent nuclear force credible.

Mr. Chirac is scheduled to address a joint session of Congress tomorrow. But a handful of Democratic members, opposed to nuclear testing, are calling for members to boycott the session.

French officials acknowledge that it was reluctant U.S. involvement in the former Yugoslavia that brought the fragile peace to Bosnia and that "we can't do much without Americans."

Presidential palace sources also say that Mr. Chirac wants to build a more solid relationship with President Clinton because he believes strongly in the chances of Mr. Clinton's reelection in November.

Above all, some members of the governing establishment fear that the expansion of the 15-member European Union precludes chances of a unified and credible European defense.

NATO, often described here as a U.S. proxy in Europe, has once more emerged as the most viable formula for joint military action on a continent made more unstable by the Soviet Union's disintegration.

COMMUNICATION FROM THE HONORABLE BARBARA-ROSE COLLINS, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable BARBARA-ROSE COLLINS, Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 22, 1996.

Hon. NEWT GINGRICH,
Speaker, 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 of Representatives, that Meredith Cooper, my Chief of Staff, Royal Hart, my Deputy Chief of Staff, and the custodian of the records in my Washington office, have all been served with grand jury subpoenas duces tecum issued by the U.S. District Court for the Eastern District of Michigan.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoenas is consistent with the precedents and privileges of the House.

Sincerely,

BARBARA-ROSE COLLINS.

TRIBUTE TO CONGRESSMAN KWEISI MFUME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. CARDIN] is recognized for 5 minutes.

Mr. CARDIN. Mr. Speaker, I take this time to join, I know, all the Members of this House to acknowledge that in the next few days this House will be losing one of its most distinguished Members, a person who has contributed much to this Nation, who will be resigning to take on the presidency of the NAACP. I refer to my colleague and friend, the gentleman from Maryland, KWEISI MFUME.

When Congressman MFUME resigns from Congress, I will be losing one of my closest friends in this House, and one of my closest colleagues. Both of us were elected to Congress at the same time in the 100th Congress. Both of us were elected from Baltimore to represent that community in the Congress of the United States.

He is my seatmate, he is my colleague, he is my advisor and friend, and I will miss him dearly here in the House. We share the same vision for our communities, and we have worked together in order to effectively represent those communities here in the Congress of the United States.

What a record has Congressman MFUME achieved during his now 9 years in the Congress of the United States. He has been an articulate spokesperson for the Nation's cities. As a result of his work, we now have empowerment zone legislation that is working to renew America's cities. Because of Congressman MFUME's role, Baltimore is designated as one of those empowerment zones, and we are already seeing the fruits of that labor in Baltimore, thanks to Congressman MFUME's leadership here in the Congress of the United States.

He serves on the Committee on Banking and Financial Services, and has been a frequent speaker on this floor, to speak out for the needs of our Nation's cities. Of course, I think most of us know him best for the leadership that he displayed as chairman of the Congressional Black Caucus, particularly during the first 2 years of the Clinton administration. He brought forward the vision of so many Americans that we can do better for all of our communities.

He was keenly responsible for much of the progress that we made during those 2 years. He united not just the Black Caucus, but he united all of us who were interested in renewing our commitment to America's urban areas and to all of our people.

But you know what I think KWEISI's greatest legacy will be to this House will be the style in which he conducted his affairs. He brought the highest degree of integrity, hard work, coalition building, and what a communicator. What a way he has with words and can carry out on the floor in a very articulate way and get us all to work together.

I could relate some stories in Baltimore where he brought communities together. He worked with me to build bridges between the African-American community of Baltimore and the Jewish community in Baltimore. We learned from former Congressman Gray of Philadelphia about efforts that he made in Philadelphia, which we copied in Baltimore, known as Operation Understanding, where we arranged for African-American students and Jewish students to travel together to Africa and Israel to better understand each other's roots, an historic reason why we work together on civil rights legislation.

□ 1615

That program succeeded in bringing together children who are now good friends and are spreading, I think, an important message to our community that we must work together in order to move forward on areas such as civil rights and improvement in all ways of life.

Mr. Speaker, the Civil Rights Act of 1991 was another accomplishment in which I know Congressman MFUME is very proud. He had a major part to play in that achievement. In minority businesses having greater opportunity, Congressman MFUME was there with legislation and gaining support throughout the Nation in order to infuse more capital, more dollars, more opportunities, and more jobs in our inner-cities.

In Baltimore, we now see the Columbus Center, which was a dream a few years ago, become a reality where we will become the leader in marine biotech research in this country. It will mean jobs in Baltimore. It is good for this Nation, and it is another achievement that Congressman MFUME can be proud of, a proud legacy that he will leave when he resigns from this institution.

The drug courts and law enforcement area was another idea that he brought forward.

Mr. Speaker, let me say in conclusion that the loss of this Chamber will be the gain to the NAACP. I know I speak for all Members of the House to wish him only the best as he goes forward with this new challenge.

RECESS

The SPEAKER pro tempore (Mr. HAYWORTH). Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair, but not beyond 5 p.m. today.

Accordingly (at 4 o'clock and 16 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1628

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro

tempore [Mr. HAYWORTH] at 4 o'clock and 28 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The House will resume special orders without prejudice to the resumption of legislative business at 5 p.m.

TRIBUTE TO THE HONORABLE KWEISI MFUME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. HOYER] is recognized for 5 minutes.

Mr. HOYER. Mr. Speaker, it is a sad occasion for me to rise at this time to note and to lament the leaving of our colleague, the gentleman from Maryland, KWEISI MFUME.

Most of you know that KWEISI MFUME is in many ways the embodiment of the American dream and American ideal. He was a young man, like so many of us when we were young, who had trouble coming to grips with life. I can empathize with that. I am sure many of you can as well. In fact, as a teenager he was, from the perspective of many, a teenager that would not make a positive contribution to his community. The joy of the story is that KWEISI MFUME looked at himself and make a similar conclusion, and decided that that was not the route he wanted to go.

Robert Frost wrote a poem "The Road Not Taken." He said in that poem "I shall be telling this with a smile somewhere ages and ages hence: Two roads diverged in a wood and I, I took the one less traveled by."

The road less traveled by, as all of us knows who go through a woods, has more briars, has more brambles, has more branches in the way of progress. But if one is prepared to overcome those obstacles, one can prevail and be admired for that victory of the spirit.

I am not objective, Mr. Speaker. KWEISI MFUME is my friend. As the dean of the Maryland delegation, I can say with pride and with conviction that KWEISI MFUME has served the citizens of not only his district but of my district and of every district of our State exceedingly well. But more than that, KWEISI MFUME has been a leader in our country. Indeed, he has been a leader on the international scene.

KWEISI MFUME was picked by his African-American colleagues to lead the Black Caucus here in the Congress. Frankly, it was perhaps, one of the high points of the history of the Black Caucus during the 2 years of his leadership, in which he became perceived by the President of the United States, by the Speaker of the House, and by the minority leader as an individual of great consequence and conscience, as an individual prepared to fight for that which he believed, an individual who was in the best tradition of service in this House.

There have been some 10,200 Members, citizens, who have been selected by their communities to serve in this House since 1789. Few have served with such distinction as KWEISI MFUME.

KWEISI MFUME called me a few weeks ago, early on a Saturday morning. He informed me before it was to happen that he was going to be selected as the President and CEO of one of the historic and great institutions in this country, the National Association for the Advancement of Colored People.

That organization has done as much for civil rights as any organization in this country, but that organization, frankly, has fallen on hard times. It was confronted with problems of great magnitude, not just financially but in terms of energy and direction and focus and agenda. The genius of that organization was that they looked around the breadth of America and made what I think was the very best possible selection they could have made.

I am sad that they chose KWEISI MFUME, for myself, for my State, but I am glad that he will have an even broader stage, in some respects, on which to work. I am glad that the character of KWEISI MFUME will be associated with one of the great associations of this country.

KWEISI MFUME is on the floor and stands before me just now, and KWEISI, I say to you as a friend, as a colleague, but as well, as an American concerned about my country, concerned about bringing blacks and whites together, not dividing us, concerned about the rise in racism and the lack of understanding between the white and black communities in America, an understanding which is critical for both communities if we are to be the kind of successful American dream which the rest of the world thinks about and admires.

I want to thank the Speaker for his consideration of my closing with these comments about my brother, the gentleman from Maryland, KWEISI MFUME, who has served his country and his people so well. We wish him Godspeed and great success.

FAREWELL TO THE HONORABLE KWEISI MFUME

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida [Mrs. MEEK] is recognized for 5 minutes.

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

Mrs. MEEK of Florida. I yield to the gentleman from Maryland.

Mr. MFUME. Mr. Speaker, I would like to direct my remarks to the gentleman from Maryland [Mr. HOYER], who spoke earlier, and I recognize the duties of the Chair, having served there for many years.

Mr. Speaker, let me thank the gentleman from Maryland, on the gentlewoman's time, for his kind remarks, for his friendship over the years, for leading the delegation, from all of us who served the State of Maryland, and for extending the first hand toward me shortly after my election in 1986. Both he and former Congressman Tony Coelho came to Baltimore at that particular time to find out what it was they could do for me as an incoming Member. It has been that kind of relationship over the years, STENY, and I really appreciate your kind remarks.

Mrs. MEEK of Florida. Mr. Speaker, I say to the gentleman from Maryland [Mr. MFUME], it is a distinct pleasure to come to the well and tell you how much we are going to miss you, because you have shown the kind of leadership that is seldom seen, not only in the Congress, but throughout this country. The leadership you have demonstrated was one that was fed by character, one that was fed by dignity, one that was fed by knowledge, one that was fed by your strong desire to bring people together and not to separate them, regardless of their views.

Your name stands with the son of kings, and that you are, you are a son of kings. You are a conqueror. You have shown your lineage by your leadership and your example, which you have shown to all of us. You did not lead by talking. You could not say anything about a sermon, because I think from all of your work, you have shown that you would rather be a sermon than to preach one any day.

You have been the hope of all America, but most specifically, you have been the hope of black America. You have been a hero to us, and you still are. I am greatly saddened, at least I was, when you decided to retire and go to the NAACP, because I knew you had more and more to give to us, but God saw it better to send you someplace where you would be needed most. So I was saddened, but I was also encouraged, because they saw the same thing that we saw: The ability to lead, the ability to pull people together, the ability to start initiatives that work.

You were president of the Black Caucus for the first 2 years I was here. I say to you, if it were not for your leadership, we never could have accomplished the things that we accomplished. You even took people in the Caucus who were not directly associated with the idea of the kind of movement that you were trying to make, but you were such a person as to allow everyone a chance and to think of their opportunities.

You are a man of class. You are a cut above, MFUME, quite a bit a cut above, because we will never find a father, a leader, a peacemaker, above you in this Congress. I like the way you work with everybody, white, black, regardless of color or creed. You did not play the

race card at any time. What you did was to play the people card, and you made that card work for us in the Congressional Black Caucus.

Mr. Speaker, I think in the end, MFUME, even though I am saddened by your leaving, that your particular dictum may be and your shibboleth could be: Service is the price you have paid for the space which God has let you occupy.

Mr. MFUME. Mr. Speaker, if the gentlewoman will continue to yield, I could not, obviously, not respond to your heartfelt comments, CARRIE, and the friendship that we have developed over the last several years working on a number of issues, both here in Washington and down in your district in Florida and elsewhere. It is those kinds of words at this kind of moment that really makes the last 10 years worth more than they might have been otherwise.

I know that words are inadequate on my part to tell you how much you mean to me as a person, and why I will miss this institution, not because of the partisan bantering that takes place, but because of the genuine kind of dialog and fellowship that I have learned to develop and I have learned to develop with people like you. I love you very much. Thank you for your kind words.

CONGRATULATIONS TO KWEISI MFUME ON HIS SELECTION AS PRESIDENT OF THE NAACP

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. PAYNE] is recognized for 5 minutes.

Mr. PAYNE of New Jersey. Mr. Speaker, I have had the great privilege of serving as chairman of the Congressional Black Caucus in the 104th Congress, taking over the reins from my good friend, KWEISI MFUME, who served with such distinction during the 103d Congress. He has been tremendously supportive and helpful to me, and I am personally grateful for his friendship and encouragement.

Following his election to the House of Representatives in 1986, Congressman MFUME quickly gained a reputation as one of the most energetic and effective Members of Congress.

As a member of the Banking and Financial Services Committee and the Small Business Committee, he has been active on a wide range of issues, including the development of minority business opportunities. He was successful in adding minority contracting and employment amendments to the Financial Institutions Reform and Recovery Act. He also played a leading role in strengthening the Equal Credit Opportunity Act and the Community Reinvestment Act. In addition, he was actively involved in the passage of the Civil Rights Act of 1991.

Congressman MFUME's election by this colleagues to serve as chairman of the Congressional Black Caucus came at a historic point in time. President Clinton had just been elected along with 110 new Members of the House of Representatives. The Congressional Black Caucus had grown to include 39 House Members and 1 Senator.

Congressman MFUME took on the task of chairing the Congressional Black Caucus with the same enthusiasm and tenacity which he brought to all of his other successful endeavors. He broadened the scope of the Caucus, reaching out to members of the business community, building new coalitions, and seeking the ideas and input of young people.

While Congressman MFUME's presence in Congress will be greatly missed, we are thrilled that he will be using his talent and exceptional leadership ability to re-energize one of our Nation's most prominent civil rights organizations, the NAACP.

Having joined the NAACP myself as a high school student, and later serving as the president of New Jersey youth councils and college chapters of the NAACP, I know the potential the organization has to guide our community through the challenges that lie ahead. In fact, I had the honor of attending the NAACP convention in 1957 when the prestigious Spingarn Award was bestowed on Dr. Martin Luther King, Jr.

As the next leader of the NAACP, Congressman MFUME will be following in the distinguished tradition of such giants as W.E.B. DuBois, Walter White, Roy Wilkins, and Benjamin Hooks. I am certain that he will approach the job with the same passion for justice and equality as these heros of the past. Just as his chosen name indicates, no obstacle will impede this "conquering son of kings" from achieving his goals.

Let me just close by saying that Congressman MFUME has been an inspiration to all of us, and to many people, young and old, throughout this country. His rise from his Baltimore neighborhood to the halls of Congress, his success against the odds and his belief in himself remind us of the immortal words of Rudyard Kipling, that success will come "If you can dream, and not make dreams your master; if you can think, and not make thoughts your aim; if you can meet with Triumph and Disaster, and treat those two imposters just the same * * *. If you can force your heart and nerve and sinew to serve your turn long after they are gone, and so hold on when there is nothing in you except the will which says to them: hold on * * *."

Again, we congratulate Congressman MFUME and look forward to our continued association as he takes on this exciting new challenge.

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

Mr. PAYNE of New Jersey. I yield to the gentleman from Maryland.

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Mr. MFUME. First, Mr. Speaker, let me thank the gentleman for his words regarding the time that he and I have shared and many of the things that I have worked on here in the Congress and to say to you, DON, how much I appreciate the way you have also had the opportunity to lead this caucus, as have Congressman TOWNS, Congresswoman COLLINS, and others who are here on the floor.

It is a very difficult task. In fact, it is one I say that everybody ought to have the opportunity to do just once, just once.

But you are a great friend and your words are very heartfelt. I thank you for taking the time to come over here today. I almost feel like I am being memorialized, but I knew it is from your heart, and I appreciate all the time we have spent together here and throughout the country, and I wish the best for both you and your family.

TRIBUTE TO KWEISI MFUME

The SPEAKER pro tempore (Mr. HAYWORTH). Under a previous order of the House, the gentleman from the Virgin Islands [Mr. FRAZER] is recognized for 5 minutes.

Mr. FRAZER. Mr. Speaker, I come to the floor to join my colleagues in the special order honoring Congressman KWEISI MFUME. For the past 8 years Mr. MFUME has served this body with distinction and honor.

He led the fight for fairness and equity in Federal contracting for small and minority businesses. During the 103d Congress Mr. MFUME chaired the House Small Business Subcommittee on Minority Business. Under his leadership the committee investigated Federal agencies who were in noncompliance with Public Law 95–507, the Small Business Act. As a result of that investigation those agencies have established small disadvantage business offices and are meeting their contractual goals for small and minority businesses. Mr. MFUME is a master negotiator. He has the ability to listen, synthesize, and reach compromises when a impasse seem inevitable. He has negotiated with Members on both sides of the aisle, because he is open-minded and does not let ideology prevent him from getting the job done.

The U.S. House of Representatives is a better place because of Mr. MFUME's, leadership. Members who have served with him always respected his ability to build consensus. I know these qualities will be tremendous asset to him as he goes forward to be the chief executive officer of the NAACP.

For those who will ask why would KWEISI MFUME leave one of he safest districts in this body, it is because he is a selfless person.

Mr. Speaker and other Members, there is no doubt in anybody's mind

that KWEISI MFUME would be elected if he chose to run in November and Novembers and Novembers after that, but he is leaving what is obviously, as we said, a safe seat to take on the task of the NAACP at a time when it is most troubled and needs leadership. I, too, applaud the NAACP for choosing the best person to sail the ship out of troubled waters.

Mr. Speaker, KWEISI MFUME has caused many young people, especially black African-American males, to recognize the political side of the country, and because of him, they are coming forward in large numbers and partaking.

KWEISI MFUME, I applaud you for the service to this body. I wish you well, and I thank you for being a friend.

Mr. Speaker, I yield to the gentlewoman from Maryland [Mrs. MORELLA].

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

Mr. Speaker, I am pleased to add my voice to the chorus of colleagues who are singing the praises of KWEISI MFUME. We both were elected to serve the people of Maryland during the 100th Congress. I have enjoyed his friendship, and I have appreciated his courage and determination to fight for those Americans whose voices are often not heard in the halls of Congress.

KWEISI MFUME grew up on the streets of west Baltimore where he was known as Frizzel Grey. The people who still live there are proud of KWEISI, proud that he made something of himself. The old neighborhood is deteriorating and impoverished, but KWEISI keeps going back there—to his roots. He believes that the work he has been doing in Washington can only be relevant if it has an impact on his old neighborhood.

Although he has been an outspoken advocate of equitable and excellent education for women and minorities, scholarship wasn't always high on KWEISI's agenda. He was a high school dropout who hung out on Baltimore's streets drinking and swapping stories. He turned his life around during the 1970's when he changed his name and worked toward a high school equivalency degree. Then it was on to Morgan State and Johns Hopkins University.

His name is pronounced "Kwah-EE-see Oom-FOO-may," and it hasn't hampered him one bit. He adopted the name during the 1970's because he wanted to embrace his African heritage. It means "conquering son of kings."

During his 9 years in Congress, KWEISI MFUME has distinguished himself with an impressive record of advocacy for human rights and social justice. As the chair of the Congressional Black Caucus, he strengthened and brought national attention to a growing organization, establishing a rapport with African-American communities across the Nation and boosting the organization's reputation and morale.

I could go on and on, and I know I will in my extension of remarks, but I want to say that he has worked also for what he believes in with people on both sides of the aisle. I, for one, can attest to that. As Shakespeare would have said of him, the force of his own merit makes his way; and for me, here is a dear and true industrious friend. I will miss you.

I know that we will be working together as you chair the NAACP, and from the bottom of my heart, you are a good friend, and you have been a great statesman. Thank you.

I thank the gentleman for yielding to me.

TRIBUTE TO KWEISI MFUME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. TOWNS] is recognized for 5 minutes.

Mr. TOWNS. Mr. Speaker, I yield to the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Speaker, I know the time of the gentleman is short, but I do first of all want to thank my colleague from Maryland. We were elected together in 1986, kind of cut our teeth here in this House together and grew to be dear, dear friends. CONNIE, I will miss you very much also, and I thank you for your kind words and for coming here.

VIC, let me thank you also for yielding part of your time that the gentlewoman from Maryland [Mrs. MORELLA] might in fact be recognized. We have a long way to go in this institution, but clearly, individuals, such as yourself, who are coming here with bright ideas and a real commitment for change will make that happen.

Thank you so much for coming out and for being a part of this, and I mean that honestly from the bottom of my heart. I look forward, beyond this point, to working more with you. Thank you.

Mr. TOWNS. Mr. Speaker, as chairman of the Congressional Black Caucus, the voice of Mr. KWEISI MFUME was loud and his message was clear. On the issue of establishing democracy in South Africa and throughout his career, KWEISI has spoken his mind and supported first amendment protection for freedom of speech, even in the face of vile and hateful remarks uttered by others.

Wherever the fight has had to be, KWEISI has been in the thick of it. His vision, strength, and leadership have been vitally needed. He has never wavered in his support of affirmative action, minority small business development, health care reform, community reinvestment, and protection of civil rights.

KWEISI's voice has been one of reason, vision, and principle. He has been a foot soldier on the front line and an able member of the Democratic leadership. He has been effective in the boardroom, courtroom, and the streets of public opinion have been his battleground and pulpit for highlighting causes that are just and necessary.

Those of us who have served in this body have seen an erosion in the confidence of voters regarding public officials and institutions of government.

Mrs. COLLINS of Illinois. Mr. Speaker, will the gentleman yield?

Mr. TOWNS. I yield to the gentlewoman from Illinois.

Mrs. COLLINS of Illinois. Mr. Speaker, I thank the gentleman for yielding, because I too want to pay the highest tribute to our longtime colleague and close friend, former Congressional Black Caucus Chairman, KWEISI MFUME, and to say that he has been a wonderful leader in our Congressional Black Caucus, as well as a premier Member of this body; and I thank you for yielding, because I know your time is short.

Mr. Speaker, I rise today to pay the highest tribute to my long-time colleague, close friend, former CBC chairman, and one of the most outstanding Members of this body, Congressman KWEISI MFUME of Maryland. There is no doubt that he will be sorely missed by this institution as he moves on to his new role as chief executive officer of the NAACP.

Throughout his tenure in Congress, Representative MFUME has been a powerful, articulate, and respected champion of average hard-working Americans, the elderly, our children, and the underprivileged. He has generously lent his time and his talents to the causes of justice, civil rights, and economic and educational empowerment for all citizens of this Nation. In so doing, he has been extremely successful in building coalitions to help advance the needs of those whose voices are least often heard in Washington and in the corridors of the Capitol.

I recall a commercial jingle that I think is a fitting phrase to describe Congressman MFUME's significant presence: "When Kweisi Mfume speaks, people listen."

It is particularly in the area of minority business and community development that Congressman MFUME has been without peer in the House of Representatives. As an active force on the Banking and Financial Services Committee, KWEISI MFUME has tirelessly advocated landmark legislative initiatives to expand access to credit and lending opportunities for small, disadvantaged entrepreneurs and firms. He expertly crafted minority contracting and employment amendments to the Financial Institutions Reform and Recovery Act. In addition, he deftly strengthened the Equal Credit Opportunity Act and amended the Community Reinvestment Act in the interest of minority financial institutions.

But it was in the 103d Congress, as chairman of the Congressional Black Caucus, that KWEISI MFUME's star shined the brightest and America stood up and took notice of this remarkable and truly distinguished gentleman. His term as chairman of the CBC marked the pinnacle of the caucus' power and influence

on Capitol Hill, at the White House, and, yes, across the country. From securing increased funding levels for targeted education, environmental protection, and health care programs in the 1993 budget to negotiating effective prevention initiatives included in the 1994 crime bill, KWEISI MFUME stood firm for the convictions of the caucus, the rights and needs of our constituents, and the principles of equality and liberty for all.

I thank my colleague, Congressman CARDIN, for holding this special order in honor of Representative MFUME. I wish KWEISI all the best in both his personal and professional endeavors. It has been not only a pleasure but also a privilege to serve with him in this august body.

I know for certain that the NAACP will thrive under KWEISI's direction. They are lucky to have someone with his stature, strength, honor, and intellect to lead them forward at this important time in the history of that vital organization and the history of our Nation.

Mr. LEWIS of Georgia. Mr. Speaker, will the gentleman yield?

Mr. TOWNS. I yield to the gentleman from Georgia.

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank the gentleman for yielding and take just a moment, and I will have a much more extensive statement to submit for the RECORD, because I believe that Mr. MFUME represents the very best that this body has to offer. He is the personification of leadership, of vision.

We came here together, elected in 1986 and came here in 1987. He has been a great Member, a good Member. I hate to see him leave this place, but I know he is going on to bigger and better things. He will provide leadership for the NAACP, but in providing leadership for the NAACP, he will be providing leadership for this Nation.

So let me say to Congressman MFUME, my friend, my leader, and my brother, we wish you well, and Godspeed.

Mr. TOWNS. I would be delighted to yield to the gentleman from Ohio, the dean of the Ohio delegation [Mr. STOKES].

Mr. STOKES. I thank my distinguished colleague and friend from New York for yielding to me.

Mr. Speaker, I regret that because of the time constraints today, due to our schedule on the floor, that we will be unable to spend time paying tribute to a man who deserve tribute from so many of us who want to participate. Hopefully, we are going to be able to get additional time, so at this time what I would like to do is just commend Mr. CARDIN and Mr. HOYER and others who have spoken here for providing us the opportunity to pay tribute to this distinguished colleague who will be departing.

I will reserve the balance of my comments, either for submission to the RECORD or for a later Special Order, if we can get additional time.

I just want to say to KWEISI MFUME that we have great respect and admiration and love for you, and all of us wish you Godspeed in your new career.

Miss COLLINS of Michigan. Mr. Speaker, will the gentleman yield?

Mr. TOWNS. I yield to the gentlewoman from Michigan.

Miss COLLINS of Michigan. Mr. Speaker, on a personal level, I want to pay special tribute to Mr. MFUME's contributions to the Congressional Black Caucus. As chairman for 2 years, he energized our membership and inspired our organization to attain new and unprecedented heights.

In closing, not only do I applaud you, Mr. MFUME, for your outstanding political achievements, but I also thank you for your profound contributions in preserving equal rights for all citizens. You have truly emerged as a national leader and one of the most respected voices in the ongoing human rights struggle. Thank you.

I am very pleased today to pay tribute to my distinguished colleague, the Honorable KWEISI MFUME. Mr. MFUME, I first want to congratulate you on your outstanding political career. As we know, Mr. MFUME was elected to Congress 9 years ago to represent the interests of Maryland's Seventh District. And, while he has represented the interests of his constituents with unquestionable excellence, Mr. MFUME's influence extends far beyond the boundaries of Maryland. Indeed, all of here in Congress and across these United States have benefited from Mr. MFUME's exceptional leadership.

During his tenure in the U.S. House of Representatives, Mr. MFUME has been a dedicated advocate of landmark civil rights legislation. Minority businesses across the Nation have particularly benefited from Mr. MFUME's contributions in obtaining favorable amendments to the Financial Institutions Reform and Recovery Act, the Equal Credit Opportunity Act, and Community Reinvestment Act. Impressively, Mr. MFUME also successfully cosponsored the Americans with Disabilities Act, and amended the Civil Rights Act of 1991 to apply to U.S. citizens working abroad.

On a personal level, I want to pay special tribute to Mr. MFUME's contributions to the Congressional Black Caucus. As chairman of the CBC for 2 highly successful years, Mr. MFUME energized the membership and inspired the organization to attain new and unprecedented heights.

In closing, Mr. MFUME, not only do I applaud you for your outstanding political achievements, but I also thank you for your profound contributions in preserving equal rights for all citizens. You have truly emerged as a national leader and one of the most respected voices in the ongoing human rights struggle. I wish you blessings and the best of wishes in your new appointment as chairman of the NAACP, which will undoubtedly benefit from your exceptional leadership.

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

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

Mr. HORN. I thank the gentleman for yielding.

Mr. Speaker, it is with great sadness that I see Mr. MFUME leave this Chamber. He is one of the most respected Members in the House of Representatives. When the Democrats were the majority in the last Congress, he presided with great dignity and great presence over the proceedings of the House of Representatives. But if he has to leave, he could not go to a more worthy organization that the National Association for the Advancement of Colored People.

He and I share in common a friendship with the late Clarence Mitchell. It was Clarence Mitchell and others of the NAACP who were walking the Halls of Congress before any of the more prominent civil rights leaders of the latter part of the 20th century were walking the Halls of Congress. Clarence Mitchell and a few colleagues were the ones that were bringing the cause of the African-American to these doors on a bipartisan basis. I am sure that KWEISI MFUME's presence and leadership in reassembling and restructuring and improving the work of the NAACP will be a great service to this Nation and thus to the provision of equal opportunity for many of our citizens.

Mr. TOWNS. Mr. Speaker, I yield to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. I thank the gentleman from New York, and I will be brief and reserve written comments for the RECORD.

As a freshman, I just could not remain in my office. I call him, still, Chairman MFUME for his 2 years of leadership. I personally want to thank him for the kindness extended to one during her interest and climb in public service. He was never too busy to answer a question, to come and visit with constituents.

Now we will have the same kind of gentle kindness going on at the helm in the leadership of our mother organization, the NAACP, leading America into the 21st century of civil rights. I am gratified that he will do that.

KWEISI, my friend, I thank you for your leadership and your kindness. Congratulations. But most of all, best wishes in your new role and challenge.

Mr. CARDIN. Mr. Speaker, if the gentleman will continue to yield, I want to thank the Speaker for his understanding in making this time available in this unusual process that we have used. You have been very understanding, and we thank you.

It is a real occasion to celebrate KWEISI MFUME's service to his Nation and how we will all miss him. I know tomorrow we are going to have some additional time on the floor, and I would urge those Members who did not have a chance during this opportunity that we will have time tomorrow. I know that the time has passed for today.

Once again, I want to thank the Speaker for his courtesy.

The SPEAKER pro tempore. The Chair thanks all of the speakers during

this special order and would take time also to commend my good friend from Maryland.

Mr. TOWNS. In closing, Mr. Speaker, let me say to the gentleman from Maryland [Mr. MFUME] that you can count on me to be a soldier in your army for justice as you continue to fight on the outside as you have been able to fight on the inside.

One that note, I yield to the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. I appreciate the gentleman yielding. I recognize the time constraints that the House is under, and I appreciate the comments of Mr. CARDIN that perhaps we can conclude this portion of the special order tomorrow or perhaps later today. I know there are a lot of Members that are starting to come over on the floor for that.

Quite frankly, I am honored and flattered by it, and I appreciate their presence here and look forward perhaps to spending some more time on this special order either later today or certainly tomorrow.

Mr. LAFALCE. Mr. Speaker, I am pleased to join with my colleagues today in honoring KWEISI MFUME, an extraordinary legislator and a good friend. KWEISI is leaving the House of Representatives where he has capably represented the people of Maryland's Seventh Congressional District to assume new responsibilities as chief executive officer of the NAACP.

I have had the privilege of working closely with KWEISI since his arrival in Congress in 1987. We have served together on both the Committee on Banking and the Committee on Small Business, where KWEISI held leadership positions as chairman of the Minority Enterprise Subcommittee and, this year, as the ranking Democratic member on the Banking Oversight Subcommittee. In these positions, as well as in his leadership of the Congressional Black Caucus, KWEISI demonstrated outstanding qualities of leadership and unshakable integrity. Throughout his years in Congress, KWEISI has been a champion for people in need, a powerful voice for equal justice and affirmative action and an effective advocate for small business rights and economic opportunity.

With KWEISI's departure, the House of Representatives loses one of its most able Members. But our loss is a tremendous gain for the NAACP and for the cause of equal justice generally. Although we look back to praise KWEISI's many accomplishments in Congress, we also look forward knowing that even greater accomplishments await him in the future. I look forward to working with KWEISI in the future and wish him every success in his new role.

Mrs. KENNELLY. Mr. Speaker, I rise to join my colleagues in honoring one of this body's most distinguished and dedicated Members.

When Congressman KWEISI MFUME takes the helm of the NAACP in February, this body will lose one of its finest leaders. Since entering Congress over a decade ago, Congressman MFUME has stood on the front lines of the battle for equality and opportunity for all Americans.

As chairman of the Congressional Black Caucus during the 103d Congress, he was instrumental in passing legislation to increase opportunities for minority-owned businesses and banks. And this past year, as chairman of the Joint Economic Committee, he has insisted on focusing our attention on those Americans the economy often leaves behind. His efforts have made a real difference in people's lives, from his neighbors in Baltimore to men, women and children a continent away who he has never met but whose plight compels him to act.

Congressman MFUME has amassed an impressive legislative record in the House of Representatives. He could have taken the safe route by staying in Congress; in fact, he would have been reelected easily in November. But doing what is easy or safe has never been Congressman MFUME's way. He has dedicated his entire life to accepting new challenges and pursuing higher goals. Each time, he has met those challenges and achieved those goals.

Leading the NAACP through uncertain times will certainly be a tough challenge, but the organization's unanimous vote to make him their new president and CEO underscores the amount of confidence it has in him to do the job. His talents and commitment will lead the NAACP in its fight to improve educational opportunities, promote personal responsibility and rejuvenate our cities. Congressman MFUME is ready to use life's lessons he learned growing up in Baltimore and the political experiences he gained in Congress to move the NAACP into the 21st century as a proud, vibrant voice for equality and civil rights.

Already, Congressman MFUME is making his presence felt with the NAACP, leading the charge to register 8 million African-Americans to vote in time for the next election.

At a time of dissatisfaction with the political process and those who embody it, I can think of a few better role models than Congressman MFUME, who has chosen to leave the confines of Capitol Hill and a near-certain reelection for a far riskier venture, simply because he believed it is the right thing to do.

I think every one of us recognizes that, come February 15, this body will be less passionate about helping the most vulnerable members of our society, and a measure less vocal about expanding opportunities to all Americans. However, we are comforted by the fact that our loss is the NAACP's gain. And we are inspired to know that, as long as Congressman MFUME plays a role in the affairs of our Nation—whether it is here in Washington, up in Baltimore, or anywhere else in this Nation—the progress we have made over recent years will not be lost.

Mr. CONYERS. Mr. Speaker, I rise today to honor my good friend and colleague, KWEISI MFUME. The gentleman from Maryland will be leaving this body next month to accept the job as president and CEO of the NAACP, the most important civil rights organization in the United States. I also want to thank Mr. CARDIN for convening this special order.

In 1986, KWEISI MFUME was elected to represent Maryland's Seventh Congressional District, a seat that Parren Mitchell had held for 16 years. So, even before he arrived, our expectations of Mr. MFUME were great—filling Mr. Mitchell's shoes would not be easy. But Mr. MFUME has shown us on many occasions that he has been more than able in meeting the challenges of representing his constituents to this body.

Mr. MFUME's lasting mark in Congress will most certainly be his tenure as chairman of the Congressional Black Caucus. Elected chairman for the 103rd Congress, Mr. MFUME shepherded our caucus to become a prominent coalition in shaping legislation during President Clinton's first 2 years in office. Under his leadership, the caucus achieved a critical mass of some 41 members, its largest presence ever. With Mr. MFUME at the helm the caucus played an integral role in assuring that the President's budget passed, and that it included programs to help the urban poor. Among the victories in that budget were an expanded earned-income tax credit, the creation of urban empowerment zones, an expanded Food Stamp Program, and mandatory immunization for all children. The caucus, through Chairman MFUME's leadership, has also been at the forefront of many struggles of particular importance to African-Americans, including the efforts to preserve affirmative action and to restore democracy to Haiti, one of the foreign policy highlights of the Clinton administration.

As a member of the Committee on Banking, Finance and Urban Affairs, Mr. MFUME has worked diligently on issues important to cities, African-Americans, and the urban poor. He has worked hard to assure that banks loan money and offer services in poor neighborhoods to assure that the underserved have the same opportunities as others. In 1990, KWEISI successfully offered an amendment that changes the way public housing tenants pay their rent. Rent payments are now based on actual income, not estimated income.

This year Mr. MFUME, as a member of the Minority Leader GEPHARDT's Policy Committee, has led the fight against attacks on Medicare, Medicaid, welfare, job training, and other important elements of our social safety net. We, certainly, can't afford the cuts the Budget leaders have prescribed, and KWEISI has worked to preserve these important programs.

Mr. MFUME has served his Maryland constituents with dignity and honor throughout his 9-year career. He is now leaving us to manage the largest civil rights organization in our Nation. I must confess that when I first heard of KWEISI's decision to leave Congress I was disappointed. I felt that his exemplary leadership was needed more than ever as Congress grappled with the extraordinary agenda of reactionary legislative initiative now confronting it.

Upon reflection I embrace and salute without reservation Mr. MFUME's decision. He leaves us in order to lead the revitalization of an organization that has a critical, perhaps seminal, role to play in mobilizing millions of African-Americans and progressive Americans of all types to halt this Nation's slide into a reactionary abyss and to move this Nation toward the full realization of justice and the promise of democracy. His decision is one that all Americans, in and out of Congress, committed to the struggle for justice can endorse.

The NAACP is very important to me. I am a lifelong member of the NAACP and my home city boasts this Nation's largest NAACP Chapter. I have no doubt that the NAACP is in good hands and that KWEISI will raise the NAACP to new heights, and will continue to fight for civil rights, social change, and economic justice. I wish him well in his new career. His commitment and passion will be sorely missed in this Congress. It is not often that we are able to work with a more dedicated or honorable individual. We, certainly, could use a few more Members like KWEISI in the U.S. Congress.

Mr. STOKES. Mr. Speaker, earlier today, the gentleman from Maryland, Mr. CARDIN, took time in the well to pay tribute to our colleague, KWEISI MFUME, who is a retiring member of the Maryland delegation. I join Mr. CARDIN, Mr. STENY HOYER, and my colleagues who take time today to pay tribute to Mr. MFUME.

As one who has seen a number of colleagues go and come over the years, I can say that the departure of KWEISI leaves me with mixed emotions. On the one hand, I am proud to see the good judgment shown by the NAACP in selecting KWEISI as its chief executive officer. On the other hand, for those of us who know this institution, his leadership qualities bode a bright future for him as a leader in future Congresses.

As a life member of the NAACP, I salute this organization for what has to be recognized as a coup in getting KWEISI to head up the most important civil rights organization in America. In light of its current financial problems, declining membership, and lack of national focus and direction, I think that KWEISI MFUME is the right man, at the right time, for the right reasons.

He will bring to this organization the type of fresh, new leadership and eloquence that will return it to its stature of greatness.

Mr. Speaker, KWEISI's whole life has been that of a man who accepts challenges head on. In this case, he will be confronted with a formidable challenge in restoring the NAACP to its rightful place of prominence as the preeminent civil rights organization in the history of this Nation.

But everything in his background cries out, indeed screams, that all of these years he has been preparing for the day when a challenge of this magnitude would come. And indeed, he is ready.

A part of his preparation took place in this very body when he was selected by the members of the Congressional Black Caucus to chair our organization for 2 years. This was a daunting challenge, but he undertook it with vigor and determination, and in my opinion, he took the Congressional Black Caucus to a new level of success and stature during his chairmanship.

In that post, he demonstrated a level of commitment that is unsurpassed. He was able to bring to the forefront a wide range of economic and foreign policy issues. He fought hard for the millions of Americans whose voices go unheard in the Halls of Congress.

Mr. Speaker, KWEISI MFUME has also exercised strong leadership as a member of the House Banking Committee. He has fought efforts aimed at increasing rents for the Nation's public housing residents. He has also authored language which would require a commitment from banks to make loans and services available in poor neighborhoods and underserved banking markets. He is a thoughtful and skilled lawmaker who has earned the respect and admiration of his colleagues.

Mr. Speaker, I take special pride in saluting KWEISI MFUME today. In closing, I am reminded of how, a few years ago, shortly after he came to the Hill, that I invited KWEISI to a meeting with some of my constituents from Cleveland. In his speech to the group, he brought the house down by relating a story of how, as a high school student, he had been assigned the task of writing a research paper on me. We still, from time to time, get a laugh out of that story.

Mr. Speaker, KWEISI MFUME will be missed on Capitol Hill. Our loss is certainly the NAACP's gain. We salute KWEISI and look forward to working closely with him in the days ahead.

Mr. MARTINEZ. Mr. Speaker, I rise today to join my colleagues in paying tribute to Congressman KWEISI MFUME, a remarkable man from Maryland who has served his constituents and all Americans with exceptional integrity and distinction. KWEISI MFUME is leaving the House to accept a new and exciting challenge as president and chief executive officer of the NAACP. This historic civil rights organization is indeed fortunate to have such a skilled and highly respected man at its helm.

During his tenure in the U.S. House of Representatives, Congressman MFUME has emerged as a national leader and champion for the most vulnerable Americans. He has consistently been a voice of reason in Congress, never shying from the good fight. KWEISI's eloquence and advocacy for progressive cause have affected the lives of millions of Americans for the better.

So tonight, Mr. Speaker, I salute KWEISI MFUME, conqueror of kings, and wish him nothing but success in all his future endeavors.

Mr. DIXON. Mr. Speaker, I rise to join my colleagues today to recognize the very significant contributions that the gentleman from Maryland has made during his 9 years in the House of Representatives and to wish him great success as he begins a new and very important endeavor.

We know that Congressman MFUME's constituents in the Seventh Congressional District, who have consistently reelected him with over 80 percent of the vote, will miss his representation in the House. We also know that millions of Americans outside the seventh district, who have relied on him to give voice to their needs and aspirations, will sorely miss that voice coming from the Congress of the United States.

Throughout his tenure in the House, Representative MFUME has been a champion for the rights of those denied opportunity in this Nation, and particularly for the expansion of economic opportunity for those denied. He has been one of our most eloquent spokesman for the need for economic empowerment in the Nation's urban and minority communities, focusing his legislative efforts on minority business development.

During his 2 years as chairman of the Congressional Black Caucus [CBC], Congressman MFUME energized the caucus and focused our message, culminating in major legislative achievements in the 104th Congress. Included in those achievements were expansion of the earned-income tax credit for working families, and creation of enterprise zones to spur economic development in inner-cities. As a member of the House Banking Committee he has been an advocate for the needs of low-income housing residents and for greater responsibility on the part of financial institutions to offer services in their communities.

Representative MFUME has been an articulate, forceful, and passionate presence in the House of Representatives. All Americans will benefit as he brings these qualities to his new role as chief executive officer of the NAACP.

Congressman MFUME is uniquely suited to the task of reviving membership and reenergizing the NAACP—particularly among the Nation's African-American youth. The challenges he overcame in his own youth and the accomplishments he has achieved during a distinguished career in Congress bode well for his efforts to recruit a new generation of leaders to the cause of ensuring that all Americans share in the prosperity of this Nation.

I join my colleagues in thanking Representative MFUME for his service to the country as a Member of the House of Representatives and wish him much success as he meets his new challenge at the helm of the NAACP.

Mr. FROST. Mr. Speaker, I would like to take this opportunity to honor Representative KWEISI MFUME, former chairman of the Congressional Black Caucus, on the occasion of his leaving the House in order to head the NAACP.

During his tenure in Congress, KWEISI MFUME, who has represented Maryland's Seventh Congressional District since 1986, has displayed a strong commitment to public service and a stellar record of legislative accomplishment.

Through serving on the Banking and Financial Services Committee, Representative MFUME has been able to focus congressional attention on a variety of issues, including minority businesses, health care, and civil rights legislation.

He authored the minority contracting and employment amendments to the Financial Institutions Reform and Recovery Act, strengthened the Equal Credit Opportunity Act, and amended the Community Reinvestment Act to strengthen the protection of minority financial institutions.

It has been an honor and a privilege to serve in the House with Representative MFUME. Clearly, his hard work and dedication to public service have improved the lives of all Americans.

Mr. SENSENBRENNER. Mr. Speaker, I rise to pay tribute to our departing colleague from Maryland, Congressman KWEISI MFUME.

For the past 10 years, the people of Maryland's Seventh District have benefited from the representation of Congressman MFUME.

Representative MFUME's political career began as a Baltimore City Council member where he promoted the causes of his inner-city constituents. He was elected to the House of Representatives in 1986 and recently served on the Banking and Financial Services and Small Business committees.

His record reflects a dedication of addressing the needs of his district while balancing those with the needs of the Nation. His hard work and legislative ability have earned him the respect of his colleagues on both sides of the aisle.

Representative MFUME's outspoken support of civil rights and other traditional minority concerns lead to his election as Chairman of the Congressional Black Caucus in 1992, where he elevated the level of influence for the caucus to a new level.

I wish Congressman MFUME good luck as he assumes his new responsibilities as chief executive officer of the National Association for the Advancement of Colored People, where he will have a new platform to fight for the causes he believes in. This is an exciting opportunity for him and I know I am joined by my colleagues in wishing him continued success.

Mr. WATTS of Oklahoma. Mr. Speaker, I want to thank the gentleman from Maryland, Mr. CARDIN, for making this time available to recognize our good friend and colleague, KWEISI MFUME. It is a distinct pleasure to have the opportunity to speak about a gentleman who has earned a place of high respect and honor here in the Congress.

We all know that there's often a lot of talk in this Chamber, but there's seldom a lot of listening. KWEISI MFUME is one of those soft-spoken voices that rises above the din, above the crowd—one of those rare voices that Members listen to on both sides of the aisle.

KWEISI has earned our ear, and our respect, not only because of his dedicated work for this great Nation and his effective advocacy for our most disadvantaged citizens—but also because of the hard road he took to Congress—from the troubled neighborhoods of west Baltimore to the heights of Capitol Hill, his is a story of determination. It is a story which teaches our Nation's youth great lessons about dignity and self-respect.

We applaud the NAACP for choosing a leader of the caliber of KWEISI MFUME. Quite sincerely, I can think of no one more qualified and respected to lead that venerable institution into the 21st century. Our only regret is the loss we will feel here in this institution when we lose the reasoned voice and seasoned leadership of KWEISI MFUME.

I wish my friend every success as he confronts the challenges of his new position.

Ms. PELOSI. Mr. Speaker, I rise today with mixed feelings of joy and sadness as we honor our good friend and colleague KWEISI MFUME. I am saddened to lose our esteemed colleague as a relentless advocate in Congress for the poor and disadvantaged, yet I am so pleased and proud that a man of such leadership, courage, dignity, and vision will now guide the NAACP to marvelous new heights.

Congressman MFUME has spent most of the last 10 years representing an area I know very well—the city in which my father, Thomas D'Alesandro, once served as mayor and as Member of Congress. KWEISI and I were both born and raised in Baltimore and had the good fortune to learn at the feet of some of the Nation's finest Democrats. While I moved to San Francisco, Congressman MFUME remained to represent the interests of those living in Maryland's Seventh Congressional District, which includes some of Baltimore's poorest neighborhoods.

KWEISI MFUME is the best possible role model for the youth he has worked to assist because he has experienced the challenges of life's adversity and knows that it is possible to triumph. After surviving difficulties in his childhood, he adopted not only a new name but a new way of life, completing his education, achieving popularity for his outspoken views as a radio talk show host, then winning a seat on the Baltimore City Council to promote the causes of the poor and disadvantaged living in distressed communities. In 1986, he was elected to Congress to continue his good work on Baltimore's behalf.

The limited time we have on the floor today is not nearly enough to list this member's many accomplishments and successes. We all know that Congressman MFUME has been a tireless advocate and a national leader for minority business development and civil rights legislation. His voice is always clearly and eloquently heard in defense of the rights and needs of children, people of color, the poor, the elderly, and the disabled—people who do not often have access to the halls of power.

During his impressive term as the leader of the Congressional Black Caucus, KWEISI's style was to build coalitions, not to tear them down. He was instrumental in shaping the caucus into the formidable force that it is.

At the announcement of his selection as president and CEO of the NAACP, A. Leon Higginbotham said that Congressman MFUME "combined the brilliance of W.E.B. Dubois, the eloquence of Martin Luther King, the toughness of Thurgood Marshall, and the caring of Harriet Tubman." This great and natural leader could receive no more fitting tribute.

The name Kweisi means conquering son of kings. He has conquered everything he has sought to achieve in this Congress. Now he is moving on, not to conquer, but to bring together the people of our Nation and to continue to fight for the causes in which he believes. I join with his many, many friends, family, and colleagues in this body in bidding him farewell and wishing our friend good luck and great success in his new and very important endeavor. We look forward to working with him in his new capacity as president of the NAACP.

Mr. COSTELLO. Mr. Speaker, I want to join my colleagues in honoring our colleague, Congressman KWEISI MFUME, as he prepares to leave Congress to take over the National Association for the Advancement of Colored People [NAACP].

I have had the privilege of serving with KWEISI for many years, and can testify to the fact that he has had an enormously positive impact on the U.S. House of Representatives. He has well represented his constituents in Baltimore, and has been an aggressive advocate for the causes of human rights and urban development.

As the former chairman of the Congressional Black Caucus, KWEISI was successful in raising the profile of the caucus agenda, and speaking for millions of African-Americans who look to the caucus for leadership. By becoming chief executive officer of the NAACP, KWEISI will continue those efforts and represent that organization with the same vigor and competence as he represented his constituents in Maryland's Seventh District.

Mr. Speaker, I know many of my colleagues join me in bidding KWEISI best wishes on his new challenge, and will be working closely with him on issues of concern to all of us in the future.

GENERAL LEAVE

Mr. CARDIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of this special order.

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

There was no objection.

□ 1700

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2546, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1996

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 104–456) on the resolution (H. Res. 351) waiving points of order against the conference report to accompany the bill (H.R. 2546) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1996, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION AUTHORIZING SPEAKER TO DECLARE RECESSES SUBJECT TO THE CALL OF THE CHAIR

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 104–457) on the resolution (H. Res. 352) authorizing the Speaker to declare recesses subject to the call of the Chair from February 2, 1996, through February 26, 1996, which was referred to the House Calendar and ordered to be printed.

PRIVILEGES OF THE HOUSE—WITHDRAWAL OF INVITATION TO FRENCH PRESIDENT JACQUES CHIRAC AND NOT AGREEING TO FUTURE APPEARANCES TO ADDRESS JOINT MEETINGS OF CONGRESS BY HEADS OF STATE OF NATIONS CONDUCTING NUCLEAR TESTS

Mrs. MINK of Hawaii. Mr. Speaker, I rise to a question of the privileges of the House and offer a privileged resolution that I noticed pursuant to rule IX yesterday, and ask for its immediate consideration.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 350

Whereas virtually every nation in the world has adhered to a moratorium on nuclear tests since September 1992;

Whereas, on June 13, 1995, President Jacques Chirac of France ended his nation's adherence to the moratorium by ordering a series of nuclear tests in the South Pacific;

Whereas France has since conducted six nuclear tests on the Pacific atolls of Moruroa and Fangataufa in French Polynesia;

Whereas France has acknowledged that radioactive materials from some of the tests have leaked into the ocean;

Whereas, as a result of the tests, the people of the Pacific are extremely concerned about the health and safety of those who live near the test sites, as well as the adverse environmental effects of the tests on the region;

Whereas, in conducting the tests, France has callously ignored world-wide protests and global concern;

Whereas the United States is one of 167 nations that have objected to the tests;

Whereas the tests are inconsistent with the "Principles and Objectives for Disarmament", as adopted by the 1995 Review and Extension Conference of the Parties to the Treaty on Non-Proliferation of Nuclear Weapons;

Whereas, in proceeding with the tests, France has acted contrary to the commitment of the international community to the non-proliferation of nuclear weapons and the moratorium on nuclear testing;

Whereas the President of France, Jacques Chirac, is scheduled to appear before a joint meeting of the Congress on February 1, 1996; and

Whereas, in light of the tests, the appearance of the President of France before the Congress violates the dignity and integrity of the proceedings of the House: Now, therefore, be it

Resolved, That, by reason of the recent nuclear tests conducted by France in the South Pacific, the Speaker of the House shall take such action as may be necessary to withdraw the invitation to the President of France, Jacques Chirac, to address a joint meeting of the Congress, as scheduled to occur on February 1, 1996.

SEC. 2. On and after the date on which this resolution is agreed to, the Speaker of the House may not agree to the appearance before a joint meeting of the Congress by any head of state or head of government whose nation conducts nuclear tests.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Does the gentlewoman request time to discuss the question of privilege?

Mrs. MINK of Hawaii. Yes, I do, Mr. Speaker.

The SPEAKER pro tempore. The gentlewoman from Hawaii is recognized on the question of whether the resolution constitutes a question of privilege.

Mrs. MINK of Hawaii. Mr. Speaker, I offer this question of the privileges of the House because I believe that the invitation to President Jacques Chirac to address the joint session of the Congress on February 1, 1996, violates the integrity of the House.

Despite world wide objection to the resumption of nuclear tests, President Chirac proceeded with callous disregard to the concerns and consequences of his actions.

The House of Representatives Chambers must be reserved to those individuals whose actions and political courage bring dignity to this institutional. Invitations to address joint sessions are reserved to those persons who have demonstrated their leadership and character as deserving of honor and reverence.

I believe that many Members of Congress are as offended as I am by the idea of President Chirac coming to this Chamber to address this Nation. After refusing to listen to the pleas of hundreds of nations, and in particular the people of the Pacific rim, why should the Congress afford him a podium from which to advance his unwelcome views?

This offense is not just against the people of French Polynesia. It is an offense against all the people of the world who believed that there would be an end to the nuclear arms race. For France to resume nuclear tests in the Pacific after previously announcing an end to these tests, is a moral travesty that shakes the very foundation of world governments.

For France to argue that they needed to do these tests to ensure the reliability of their nuclear arsenal is to state that the French Government has repudiated the basis of the Test Ban Treaty which is that nuclear war is impossible and that no government should be planning for such an inevitability.

If those nations who possess the nuclear bomb are allowed with opprobrium to re-test their arsenal, then the appeal to others not to seek nuclear capability is an empty gesture at best. At a critical time when we want to curb the nuclear adventures in China and other countries, how do we justify playing host to a Western Power who has already conducted 192 tests, most of them in the Pacific, 140 of them underground and yet insisted that it needed 8 more tests to prove its reliability, and to perfect its computer based simulation technology.

Sadly President Chirac's decision opens the way for other nations to squander our precious environment for their own purposes. Why is France's national security of greater importance than other nations?

The sixth and last nuclear blast that was set off by the French Government on January 27, 1996, in Fangataufa Atoll in French Polynesia had the equivalency to 120,000 tons of TNT, more than six times the Hiroshima bomb.

This defiance of international policy, and deliberate renunciation of their own government's prior announcement of a test ban moratorium must not be received by this Chamber with regular order.

On the contrary, I believe, as I have stated in this resolution that the invitation should be withdrawn on the basis that his presence in this Chamber would constitute approval of his conduct in this regard.

Other than this resolution we had no opportunity to express our disapproval of this invitation. I urge this House to approve this resolution and serve notice to the world of our solemn adherence to a nuclear free world.

The SPEAKER pro tempore. Does any other Member wish to be heard on this?

Mr. LEWIS of Georgia. Mr. Speaker, I wish to be heard on the privileged resolution.

The SPEAKER pro tempore. The gentleman from Georgia is recognized on the question of privilege.

Mr. LEWIS of Georgia. Mr. Speaker, I want to join with my colleagues to strongly protest France's actions in the South Pacific. I am pleased that France has stopped testing its nuclear weapons. But I must say—it is too late. The damage has been done.

France ignored the pleas of the governments and people of the South Pacific and throughout the world. We live on this planet together. We share its bounty. These are our oceans, our land, our people. We must respect each other.

President Chirac did not listen to the groans and moans, the hopes, the dreams and the aspirations of those who are longing for a planet free of nuclear waste, free of nuclear destruction, free of nuclear poison. This man—this President of France and his government—refused to listen to the community of nations.

And now, he wants to come to our house. To the people's house. President Chirac, our people do not support nuclear testing. Our people do not support radiation in the waters. Our people do not support a government that ignores the community of nations.

Six times, France has poisoned our earth. Six times, nuclear poison has seeped into the waters of this little planet. This poison remains with each and every one of us.

If France truly wants to atone for its wrongs, they must apologize to the people of the South Pacific. They must join with them to right the wrongs, to help heal the environment, to help heal the hurt.

As France's actions demonstrate, nuclear testing should be banned from this planet forever. We must never again engage in this desolate deed. It is time to evolve to another level, to a better world where we lay down the tools of poison and destruction and respect the community of nations.

Nuclear testing is obsolete. Nuclear testing is evil. To paraphrase the words of Mahatma Gandhi, "Noncooperation with evil is as much a moral obligation as cooperation with good."

So I cannot be silent. I cannot close my eyes to France's deeds.

I know France is our ally, but even with our good friends, we must have the courage to say that a wrong is wrong. We must have the courage to do what is right. I don't know about any other Member, but for me and my house, I will not be seated here tomorrow when Mr. Chirac comes to this House.

The SPEAKER pro tempore. Are there other Members that wish to be heard?

Before recognizing the gentlewoman from Texas [Ms. JACKSON-LEE], the Chair would remind Members if they speak on this to confine their remarks to the issue of the question of privilege under rule IX rather than on the pros and cons of the policy they are speaking about, but confine your remarks simply to the question of privilege.

The Chair recognizes the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise to speak on the privileged resolution of the gentlewoman from Hawaii.

Mr. Speaker, I think that rule IX in particular speaks to the integrity and collective impact on this body.

Mr. Speaker, I respect the people of France as I do all of our world citizens, and I also know that there is some good to nuclear testing.

I think, Mr. Speaker, that we recognize that over the past decade, the international community has agreed that nuclear-weapon testing is a practice that must be ceased for the good of both humanity and Mother Earth. As evidence, the nations of the world are currently in Geneva negotiating the Comprehensive Test Ban Treaty. Additionally as early as 1985, the countries of the South Pacific Forum negotiated and signed the Rarotonga Treaty establishing the South Pacific Free Zone.

Mr. Speaker, this body has invited many individuals to be at the helm and provide insight and information to this august body, this Nation, and, of course, the American people. It is a responsibility of this body to ensure that factual information is exuded from this body. And I believe that in allowing this leader to come, it goes against the factual basis of this country's standing on nuclear testing.

In spite of this international effort to end nuclear testing on our planet, the French Government, of which this leader will represent, chose to ignore the interests and the pleas of many Pacific nations and conduct its six full-scale detonations of its TN75.

Mr. Speaker, in light of this singularly egotistical decision, I believe that it is inappropriate for this body to invite President Chirac to speak before it. It is a question of presenting of the facts to the American people. His presence here only serves to defend, however subtly, these deplorable tests. I believe that although this Government did not vigorously speak out against these tests, we can now help to correct that error by giving symbolic support to our Pacific allies. Why should we be party to repairing the credibility of President Chirac when he has marginalized both the Pacific neighbors to these tests and the international community?

Mr. Speaker, I think it is important that we in this body have the responsibility to uphold the laws of this land, the policies of this land, and the policies of this land have been to date that we have not supported nuclear proliferation or the testing of nuclear weapons.

□ 1715

For this body's integrity to stand as under rule IX and privileged resolutions, I would say to you that we have the responsibility to disinvite this President, for this impacts the collective integrity of this body.

It should be noted also, Mr. Speaker, that although President Chirac has decided to stop the nuclear tests, it was hardly due to respect for any nation other than his own. Before the tests even began, he stated France, and France only, would, indeed, conduct six to eight tests, and the gentleman has been good to his word.

Mr. Speaker, this is an honorable institution and under rule IX I think it is our responsibility again to preserve its integrity. I would ask that the privileged resolution be considered and, of course, accepted by this body, and that we uninvite President Chirac in order to maintain the collective responsibility of the United States House of Representatives.

Mr. Speaker, I respect the people of France as I do all of our world citizens. I also know there is some good in nuclear technology. Mr. Speaker, over the past decade, the international community has agreed that nuclear-weapon testing is a practice that must be ceased, for the good of both humanity and Mother Earth. As evidence, the nations of the world are currently in Geneva negotiating the Comprehensive Test Ban Treaty. Additionally, as early as 1985, the countries of the South Pacific Forum negotiated and signed the Rarotonga Treaty, establishing the South Pacific Free Zone.

Yet, in spite of this international effort to end nuclear testing on our planet, the French Government chose to ignore the interests and pleas of many Pacific nations and conducted six full-scale detonations of its TN75 warheads.

Mr. Speaker, in light of this singularly, egotistical decision, I believe that it is inappropriate for this body to invite President Chirac to speak before it. His presence here only serves to defend, however, subtlely, these deplorable tests. I believe that although this Government did not vigorously speak out against these tests, we can now help to correct that error by giving symbolic support to our Pacific allies. Why should we be party to repairing the credibility of President Chirac when he has marginalized both the Pacific neighbors to his tests, and the international community.

It should be noted that although President Chirac has decided to stop the nuclear tests, it was hardly due to his respect for any nation other than his own. Before the tests even began, he stated that France would indeed conduct six to eight tests, and the gentleman has been good to his word.

Mr. Speaker, this is an honorable institution, let us preserve its integrity.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Do other Members wish to be heard?

Mr. FALEOMAVAEGA. Mr. Speaker, I would like to address the issue, the privileged resolution, before the body.

The SPEAKER pro tempore. The gentleman from American Samoa is recognized.

Mr. FALEOMAVAEGA. Mr. Speaker, as I have spoken earlier concerning the issue now before this body, the question of privilege, in terms of the tradition of the House and whether or not the President of France should be honored or be given the privilege of addressing a joint session of Congress tomorrow, as I speak, Mr. Speaker, as it is true with almost every young American learning about civics, the history of our Nation itself, how it was conceived, the fact that this Nation itself has a tradition of being a former colony of the British Empire, the fact that there are some very fundamental traditions that I think I can say without equivocation about what America stands for, the principles of democracy and human rights and all due respect for other human beings to live in their respective areas or regions, as I speak before my colleagues in this body, I notice there are only two murals or two picture frames that are part of the decor of our Chamber, and that of the great President, our first President of the United States, George Washington, and I see on the other corner of this Chamber a great leader, a great French patriot by the name of Marquis de Lafayette, a great patriot who supported wholeheartedly the cause of the American colony for its interests in wanting very much to be free from the shackles of British colonialism, and the fact that representation without taxation, as a principle, simply was not in order, and the fact that our country was conceived in blood, and we fought for those freedoms against British colonialism.

So I think in the spirit of tradition and what we talk about the great Lafayette that came and helped us tells us something about what it means to be a free human being, what it means to go against colonialism, what it means to believe in the principles of democracy, human rights, and the right of human beings to live. I think this is the core of the issue that is now before us, and the privileged resolution expressing this sense, strong sense, among the Members of this Chamber

that the Speaker ought not extend an invitation to the President of France to address us at a joint session tomorrow.

I support wholeheartedly the provisions of this resolution, and I ask my colleagues in this Chamber to help us by making this point. The point is that this man really did not have to permit six nuclear explosions, to do this nuclear testing, despite the fact of protestations of some 167 nations, 28 million people who live in the Pacific region, 200,000 of their own citizens in French Polynesia who also opposed the testing, and ironically of all, Mr. Speaker, 60 percent of the French people themselves did not want President Chirac to conduct this nuclear testing. It is an abomination. It is an outrage.

Mr. Speaker, I ask my colleagues, do not support the Speaker's invitation by allowing this man to address the Chamber tomorrow.

The SPEAKER pro tempore. Do further Members wish to address the question of privilege?

Mr. UNDERWOOD. Yes, I wish to address the privileged resolution.

The SPEAKER pro tempore. The gentleman from Guam is recognized.

Mr. UNDERWOOD. Mr. Speaker, as an American citizen and as a Pacific Islander, I must rise today in strong support of the privileged resolution offered by the gentlewoman from Hawaii [Mrs. MINK].

This resolution speaks to the issue of this body's integrity because of President Chirac's behavior, and in order to argue that President Chirac should, in fact, should be disinvited, we must analyze President Chirac's duplicitous and cynical behavior in the conduct of nuclear testing in the South Pacific.

A speech before a joint session of Congress is President Chirac's way of trying to win back the good graces of this body and of world opinion and to recover some very lost credibility. After he has ignored world opinion for over 4 months by proceeding with these series of tests, he does not deserve the honor of speaking before this body. Just days prior to their final nuclear test, thousands of miles from the French capital, France acknowledged radioactive waste was leaked, and in fact, frequently vented into the lagoon adjacent to the test site. Of course, this did not stop France from finishing their last test.

And now the French President wants this Congress as his audience. With the precedent of inviting someone responsible for a potentially major environmental disaster in the Pacific, you have to wonder who the congressional leadership will invite next. Can we expect to hear a joint session speech by the captain of the Exxon Valdez, the manager of Three Mile Island, or maybe we will have the opportunity to attend a joint session by the director the Chernobyl nuclear power plan.

I ask this body, I implore this body to support the privileged resolution offered by the gentlewoman from Hawaii.

The SPEAKER pro tempore. The Chair is prepared to rule. If there are others, the Chair will hear one more Member speak on this question.

The gentlewoman from North Carolina [Mrs. CLAYTON] is recognized.

Mrs. CLAYTON. Mr. Speaker, I will be brief, and maybe you can hear both of us. I will abbreviate my remarks.

I just want to join in strong support of the privileged resolution that is offered by the gentlewoman from Hawaii [Mrs. MINK] and also to say that the dignity and integrity of who we invite, who speaks from that well says volumes about what is important to us as Americans.

Americans have gone on record of not advocating the proliferation of nuclear testing, and yet the President of France has negated that altogether, although France itself has signed that treaty.

So I implore all of my Members and colleagues that this will say volumes about our integrity when we sign a treaty that we would honor that and certainly we should not give the well to someone who violated the treaty.

The SPEAKER pro tempore. Does the gentlewoman from Illinois desire to be heard on this issue?

Mrs. COLLINS of Illinois. Yes, I do, Mr. Speaker.

The SPEAKER pro tempore. The gentlewoman from Illinois is recognized.

Mrs. COLLINS of Illinois. Mr. Speaker, my concern, as was pointed out a few minutes ago, Lafayette over there was one who believed in justice and the fact that we would have a free country here or should have. I thought it was very interesting that it was the French, indeed, who sent us the Statue of Liberty, you know, the great symbol of freedom for our country.

Yet here is the President of that great country who has decided to do some nuclear testing. You know, we believe in fairness, but we believe in not having nuclear proliferation in our country, and to have that very President of that country to come before us in a joint session sends a message that we endorse what he did. We do not endorse what he did.

I think, therefore, that we should certainly follow and support the privileged resolution offered by the gentlewoman from Hawaii [Mrs. MINK]. I think it makes a great deal of sense to do so.

It seems to me we ought to disinvite the President; in fact, we urge the Speaker to disinvite, if he can, the President of France, because it is something that we do not want to be associated with.

The SPEAKER pro tempore. Do other Members wish to be heard?

The gentlewoman from Florida [Mrs. MEEK] is recognized.

Mrs. MEEK of Florida. Mr. Speaker, first of all, anyone who is within earshort of my words, we should strongly and vehemently oppose any visit by the French President Chirac.

We stand firmly to support the gentlewoman from Hawaii [Mrs. MINK] and her resolution which does not stand for anything extraordinary. It stands up for a clean environment. It stands for the health and safety of the residents of this country. It stands for honor among all the world's peoples, and to think that we are recognizing him as someone to come hear and address a joint meeting of Congress is, to me, really abominable and that we would allow that to happen. He should not be invited. We should put the strength of our voices against this by not even appearing here tomorrow and to show strength behind the resolution offered by the gentlewoman from Hawaii [Mrs. MINK].

Do not be discouraged. The way to take care of this is to boycott his visit. He will address this body. He has not thought about the human rights of this country. We have come a long way in that. He has not thought about our environmental concerns, how far we have come. We will not turn back. He has not thought about health and safety.

So he has been able to say this to the Pacific islanders, well, we will go ahead and run these tests on your shores. Think about it, it may be your shores next.

The SPEAKER pro tempore. Are there further Members who wish to be heard on the question?

The gentleman from New Jersey [Mr. PAYNE] is recognized.

Mr. PAYNE of New Jersey. Mr. Speaker, as a member of the International Relations Committee, I question the invitation to French President Jacques Chirac's address to the joint session of Congress on tomorrow.

I am strongly opposed to any nuclear tests in the South Pacific. The French have already conducted a total of 6 nuclear tests.

They have directly violated international law. The United States has ratified Conventions and Comprehensive Test Ban Treaties. Chirac's tests are contradictory to the codes outlined in the "Principles and Objectives for Disarmament."

This was adopted by the 1995 Review and Extension Conference of the Parties to the Treaty on Non-Proliferation of Nuclear Weapons.

We are living in a post-cold-war era. The United States and its allies have made a commitment to nuclear nonproliferation. France has breached the contract by not adhering to the moratorium.

On June 13, 1995, President Jacques Chirac ordered a series of nuclear tests in the South Pacific. This has outraged members of the international community.

Chirac is endangering the land on and above the French Polynesia's coral atolls. They have conducted approximately 187 nuclear detonations since 1966.

Radioactive materials from their tests have caused environmental damage.

The coral reefs in the sea and the bordering islands have been affected by the nuclear explosions.

Nuclear proliferation will not be tolerated in this post-cold war era. Despite many critical attempts to halt nuclear testing in the Pacific Basin by 166 nations, French nuclear testing remains.

The threat of nuclear exposure is a concern not only to the people of Pacific but to all of us in the international community.

We must curb the nuclear arms race with China, Iran, North Korea, and now even France.

Mr. Speaker, if we allow Chirac to come and speak to the Members of Congress, we will be saying OK to the nuclear arms race. We should not support this measure.

The SPEAKER pro tempore. Does the gentleman from Hawaii wish to address the issue on the question of privilege?

Mr. ABERCROMBIE. Yes, Mr. Speaker, I wish to address the question of privilege under rule IX of our rules.

The SPEAKER pro tempore. The gentleman from Hawaii is recognized.

Mr. ABERCROMBIE. Mr. Speaker, I take very seriously your admonition that we must address the question of privilege, that is to say, within the privileged resolution. That is what we must address here, is this a pertinent resolution to have before this House to be decided, not the merits or demerits of the proposition which may be under question? Am I correct that that is your admonition to us, Mr. Speaker?

The SPEAKER pro tempore. The gentleman is correct.

Mr. ABERCROMBIE. I thank the Chair.

I wish to address that quite directly, Mr. Speaker, because I believe that the issue under consideration as embodied in the privileged resolution most certainly is in order to be discussed, should we pass this privileged resolution, and the decision as to whether or not we should pass the privileged resolution and whether or not we should pass the privileged resolution and whether it is properly before us is yours to make.

I would like to argue, Mr. Speaker, as follows: That in the House rules and manual which the Parliamentarian has been kind enough to provide to me, there are numerous citations in here with respect to precedents as to the question of personal privilege, questions of privilege, in the absence of a quorum, et cetera.

□ 1730

But fundamentally and elementally what is before the Chair is as follows: The question of privilege shall be first those affecting the rights of the House collectively, its safety, dignity, integrity of its proceedings.

I do not think that is necessarily at issue here. Probably a rather abstract argument or intellectual argument could be made it is.

But I rest my case to the Chair on the second part, those affecting the rights, reputation, and conduct of Members individually in their representative capacity only.

Mr. Speaker, we have in the Pacific, aside from the representation with the capacity to vote on this floor existing in Hawaii, Members from Guam and American Samoa. In addition, we have certain jurisdiction over island groupings in the Pacific under the Department of the Interior.

Mr. Speaker, I maintain to the Chair and to the Members that the rights and reputation and conduct of Members individually in their representative capacity is seriously impaired if they cannot succeed in being able to make an argument to the floor Members assembled as to whether or not Mr. Chirac should be able to appear.

I do believe it is well within the boundaries, because those Members cannot vote on this floor. Their representative capacity is solely on the basis of being able to persuade us on behalf of the peoples of the Pacific that there are matters which require our attention. This privileged resolution is directed exactly at that issue. Questions about radioactivity, and so forth, would be discussed under that privileged resolution as to why an affirmative vote is sought.

So, Mr. Speaker, I most sincerely request your favorable ruling with respect to the question of privilege, and ask that it be allowed to be voted on, because this is the only way that the peoples of the Pacific, through their representatives, particularly from Guam and American Samoa, who do not have the right to vote on this floor, will be able to make a representation that they are otherwise obligated and required to do so by virtue of their presence here on the floor.

It is clear, it seems to me, given the massive implications of radioactive leakage in the Pacific with the numerous explosions that have taken place in these tests, that other than through this representation through the privileged motion, the desirability or undesirability of having Mr. Chirac speak will not be able to be adequately addressed, and it seems to me a very powerful argument can be made for that, should we be allowed to proceed.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The Chair is prepared to rule on whether the resolution of the gentlewoman from Hawaii [Mrs. MINK] presents a question of privilege under rule IX.

The Speaker has been authorized to declare a recess by order of the House to accommodate the joint meeting with the Senate in order to receive President Chirac. This standing order was established by unanimous consent on Friday, January 26, 1996. No objection was heard, and the Speaker was authorized to declare a recess to receive President Chirac.

If there had been objection by any Member to the appearance of President Chirac before a joint meeting of Congress, a resolution reported from the Committee on Rules and adopted by the House might have been required to establish the order for the joint meeting. As is customary for all joint meetings to receive foreign dignitaries and heads of state, the letter of invitation to President Chirac was not transmitted until both Houses had agreed to receive the invitee.

Procedures exist within the rules of the House to permit the House to vote on the authorization of joint meetings where objection is made to that arrangement. The Chair does not believe it proper to collaterally challenge such standing order of the House under the guise of a question of privilege.

As recorded on page 362 of the House Rules and Manual, on February 3, 1993, Speaker Foley ruled that a question of privilege could not be used to collaterally challenge the validity or fairness of an adopted rule of the House by delaying its implementation. In addition, as recorded on page 361 in the House Rules and Manual, a question of the privileges of the House may not be invoked to effect a change in the Rules of the House.

The gentlewoman's resolution would, in effect, constitute a new rule of the House restricting the issuance of invitations to future joint meetings, and, therefore, does not constitute a question of the privileges of the House.

Also, no question of personal privilege of individual Members under rule IX is involved at this time.

PARLIAMENTARY INQUIRY

Mr. ABERCROMBIE. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. ABERCROMBIE. Mr. Speaker, I hope I understood the Chair correctly. Did you indicate as part of your ruling that an objection would have had to have been made on January 26 of this year?

The SPEAKER pro tempore. An objection could have been made at that time to the unanimous-consent request.

Mr. ABERCROMBIE. Mr. Speaker, was the House in session? Were Members expected to be assembled or be able to be called to the House at that date? My recollection is we were in recess.

The SPEAKER pro tempore. As is customary, it was done at a time that had been requested for the program to be announced for the next week. When

the program was announced for the next week, that was when the unanimous-consent request was made.

Mr. ABERCROMBIE. Mr. Speaker, further parliamentary inquiry. I maybe did not understand correctly. Did the Chair say in reply to my question that the House was in session on January 26 and that this proposition was presented to the Members for their assent?

The SPEAKER pro tempore. The gentleman is correct.

Mrs. MINK of Hawaii. Mr. Speaker, I appeal the ruling of the Chair.

The SPEAKER pro tempore. The question is, Shall the decision of the Chair stand as the judgment of the House?

Ms. PRYCE. Mr. Speaker, I move to lay the appeal on the table.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Ohio [Ms. PRYCE] to lay on the table the appeal of the ruling of the Chair.

The motion to lay on the table the appeal of the ruling of the Chair was agreed to.

A motion to reconsider was laid on the table.

PARLIAMENTARY INQUIRY

Mr. ABERCROMBIE. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. ABERCROMBIE. Mr. Speaker, my distinct recollection is we were not in session on January 26. I just want to make sure for the record. Were the Members in fact here assembled on January 26? If they were not, I do not wish to get into a dispute with you, Mr. Speaker, but whether or not we could have made an objection or should have made objection I think does rest at least upon the practical possibility that we would have been in attendance here to be able to do that, if that in fact is the basis upon which the initial premise of your ruling was made. I am in no position to state for a fact whether we were here or not, because I am making the inquiry.

The SPEAKER pro tempore. The Chair would remind the gentleman that the House was in session on Friday, but the schedule was laid out on Thursday by the majority leader. The request was made on Friday along with other requests.

Mr. ABERCROMBIE. Mr. Speaker, was it a pro forma session?

The SPEAKER pro tempore. The gentleman is correct.

Mr. ABERCROMBIE. Mr. Speaker, further parliamentary inquiry then. Again, I hold the Speaker in the highest respect in this regard, but my information is that if it is a pro forma session, I receive a piece of paper which says that no business is to be conducted. If no business is to be conducted, I hardly think it is fair for the Chair to then state that I should be or any other Member should be expected to make objection, if that is our intent with respect to this particular issue. If I receive information that no business is to be conducted, I do not see how I could come to the floor then demanding that business be conducted.

The SPEAKER pro tempore. It has been customary in the past for these sorts of requests to be made and these unanimous-consent requests are done even on days when there are pro forma sessions. It has been customary in the past that those requests generally are taken up when the schedule is announced, generally in a colloquy with the minority leader or his designee and the majority leader, which was done on Thursday. These are things that have happened in the past on pro forma days.

Mr. ABERCROMBIE. Mr. Speaker, further parliamentary inquiry. Then it is also in order under the rules to bring a privileged resolution to the floor. Now, if we were not in session, even if I take your word for it, and I will for purposes of our discussion, I would hope you would grant me my good intentions as well. If I could have or someone else could have come to this floor and made such a representation as you indicate, I will accept that.

However, the rules also allow us to bring a privileged resolution to the floor at any time with the proper notice and to have it considered. One of the reasons or the principal reason that the Chair stated for turning down this privileged resolution offered by the gentlewoman from Hawaii [Mrs. MINK] is that it was not presented on January 26. From what the Chair just told me, it does not matter that it was not presented on January 26. It could have been presented on January 26, but it was not imperative that it be presented on January 26. So if that is the only reason, why can it not be presented today?

The SPEAKER pro tempore. The Chair regrets that the request was made on January 26, custom has done that in the past. This has been done, as has been customary in the House for many years.

Mr. ABERCROMBIE. Mr. Speaker, because it is customary does not mean it is within the rules. I made a parliamentary inquiry based upon the rules. It may have been customary, it may have been desirable, but it is not against the rules to present the privileged resolution today. You have not offered a reason then. Simply because it was customary does not mean it is against the rules. There is nothing substantive that you have offered that prevents this privileged resolution from being before us. I believe I am correct.

Mr. SOLOMON. Mr. Speaker, we are going to have to pursue regular order.

Mr. ABERCROMBIE. With all due respect, Mr. SOLOMON, I am doing my level best to maintain regular order.

The SPEAKER pro tempore. The gentleman will suspend. At this point, it is not in order to collaterally challenge the unanimous-consent order that has been entered the previous week, even though it was done on a pro forma day. Again, that was because of custom.

Mr. ABERCROMBIE. Our only recourse is to appeal?

The SPEAKER pro tempore. That has been done. The appeal has been laid on the table.

Mr. ABERCROMBIE. I thank the Speaker very much for replying to me. I find this line of response very, very unfortunate in terms of what the House should be about in terms of its business.

Ms. SLAUGHTER. Mr. Speaker, I rise today to join with my colleagues who have already expressed their concern and distress about France's nuclear testing, and President Chirac's visit to the United States.

With the end of the cold war and the recent ratification of START II, we have high hopes and have made great steps forward in stopping the proliferation of nuclear weapons. And, just when we were making real progress toward a permanent moratorium on nuclear testing, France embarked on a series of nuclear tests in the South Pacific. These tests not only damage the strides we are making to stop nuclear testing, but they have once again endangered the health and safety of Pacific islanders.

As the threat of nuclear proliferation continues, it does not make sense for the leaders of the world to engage in such reckless activities. The free world must lead by example. The example set by France is deplorable, and the United States should not directly, or indirectly, condone such actions.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed on Tuesday, January 30, 1996, in the order in which the motion was entertained.

Votes will be taken in the following order:

House Resolution 349, de novo; and

H.R. 2036, de novo.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT OF 1995

The SPEAKER pro tempore. The unfinished business is on the question de novo of suspending the rules and agreeing to the resolution, House Resolution 349.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia [Mr. BLILEY] that the House suspend the rules

and agree to the resolution, House Resolution 349.

The question was taken.

Mr. BOUCHER. 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 150, nays 271, not voting 12, as follows:

[Roll No. 20]

YEAS—150

Abercrombie
Ackerman
Andrews
Baker (LA)
Baldacci
Ballenger
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Bono
Brewster
Browder
Bunn
Calvert
Canady
Cardin
Chambliss
Clement
Coble
Collins (GA)
Cramer
Cunningham
Davis
Deal
DeFazio
DeLauro
Deutsch
Diaz-Balart
Doolittle
Dunn
Edwards
Ehlers
Engel
Fields (TX)
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Furse
Gallegly
Ganske
Gejdenson
Gilchrest
Gillmor
Gilman
Goodling
Goss
Gunderson
Gutknecht
Hansen
Hastings (FL)
Hayes
Herger
Hobson
Hoekstra
Houghton
Hunter
Hyde
Jacobs
Johnson (CT)
Johnston
Kelly
Kennedy (RI)
Kennelly
Kim
King
Kleczka
Klug
Lazio
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lowey
Luther
Manton
Martini
McCarthy
McCollum
McCrery
McDade
McHugh
McKeon
McNulty
Menendez
Metcalf
Mica
Miller (FL)
Minge
Molinari
Moran
Myrick
Nethercutt
Norwood
Oberstar
Oxley
Packard
Pallone
Pastor
Paxon
Payne (NJ)
Peterson (FL)
Peterson (MN)
Quinn
Ramstad
Rangel
Reed
Riggs
Rogers
Ros-Lehtinen
Roukema
Sabo
Sawyer
Saxton
Schaefer
Schumer
Shaw
Shays
Smith (MI)
Smith (NJ)
Solomon
Stearns
Tauzin
Taylor (NC)
Thomas
Thurman
Torricelli
Upton
Vento
Waldholtz
Walker
Walsh
Weldon (FL)
Weldon (PA)
White
Whitfield
Wilson
Wolf
Wynn
Young (AK)
Zimmer

NAYS—271

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bishop
Blute
Boehner
Bonilla
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunning
Burr
Burton
Buyer
Callahan
Camp
Campbell
Castle
Chabot
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clinger
Clyburn
Coburn
Coleman
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Crane
Crapo
Cremeans
Cubin
Danner
de la Garza
Dellums
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Dornan
Doyle
Dreier
Duncan
Durbin
Ehrlich
Emerson
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Flanagan
Foglietta
Ford
Frank (MA)
Frost
Funderburk
Gekas
Gephardt
Gibbons
Gonzalez
Goodlatte
Gordon
Graham
Green
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hancock
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Heineman
Hilleary
Hilliard
Hinchey
Hoke
Holden
Horn
Hostettler
Hoyer
Hutchinson
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kennedy (MA)
Kildee
Kingston
Klink
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Leach
Levin
Lewis (CA)
Lewis (GA)
Lincoln
Lofgren
Lucas
Maloney
Manzullo
Markey
Martinez
Mascara
Matsui
McDermott
McHale
McInnis
McIntosh
McKinney
Meehan
Meek
Meyers
Mfume
Miller (CA)
Mink
Moakley
Mollohan
Montgomery
Moorhead
Murtha
Myers
Nadler
Neal
Neumann
Ney
Nussle
Obey
Olver
Ortiz
Orton
Parker
Payne (VA)
Pelosi
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Radanovich
Rahall
Regula
Richardson
Rivers
Roberts
Roemer
Rohrabacher
Roth
Roybal-Allard
Royce
Rush
Salmon
Sanders
Sanford
Scarborough
Schiff
Schroeder
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (TX)
Smith (WA)
Souder
Spence
Spratt
Stark
Stenholm
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Taylor (MS)
Tejeda
Thompson
Thornberry
Thornton
Tiahrt
Torkildsen
Torres
Towns
Traficant
Velazquez
Visclosky
Volkmer
Vucanovich
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weller
Wicker
Williams
Wise
Woolsey
Yates
Young (FL)
Zeliff

NOT VOTING—12

Bryant (TX)
Chapman
DeLay
Filner
Flake
Geren
Johnson (SD)
Morella
Owens
Rose
Stockman
Wyden

□ 1806

Ms. PRYCE of Ohio, Mrs. VUCANOVICH, and Messrs. GEKAS, ROTH, DICKEY, MOAKLEY, MCDERMOTT, PARKER, WATTS of Oklahoma, COMBEST, ISTOOK, DORNAN, CRANE, BATEMAN, and PAYNE of Virginia changed their vote from "yea" to "nay."

Mrs. LOWEY and Messrs. BEVILL, BAKER of Louisiana, HASTINGS of Florida, ENGEL, HOBSON, YOUNG of Alaska, and WALSH changed their vote from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

LAND DISPOSAL PROGRAM FLEXIBILITY

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The unfinished business is the question de novo of suspending the rules and passing the bill, H.R. 2036, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia [Mr. BLILEY] that the House suspend the rules and pass the bill, H.R. 2036, as amended.

The question was taken.

RECORDED VOTE

Mr. MARKEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 402, noes 19, not voting 12, as follows:

[Roll No. 21]

AYES—402

Abercrombie
Ackerman
Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunn
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Combest
Condit
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLauro
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary

Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Meehan
Meek
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Parker
Pastor
Paxon
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—19

Andrews
Bunning
Collins (MI)
Conyers
DeFazio
Dellums
Evans
Gejdenson
Hinchey
Johnston
Markey
McKinney
Menendez
Nadler
Pallone
Payne (NJ)
Sanders
Schroeder
Yates

NOT VOTING—12

Bryant (TX)
Chapman
DeLay
Filner
Flake
Geren
Jacobs
Johnson (SD)
Morella
Rose
Stockman
Wyden

□ 1817

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

A motion to reconsider was laid on the table.

PRIVILEGES OF THE HOUSE—KEEPING THE HOUSE IN SESSION TO CONSIDER BILL REGARDING DEBT CEILING TO AVOID DEFAULT OF FULL FAITH AND CREDIT OF THE UNITED STATES

Ms. JACKSON-LEE of Texas. Mr. Speaker, pursuant to clause 2(a)(1) of rule IX, I hereby give notice of my intention to offer a resolution which raises a question of the privileges of the House.

Mr. Speaker, the form of the resolution is as follows:

H. RES. —

Whereas the inability of the House to pass a bill to raise the public debt limit will cause the Federal Government to default on its obligations and affect the dignity and integrity of House proceedings; and

Whereas the inability of the House to pass a bill to raise the public debt limit will cause severe hardship on Federal employees, Federal contractors, and the American people and cause millions of American citizens to hold the House in disrepute: Now, therefore, be it

Resolved, That upon the adoption of this resolution, the Speaker of the House shall take such action to keep the House in session until the House considers a clean bill regarding the debt ceiling to avoid default of the full faith and credit of the United States.

Mr. Speaker, I hereby give notice with some 40 cosponsors from around the Nation for this privileged resolution.

The SPEAKER pro tempore (Mr. HASTINGS). Under rule IX, a resolution offered from the floor by a Member other than the majority leader or the minority leader as a question of the privileges of the House has immediate precedence only at a time or place designated by the Chair in the legislative schedule within 2 legislative days its being properly noticed. That designation will be announced at a later time. In the meantime, the form of the resolution proffered by the gentlewoman from Texas will appear in the RECORD at this point.

The Chair is not at this point making a determination as to whether the resolution constitutes a question of privilege. That determination will be made at the time designated for consideration of the resolution.

PARLIAMENTARY INQUIRY

Mr. FIELDS of Louisiana. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. FIELDS of Louisiana. Mr. Speaker, I was trying to hear the ruling of the Chair, if the Chair would be so kind, because the last two or three sentences of his ruling I did not understand because the House was not in order.

The SPEAKER pro tempore. I will repeat the last part of that for the gentleman.

The Chair is not at this point making a determination as to whether the resolution constitutes a question of privilege. That determination will be made at the time designated for consideration of the resolution.

Mr. FIELDS of Texas. And what time is that, may I ask, Mr. Speaker?

The SPEAKER pro tempore. The Chair will announce that when the Speaker makes his determination.

CONFERENCE REPORT ON H.R. 2546, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1996

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 351 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 351

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 2546) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 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 Texas [Mr. FROST], 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 351 provides for consideration of the conference report for H.R. 2546, the District of Columbia appropriations bill for fiscal year 1996, and waives all points of order against this bill. This rule provides for the orderly consideration of this conference agreement and will facilitate its consideration. Normal procedures of the House allow for 1 hour of general debate divided equally between the chairman and ranking minority member of the Committee on Appropriations.

Finally, House rules provide for a motion to recommit with or without instructions as is the right of the minority.

Mr. Speaker, the appropriations process is clearly more difficult when you attempt to pass fiscally responsible legislation. The District of Columbia appropriations conference report will not satisfy everyone and does not cut

as much spending as many of us would have liked, but I am hopeful that the President will sign this commonsense bill which will move us closer to restoring the District's fiscal health.

Mr. Speaker, this bill will stem the fiscal crisis that the District has created. The gentlelady from the District of Columbia has stated that we all have a duty to help raise our Nation's capital out of its fiscal crisis, and I believe that this bill fulfills that obligation. The District must now restore fiscal sanity and create a more efficient and productive Capital City for its residents and all Americans.

The conference report provides a total appropriation of $4.99 billion for fiscal year 1996. In addition, the conferees have included a number of legislative provisions that will ensure that a few specified activities are achieved by the local government.

I am particularly pleased that the bill includes reforms that are imperative to the revival of the D.C. school system. The conference agreed to include low-income scholarships of up to $3,000 that qualified students could use to attend private schools in the District. The conference also designates $15 million dollars in order to repair deteriorating schools and produce an acceptable environment for our children's education. Representative GUNDERSON deserves high praise for his persistent efforts to reform the District's school system.

Mr. Speaker, given the size and population of the District, it is difficult to argue that a bill that provides this city with about $5 billion dollars is not generous. For those who still believe this bill is unfair, consider this: the Federal per capita spending equals about $9,000. I would argue that no other city in America receives so much Federal funding and has so many mismanaged and inefficient services to show for it.

Nonetheless, the District shamelessly comes to us with yet another exorbitant wish list for funding. The House has been very charitable in preserving home rule, but we have a constitutional duty to keep the District's budget in balance. To fulfill this obligation, Congress will appropriate funds for the District and set the fiscal and policy parameters. The Financial Authority will then provide guidance for a sound financial operation. We are giving the District a golden opportunity with this bill to prove that it can control spending in a disciplined and competent manner. It is a fiscally responsible solution that is more than generous and the District cannot expect any better.

I certainly hope that the District will be held accountable for the expenditure of this funding by the District Financial Management Assistance Authority which has been tasked to quickly implement commonsense money management. We are all aware of the apprehension that remains about the District's ability to govern itself competently, and I hope that we can agree that this bill is a proper vehicle to drive the District into an era of financial stability.

This is a city that has been wasting other people's money for an awfully long time and has wanted unconditional freedom in doing it. The city has reached a point where it cannot pay its bills, protect its streets, or even plow its streets, for that matter. While the bill may not go as far as many would like, the House needs to pass an appropriations bill to keep the District going.

The conferees, under the leadership of Chairman JIM WALSH, have worked well to balance an assortment of concerns, including home rule, and made difficult choices with the limited funding available this year. As is the case with the other appropriations bills, the product of their work reflects the Nation's new budget realities. While we currently do not have a Balanced Budget Act with tax relief and entitlement reform, we will continue to move toward our goal as a Nation to spend within our means.

This fiscal emergency requires drastic action, and the conference report is designed to insure, once and for all, that the available funding is spent efficiently and where it is needed most.

Mr. Speaker, this rule was favorably reported by the Rules Committee. I urge my colleagues to support the rule so that we may complete our work on the District's 1996 funding and start the process of restoring the District's financial health.

□ 1820

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

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

Mr. Speaker, I rise in strong opposition to this rule and to this conference report. I oppose this rule because the text of this conference report has only a few minutes ago been made available to the Members of this body. I do not think it would be too much to ask to allow interested Members the opportunity to fully study the conference report, especially if it still contains far-reaching language relating to the creation of a multimillon-dollar school-voucher program in the District of Columbia.

Mr. Speaker, we are scheduled to be here tomorrow, so why not take up this bill at that time? Is our schedule so full tomorrow that we cannot fit an hour's debate on this conference report into the floor schedule for Thursday? It seems that if we are going to consider this conference report at all before the month of March, we must do it today since the Republican leadership is so bent on taking a 3-week vacation starting tomorrow afternoon. Mr. Speaker, this procedure is not fair to the residents of the District of Columbia and it is not a responsible way to legislate.

But, in addition to my opposition to considering this conference report before the Members have had an opportunity to study its contents, I am opposed to the conference report itself. If the information that is available to me is correct, this report still contains language which creates a school voucher program. I have been and I remain opposed to the use of Federal funds for school vouchers. While the conferees have attempted to cloak the creation of a voucher program in the District of Columbia in a veil of respectability, the fact is that these provisions would ultimately allow the use of Federal funds to pay tuition at private schools. Mr. Speaker, that is a provision I cannot support and for that reason I will oppose this conference report.

Mr. Speaker, this appropriation is not a place to practice the social engineering of the Republican right. Instead, what this appropriation is for is to provide the District with critically needed funds that will allow the city to serve its citizens. It is time that the Republican majority stop trying to impose its social agenda on this city and to act in the best interests of its residents. I urge my colleagues to oppose this rule and to oppose this conference report.

Mr. MOAKLEY. Mr. Speaker, on January 25, 1996, during the debate on House Resolution 342, Representative HOYER asked me, in reference to "martial-law" rules, whether or not this kind of rule has ever been proposed prior to June 30 of any legislative year in the history of the Congress. My response was, no, it has never been proposed before June 30. Martial-law rules are multipurpose rules clearing the way for the House to act quickly on a broad range of legislative measures by stating that certain of the standing rules will not apply for a specified period of time, usually the few remaining days at the end of a session. If this were the end of the session, House Resolution 342 would be a typical example of a martial-law rule.

At one point late in the debate, Representative MCINNIS, who managed the rule for the majority, recited a list of rules that waived clause 4(b) of rule XI—requiring a two-thirds vote to consider a rule on the same day it is reported from the Committee on Rules—and that were reported prior to June 30 by the Rules Committee during the 103d Congress. He made the statement that these rules were all reported before June 30 of each session of the Congress and were no different from House Resolution 342. He is correct in his statement only with regard to the fact that these rules were reported before June 30 in each session and that each contained a two-thirds waiver but that is where the similarities end. There are indeed major differences between the resolutions he cited and House Resolution 342.

I believe my friend, the gentleman from Colorado, can clearly see the differences between the rules on his list and House Resolution 342. Those on his list are single purpose rules

waiving the two-thirds requirement for same-day consideration for one specifically identified measure and the waiver usually lasted 1 day and never more than 2 days. Representative HOYER was referring to martial-law rules when he spoke of House Resolution 342 as "a rule which allows for 1 day of consideration of matters." The word "matters" is plural. The 103d Congress never waived the two-thirds rule against a rule that covered multiple bills before June 30 in either year. House consideration of this rule is indeed setting history or a new precedent because it has never been done before. Having reviewed the Rules Committee surveys of activities from the 98th Congress through the 103d, I can say with assurance, the House has not once considered a martial-law rule this early in the session. I also made clear in my response to the gentleman from Colorado that we were referring to multiple bill waivers—martial-law rules—and not single purpose rules like those he recited.

The following summary and accompanying chart will clarify and shed further light on the distinct and important differences between those single-purpose rules and House Resolution 342.

First, House Resolution 342 provides for consideration of an unlimited number of separate and distinct bills or resolutions within three subject categories. The rules, recited by Mr. MCINNIS, were all single issue resolutions providing in each instance for only one specific bill or resolution. The authority granted by each of the rules could be used only one time and not over and over as is the case with House Resolution 342.

Second, the duration of the authority provided in each of these rules was for only 1 day in six of the rules and not longer than 2 days in the other two rules. House Resolution 342 provides authority for the extremely long and unnecessary period of 51 days, from January 25 through March 15.

Third, of those rules that were reported before June 30 during each of the two sessions of the 103d Congress, only four: House Resolution 61, House Resolution 142, House Resolution 395, and House Resolution 441 were considered by the House. The other four rules were either tabled—House Resolution 111, House Resolution 150, House Resolution 153—or not used by the effective date contained in the rule—House Resolution 356. All four rules considered by the House were effective for 1 day only. In one of the rules, House Resolution 395, the waiver of the two-thirds rule was combined with a general debate provision for the bill so the House could continue its consideration of the bill the following day.

Finally, in all four instances where the House considered and voted on the two-thirds waiver, my colleagues on the other side of the aisle opposed the waiver and voted against the rule. Now that they are responsible for conducting the business of the House they embrace the idea and are willing to take it to new and historic levels. The House has passed five martial-law rules since November 15, 1995, and will be operating under the authority of these five rules with regard to budgetary legislation for a period of 4 months, from November 15, 1995 until March 16, 1996. The combined result of this prolonged authority makes the long standing House rule against same-day consideration of rules of little effect. The purpose of the two-thirds rule is to allow for adequate notice to Members before a bill comes to the floor. A review of all the budgetary bills considered by the House during this period reveals a disturbing trend. Almost all have been considered under the martial-law authority. I only hope that this rule will be the last instance of martial-law and that this type of rule does not become the management tool of choice for the majority during the remainder of the second session.

RESOLUTIONS WAIVING CLAUSE 4(B) OF RULE XI REPORTED BEFORE JUNE 30

H.R. 61.—Family and Medical Leave Act.—reported from Rules 2/3/93; adopted 2/4/93 (239–155); no limit on duration. (However, H.Res. 71, the rule providing for consideration of H.R. 1, Family and Medical Leave Act, was considered and adopted on 2/4/93 making the effective duration only one day.)

H.R. 111.—Emergency Unemployment Compensation—reported from Rules 3/3/93; tabled 3/9/93; effective one day (3/4/93). NOT USED

H.Res. 142—H.Con.Res. 64—Concurrent Resolution on the Budget—reported from Rules 3/30/93; adopted 3/31/93 (248–171); effective one day (3/31/93).

H.Res. 150.—H.R. 1335—Emergency Supplemental Appropriations—reported from Rules 4/1/93; tabled 10/27/93; effective two days (4/2/93–4/3/93). NOT USED

H.Res. 153.—H.R. 1335—Emergency Supplemental Appropriations—reported from Rules 4/21/93; tabled 10/27/93; effective one day (4/22/93). NOT USED

H.Res. 356.—H.R. 3759—Emergency Supplemental Appropriations—reported from Rules 2/9/94; pending; effective two days (2/10/94–2/11/94). NOT USED

H.Res. 395.—H.R. 4092—Violent Crime Control and Law Enforcement Act—reported from Rules 3/22/94; adopted 3/23/94 (240–174); effective one day (3/23/94). This rule provided for general debate and next day consideration of a subsequent rule for H.R. 4092.

H.Res. 441.—H.R. 4426—Foreign Operations Appropriations—reported from Rules 5/24/94; adopted 5/25/94 (246–174); effective one day (5/25/94).

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

Mr. LINDER. Mr. Speaker, I have no further requests for time, 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. WALSH. Mr. Speaker, pursuant to House Resolution 351, I call up the conference report on the bill (H.R. 2546) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1996, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Pursuant to House Resolution 351, the conference report is considered as having been read.

(For conference report and statement, see prior proceedings of the House of today.)

The SPEAKER pro tempore. The gentleman from New York [Mr. WALSH] and the gentleman from California [Mr. DIXON] each will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York [Mr. WALSH].

GENERAL LEAVE

Mr. WALSH. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the conference report on the bill, H.R. 2546, and the amendment in disagreement, and that I be permitted to include a tabulation summarizing the conference agreement.

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

There was no objection.

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

Mr. Speaker, this evening we have before the House the conference agreement on H.R. 2546, the District of Columbia Appropriations Act for Fiscal Year 1996. The bill passed the other body on September 22, and passed this House on November 2. We had five meetings with our Senate counterparts, including one at 10 o'clock this morning, as well as numerous other meetings in our efforts to work out the differences between the House and Senate versions of this bill.

In the meantime, we provided funding to the District government through continuing resolutions under which a portion of the Federal payment was paid to the city. Under these CR's, $441 million of the $660 million annual Federal payment has been disbursed. These funds were placed in the Control Board's hands with half of the money going back to the U.S. Treasury to repay last year's loan to the District.

On January 3, I introduced a CR that allows the District to continue operating through September 30 using its own local funds. That CR passed the Congress and was signed by the President on January 4. Even though this bill has been pending in conference, the District and Control Board have had the authority as well as a substantial part of the Federal payment to continue operations.

Mr. Speaker, this conference agreement provides the District government with a budget of $4.994 billion—that is an enormous sum of money for a population of 554,000—over $9,000 for every resident. For that kind of money the District residents should be receiving the highest quality city services in America.

The latest revenue estimates for fiscal 1996 made by the District's new chief financial officer are now $4.848 billion, which is $150 million below our conference agreement on expenditures of $4.994 billion. Our amount is only a cap on spending, so we are expecting that the Control Board will make the

necessary reductions in expenditures to match that revenue estimate. Had we accepted the city's budget of $5.148 billion, we would now be looking at a $300 million deficit.

The Financial Control Board has been in place for about 7 months and I am confident they are headed in the proper direction to bring the District government back from the brink of financial insolvency brought about by 20 years of home rule and 15 years of unrestrained spending. I fully support what they are doing and look forward to the 4-year financial plan and recommendations they will be sending to the Congress.

Mr. Speaker, there were numerous items that we resolved early in the conference—but some of the issues were extremely difficult.

First, on the abortion issue, the conference agreement provides that no Federal or local funds shall be used to perform abortions except to save the life of the mother or in cases of rape or incest. This language has been signed into law by the President in the continuing resolutions that have passed this Congress over the past few months. The Senate bill reflected current law which restricted the use of Federal funds only.

On domestic partners, the Senate language prohibited the use of only Federal funds to implement or enforce the District's Domestic Partners Act. The conference agreement continues current law which prohibits the use of both Federal and local funds.

In the past few months there has been a great deal of discussion about local efforts to reform city operations. The school board is considering reducing their generous salaries and even introducing some privatization to their operations and management. The local governments are considering making Blue Plains Wastewater Treatment Plant a regional authority. City departments involved with economic development and planning are looking to consolidate and eliminate duplication. These initiatives were set in motion by this year's appropriations bill and our strong encouragement.

In order to bring about additional change in the District, our committee identified 28 items of concern which were referred to the Control Board. We have asked the Control Board to resolve those items and report back by April 1, 1996. I believe that both the financial and management problems of this city must be addressed in tandem. Improving city management is a No. 1 priority. For example, we have requested management assessment studies to improve the delivery of services especially in the areas of trash collection, school and office maintenance, and police, fire and ambulance maintenance, and deployment.

What is needed is action and results now.

The District government spends over $5 billion a year for city services. The city's per capita cost for education, safety, trash collection, aid-to-families with dependent children, job training, homelessness, and substance abuse appear to be the highest in the Nation. We have asked the Control Board to seek out the best management and operating practices of other cities and introduce them into the District government to improve operations.

So Mr. Speaker, the most contentious issues discussed at our conference meetings involved reforming the District of Columbia's failing public school system. This conference agreement culminates a year of debate, discussion, and negotiation from the local school level to the Congress regarding the amount, shape, and pace of education reform necessary in the District of Columbia.

One of the items I am most proud of is the low-income scholarship program. This program will provide many of the District's most needy children with the opportunity to receive a first-rate education. I believe we need to begin educating tomorrow's city leaders today. The scholarship program provides up to $3,000 that can be used by students to attend private schools in the District as well as public or private schools in the surrounding jurisdictions. It will give these kids and their parents a choice they have never had. This will also, in my opinion, be the catalyst that is needed to transform the District's public schools into better educational institutions. To meet the early objections posed by the other body to the school reform proposals, we have provided the city council with final approval of the program, but I am confident the city council will support this program. In fact, the council's committee on education unanimously supported parent choice. I quote from a letter the council's committee sent to our colleague from Wisconsin:

> The Committee embraces the creation of a federally funded scholarship program that would assist low-income parents in enrolling their children in * * * the school of their choice in the District of Columbia.

So Mr. Speaker, I would urge all Members including our colleagues on the other side of the aisle to pass this conference report and help the residents of this District.

I would like to thank the members of the subcommittee for their hard work on this bill.

I want to especially thank the full committee chairman, the gentleman from Louisiana [Mr. LIVINGSTON] for his extraordinary efforts on this bill. He took time to participate in our markups and meetings while still tending to other important appropriation matters.

Each of these members is to be commended. I also want to thank the House and Senate staff as well as my personal staff for their hard work and their assistance.

Mr. Speaker, at this point in the RECORD, I will insert a tabulation summarizing the conference action.

FY 1996 DISTRICT OF COLUMBIA APPROPRIATIONS BILL (H.R. 2546)

	FY 1995 Enacted	FY 1996 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE I						
FISCAL YEAR 1996 APPROPRIATIONS						
FEDERAL FUNDS						
Federal payment to the District of Columbia	660,000,000	660,000,000	660,000,000	660,000,000	660,000,000	
Federal contribution to retirement funds	52,070,000	52,070,000	52,000,000	52,000,000	52,070,000	
Federal contribution for education reform					14,930,000	+14,930,000
Total, Federal funds to the District of Columbia	712,070,000	712,070,000	712,000,000	712,000,000	727,000,000	+14,930,000
DISTRICT OF COLUMBIA FUNDS						
Operating Expenses						
Governmental direction and support	(131,077,000)	(150,721,000)	(149,793,000)	(150,721,000)	(149,130,000)	(+18,053,000)
Economic development and regulation	(149,858,000)	(142,711,000)	(139,285,000)	(142,711,000)	(140,983,000)	(-8,875,000)
Human resources development	(87,752,000)					(-87,752,000)
Public safety and justice	(902,466,000)	(960,747,000)	(954,106,000)	(960,747,000)	(963,848,000)	(+61,382,000)
Public education system	(832,303,000)	(800,080,000)	(788,983,000)	(800,080,000)	(795,201,000)	(-37,102,000)
Education reform					(14,930,000)	(+14,930,000)
Human support services	(1,542,648,000)	(1,859,622,000)	(1,845,638,000)	(1,859,622,000)	(1,855,014,000)	(+312,366,000)
Public works	(279,627,000)	(297,568,000)	(297,326,000)	(297,568,000)	(297,568,000)	(+17,941,000)
Financing and other		(269,654,000)				
Washington Convention Center Fund	(12,850,000)		(5,400,000)	(5,400,000)	(5,400,000)	(-7,450,000)
Repayment of loans and interest	(306,768,000)		(327,787,000)	(257,787,000)	(327,787,000)	(+21,019,000)
Repayment of general fund recovery debt	(38,678,000)		(38,678,000)	(38,678,000)	(38,678,000)	
Short-term borrowing	(5,000,000)		(9,698,000)	(9,698,000)	(9,698,000)	(+4,698,000)
Pay renegotiation or reduction in compensation			(-46,409,000)	(-46,409,000)	(-46,409,000)	(-46,409,000)
Optical and dental benefits	(3,312,000)					(-3,312,000)
Pay adjustment	(106,095,000)					(-106,095,000)
D.C. General Hospital deficit payment	(10,000,000)					(-10,000,000)
Rainy day fund	(22,508,000)	(4,563,000)	(4,563,000)	(4,563,000)	(4,563,000)	(-17,945,000)
Job-producing economic development incentives	(22,600,000)					(-22,600,000)
Cash reserve fund	(3,957,000)					(-3,957,000)
Incentive buyout program			(19,000,000)	(19,000,000)	(19,000,000)	(+19,000,000)
Outplacement			(1,500,000)	(1,500,000)	(1,500,000)	(+1,500,000)
Boards and Commissions		(-500,000)	(-500,000)	(-500,000)	(-500,000)	(-500,000)
Government reengineering program			(-16,000,000)	(-16,000,000)	(-16,000,000)	(-16,000,000)
Personal and nonpersonal services adjustments	(-13,632,000)		(-148,411,000)	(-11,264,000)	(-165,837,000)	(-152,205,000)
Sec. 138(a) reduction in FY 1995 expenses	(-140,000,000)					(+140,000,000)
Total, operating expenses, general fund	(4,303,867,000)	(4,485,166,000)	(4,370,437,000)	(4,473,902,000)	(4,394,554,000)	(+90,687,000)
Capital Outlay						
General fund	(94,238,000)	(62,562,000)	(62,562,000)	(-22,810,000)	(62,562,000)	(-31,676,000)
Enterprise Funds						
Water and Sewer Enterprise Fund:						
Operating expenses	(275,576,000)	(243,853,000)	(193,398,000)	(243,853,000)	(242,253,000)	(-33,323,000)
Capital outlay	(23,354,635)	(39,477,000)	(39,477,000)		(39,477,000)	(+16,122,365)
Total, Water and Sewer Enterprise Fund	(298,930,635)	(283,330,000)	(232,875,000)	(243,853,000)	(281,730,000)	(-17,200,635)
Lottery and Charitable Games Enterprise Fund	(192,068,000)	(229,950,000)	(229,907,000)	(229,950,000)	(229,950,000)	(+37,882,000)
Cable Television Enterprise Fund	(2,654,000)	(2,351,000)	(2,469,000)	(2,351,000)	(2,351,000)	(-303,000)
Sports Commission (STARPLEX)	(6,392,000)	(6,580,000)	(8,637,000)	(6,580,000)	(6,580,000)	(+188,000)
D.C. General Hospital	(143,920,000)	(115,034,000)	(-2,487,000)	(115,034,000)	(58,299,000)	(-85,621,000)
D.C. Retirement Board		(13,440,000)	(13,417,000)	(13,440,000)	(13,440,000)	(+13,440,000)
Correctional Industries	(7,642,000)	(10,516,000)	(10,048,000)	(10,516,000)	(10,516,000)	(+2,874,000)
Washington Conventional Center Enterprise Fund	(19,541,000)	(37,957,000)	(37,957,000)	(37,957,000)	(32,557,000)	(+13,016,000)
D.C. Financial Responsibility and Management Assistance Authority		(3,500,000)	(3,500,000)	(3,500,000)	(3,500,000)	(+3,500,000)
Total, Enterprise Funds	(671,147,635)	(702,658,000)	(536,323,000)	(663,181,000)	(638,923,000)	(-32,224,635)
Total, District of Columbia funds	(5,069,252,635)	(5,250,386,000)	(4,969,322,000)	(5,114,273,000)	(5,096,039,000)	(+26,786,365)
Total, title I, fiscal year 1996 appropriations:						
Federal Funds to the District of Columbia	712,070,000	712,070,000	712,000,000	712,000,000	727,000,000	+14,930,000
District of Columbia funds	(5,069,252,635)	(5,250,386,000)	(4,969,322,000)	(5,114,273,000)	(5,096,039,000)	(+26,786,365)

□ 1845

But I am confident the city council will support it. In fact, the council's committee on education unanimously supported parental choice in schools, and I quote from a letter from the council's committee to our colleague from Wisconsin, the gentleman from Wisconsin, Mr. GUNDERSON: "The committee embraces the creation of a federally funded scholarship program that would assist low-income parents in enrolling their children in the school of their choice in the District of Columbia."

So, Mr. Speaker, I would urge all Members, including our colleagues on the other side of the aisle, to pass this conference report, to help the residents of this District.

I would like to thank the members of the subcommittee for their hard work on this bill, and I would remind my colleagues that this is going to be very difficult, a very difficult bill to pass. There is enough in this bill to make everybody angry. It is a compromise bill, but overall, it is the best bill we could bring to the floor. It is a good bill, in my estimation, and it begins the reforms that are needed in this most important of all American cities.

There is a special relationship here between the Congress and the city, and we need to enhance that relationship. We are spending a little bit more money this year than we did last year, about $15 million, but it is for one purpose, to reform these schools. Most of the money will go to the private school system, but it will also provide for educational choice and for charter schools.

Mr. Speaker, lastly, let me commend my colleagues on the subcommittee and my distinguished ranking member, the former chairman of the subcommittee, the gentleman from California [Mr. DIXON], for working through this very, very difficult bill.

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

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

Mr. Speaker, first of all, I too would like to commend the chairman of the subcommittee for doing what I consider a good job under extraordinary circumstances, and thank the staff of the subcommittee for their fine efforts.

Mr. Speaker, let me give the body a little bit of history here as to what is really happening with the D.C. bill. First of all, it is no secret that it is the smallest of the 13 appropriation bills, and when the District got home rule there was a Federal payment that was worked out in lieu of the District paying property taxes. This year that amounts to $660 million.

At the same time that we provide this Federal payment, there has been a philosophical move nationally to provide vouchers or, as some people would describe it, to make it a purr word instead of the snarl word scholarships, and the majority of this House have decided they would try this out on the District of Columbia.

On the other side of the Capitol in the Senate, the Senate would not go along with this issue, and since both Houses have passed the bill, and for some 65 or 70 days it has been the issue of vouchers that has held this up. Because we did not have a bill for the District, there was a continuing resolution, and one way to put pressure on this issue was to dribble out the Federal payment so that at some point in time the District would have to say "uncle."

As a matter of fact, the last continuing resolution that passed here, the chairman of the committee saw fit not to include any of the $250 million that is still owed the District in the Federal payment, because you see, that puts more pressure on to get this bill out so they can get the money and, therefore, in fact the voucher system stands a better chance.

Now, as it relates to my participation in any of the negotiations, I do not think anyone on the committee would disagree that I have had none, zero. And when the chairman of the committee says that, in fact, they have reached an agreement, what he means is that the House majority, the Republicans, and the Senate majority under Mr. JEFFORDS, that they have reached an agreement, and as a matter of fact, when we met at 10 o'clock this morning, the agreement that was presented to us was not in its final version until such time as we took a vote. The chairman on the Senate side was kind enough to wait until the document arrived in the room before we took a vote on it.

When I began to raise questions about some of the things that I had been informed that had been agreed to last night, the chairman of the committee, Mr. JEFFORDS, informed me that that part, part of that, had been changed this morning. Now, I point that out to say that I think the chairman of the subcommittee spoke incorrectly as he related to describing the vouchers.

It is my understanding, Mr. Speaker, of the vouchers, that the $5 million that is dedicated to the vouchers, that that voucher proposal, and I am really asking at this point because I am not sure, that that voucher proposal, one, would allow for vouchers to be used only in the District of Columbia, but what I would describe as the tutorial program, the bill is silent as to where those people would go for tutorial services and, therefore, it is my understanding at this point that the voucher itself cannot be used outside of the District, contrary to what you made in your State.

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

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

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

It is my understanding that the priority, the priority for spending of the vouchers is within the District, and I might add that the priority for spending is in the District. There may be, it may be used outside of the District, but the priority is within the District, but the scholarship board will work with the District council to determine how much of that is used for tutorial and remedial programs and how much of it is used for vouchers.

Mr. DIXON. Reclaiming my time, I thoroughly understand that the scholarship corporation would, in fact, disburse the money in a manner it saw fit. But I think that Members that are watching can see that the gentleman from Wisconsin [Mr. GUNDERSON] is not clear on it. I do not think the staff is clear on it.

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

Mr. DIXON. I yield to the gentleman from Wisconsin.

Mr. GUNDERSON. Mr. Speaker, I appreciate the gentleman yielding.

What I was trying to do was find the exact bill language that I might read to you.

Under the conference agreement, the scholarship board shall propose the allocation of scholarships.

Mr. DIXON. I understand that.

Mr. GUNDERSON. That shall be approved by the council, so the scholarship board has no authority to disburse this money as they see fit.

Mr. DIXON. I say to the gentleman from Wisconsin [Mr. GUNDERSON], it is my time. I understand all of that. I am asking the question: Can a voucher be used outside of the District of Columbia?

Mr. GUNDERSON. It can be, but there is a priority within the District. The reason we did not totally exclude it is because there are going to be some kind of special needs students that are already served outside of the District.

Mr. DIXON. Let me reclaim my time and say to the gentleman that I certainly admire the hard work and energy that he has put into this. Obviously the gentlewoman from the District is on the floor. That was not her understanding of it at the beginning. But since we are on the voucher system, let me say that probably since it allows for the voucher outside of the District, that most of the vouchers would be applied outside of the District.

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

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

Mr. WALSH. Just briefly, there are, as I think my colleague is aware, there are a number of children in the District with special needs, and the District, it is necessary for the District to have these kids taken outside of the District

so that those special needs can be met. They cannot meet them within the public school system of the District. So we have to keep these available for those children.

Mr. DIXON. Is the gentleman saying, and I hope since we are having this dialogue that you will be kind enough to yield me some time, are you saying then, is it only the kids that have special needs, that is, a categorical group that will take the voucher outside the District?

Mr. WALSH. If the gentleman will yield further, as I understand it, no.

Mr. DIXON. So my point is that with the voucher system, I dare say that most of the vouchers would be exercised outside the District.

The reason I say that, Mr. Speaker and Members, is because according to the information that I have obtained, there are only 51 private schools in the District, as I indicated in the Committee on Rules. The maximum that a person with 185 percent above the poverty level could receive is $3,000, unless they had some other supplemental help, and I do not know at this point where that would come from. That would mean that there are only seven schools in the District that have tuition of $3,000 or less. The average is from $6,000 to $12,000. Six of those seven are religious schools.

So I would guess from that, since it allows the person to take the voucher anywhere they want to, that because there are very few schools in the District that have the low tuition, then most of that would be used outside the District. But most importantly, as it relates to this voucher system, there are some 80,000 children in the school district, and I am not here defending the District of Columbia School System, but I know for a fact that 50,000 students would be eligible for some form of scholarship, and if you take half of that money and apply it to scholarships and the other half to tutorial programs, it would work out that 1,500 to 2,000 students would probably be helped in one form or another if they could find a school that would take their voucher.

But what about the 97 percent of the rest of the schools? We are putting $5,000 of Federal money in here to demonstrate what, I do not know. Private schools, under certain circumstances, can do a good job. Those circumstances are usually a strong parental support for a zest for education. As a matter of fact, the State of Wisconsin has a voucher system, and the testing has shown that those kids that have received the voucher, that this is no substantial difference in the testing of the ones in the public schools and the ones in private schools under the voucher. But there is a substantial difference between those students that voluntarily went to the school, and I would suggest to you that it has a lot to do with the kind the family support, the kind of transportation, the kind of environment that that person lives in, and, yes, under certain conditions, you can do very well.

So for this first year in putting $5 million of Federal money into it for 1,500 to 2,000 people, in my estimation, does not prove a thing, and so I am going to oppose this conference report this evening.

I understand that those people who want to vote for it, who feel that the District needs the money, I understand that. It has been the level that has been applied here for Federal payment that on its merits the District deserves and should be provided to them without this kind of blackmail.

There is no doubt that there is a financial crisis, and unfortunately that works to the benefit of those who would hold this as a lever over their head.

But I would ask Members to vote "no" on this conference report, for as hard as the gentleman from Wisconsin, Mr. GUNDERSON, has worked and the good things that Mr. JEFFORDS feels about the Commission and the activities of this chairman, they too, I would suggest to you, do not have the key in the 2 or 3 months in putting together legislation that is going to cure the deplorable conditions of this school district.

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

Mr. WALSH. Mr. Speaker, I yield 3 minutes to the distinguished chairman of the authorizing subcommittee of the Committee on Government Reform and Oversight.

Mr. DAVIS. Mr. Speaker, first of all, I just want to thank the appropriations subcommittee chairman, the gentleman from New York [Mr. WALSH], and the gentleman from California [Mr. DIXON], the chief minority member of the committee, for their work on this, working with the Senate.

This has been one of the more difficult appropriation bills this year. It has had a lot of contention in it. It is not a perfect bill as it comes here, but it is a bill that I can stand up here and proudly support.

It is going to give the District of Columbia the money needed. They have been faced with shutdowns and no Federal payment, and the result of that has been that a number of vendors who have been performing in good faith contractual obligations to the city have been stiffed for payments, sometimes delayed for months, because the city has not had the money to pay them.

This will help free that up. This will help allow the city to go ahead with its plans for its reinventing government proposals and put them, for the rest of the fiscal year, on a fair and even basis.

□ 1900

I congratulate the fiscal restraint that is shown in this bill by the gentleman from New York [Mr. WALSH] in writing this. I think it strikes a delicate but essential balance between what the city's obligations are and what they ought to be able to pay with a reasonable appropriation.

Let me also say that the act brings some reforms that are needed to the District of Columbia Government. We talked about some of the restrictions in spending. You have heard the discussion center on education.

Let me say right now the District of Columbia today is sending literally thousands of kids out to the suburbs to private schools to be educated. Many of these, as my colleague from New York noted, are individuals and students with special needs. This will expand that opportunity now to the poorest citizens in the District of Columbia, those who are below the poverty line, who would like to have the same kind of educational opportunities that are offered throughout the rest of this country, the same kind of educational opportunities, if you will, that Members of Congress and the President and the Vice President are able to offer their kids who have the opportunity to send their kids to the District of Columbia public schools, but decline to do so, and in lieu of that send their kids to private schools.

The poorest of the poor, those below the poverty line, there is a pool of money here that will allow those parents to operate for private schools in some cases and have some seed money, up to $3,000 annually to be able to do that. The city currently is spending over $9,000 per year per student, yet the output in terms of the number who are graduating, their test scores, going on to college, I think you could deem the public school system in the city today a miserable failure.

This proposal also calls for the establishment of charter schools. I think this is very, very important, because it will allow groups like the Smithsonian and other groups to set up charter schools which will offer opportunities to citizens from the District of Columbia to come in and get other options for education to encourage them to move up. If we really want to help this city, bring the city out of poverty, reduce crime, education is the key to doing that. The current educational system is not doing that.

This bill does not solve that problem, but it goes a long way toward that goal by starting some innovation and some competition within the public sector. I think that is essential.

I would finally add it is not a perfect bill in many ways, but this is a good bill, and one that I am proud to support at this point. I urge my colleagues to do the same.

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

Mr. Speaker, I do not want to belabor the point. The gentleman from Virginia [Mr. DAVIS] says this is a good

bill. I honestly do not know how he knows that, because I do not think he knows what is in it.

But I would like to ask the chairman of the subcommittee, it is my understanding that there are two classes of scholarships in this bill. One is called a tuition scholarship, and the other is called an enhancement scholarship.

My question was whether you could take the tuition scholarship outside of the District? I thought the gentleman said yes, you could, and he used the example of children with special needs as one example. Then I questioned is it only that class that could, and the gentleman's response was no. Then I went on talking about I thought that most of them would go outside the District then. Is that in essence it?

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

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

Mr. WALSH. Mr. Speaker, I strongly would disagree with that. As I understand the way the bill is written, there is priority for use of all these funds within the District of Columbia first. If all of the spaces available are taken up within the District of Columbia, after that is accomplished, then the money would be available outside.

Mr. DIXON. Mr. Speaker, reclaiming my time, calling attention to page 160 of the bill on line 10, which indicates tuition scholarships, a tuition scholarship may be used only for payment of the cost of tuition and mandatory fees and transportation to attend an eligible institution, emphasis added, located within the geographic boundaries of the District of Columbia.

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

Mr. DIXON. I yield to the gentleman from Wisconsin.

Mr. GUNDERSON. Mr. Speaker, what we tried to point out earlier is that the scholarships generally do both have a priority for District of Columbia. There are two kinds of scholarships, a tuition scholarship and an enhancement scholarship.

Mr. DIXON. I said that a moment ago.

Mr. GUNDERSON. Mr. Speaker, if the gentleman will continue to yield, the tuition scholarships, as the gentleman read, can only go within the boundaries of the District of Columbia under the conference agreement. The other scholarships can go anywhere. But those are public school scholarships.

Mr. DIXON. Mr. Speaker, reclaiming my time, that was just my point. I asked the chairman of the subcommittee whether one could take the tuition scholarships and send that scholarship outside the District. He said yes, and he gave the illustration of one of the examples, a kid with special needs. I asked him was that the only example, and he said no.

My only point is that there is a great deal of confusion as to what is in this bill. Contrary to what everyone is talking about that it is a good bill and it has all this in it, I do not think anybody really knows, including the chairman, who I think his statement was wrong.

Mr. WALSH. Mr. Speaker, if the gentleman will yield further, there was a good deal of effort in the drawing up of this bill to make sure that the District had some local control. There is leeway within the legislation for the District and the Scholarship Board.

Mr. DIXON. Mr. Speaker, reclaiming my time, this is not leeway. This is very clearly that you cannot take, which is good, the voucher out of the District when you are dealing with what you call a tuition scholarship. The tutorial thing, after school, you can take it any place. But if you are to get a voucher to go to school, you can only use it in the District. I think that is good. But it has been misstated here on the floor, plus the people who drafted the bill, they do not know what is in it. That is my only point.

Mr. Speaker, I yield 4 minutes to the gentleman from Wisconsin, Mr. OBEY the distinguished minority member of the committee.

Mr. OBEY. Mr. Speaker, first of all, let me simply say I have heard many a time Members take the floor of this House and object to the fact that the District of Columbia Government often did not seem to know what it was doing. At times I certainly have shared that perception. I know that imitation is the sincerest form of flattery. But with all due respect, I think certainly on something which is such a major departure from existing law, the Congress ought to know what it is doing. Very frankly, on this issue, it does not.

I walked into the meeting of the conference this morning. We voted on this package. But up until the moment that we voted, I had not seen a single page of the legislative language, and neither had the gentleman from California. I think that is a quaint way to do business.

I have several objections to this bill. First of all, I am going to vote no because I do not believe that we should be adopting 168 pages of new language without at least having had the opportunity to analyze it, and we certainly did not.

Second, this bill is going to be used as a national precedent. And as soon as this bill is passed we are then going to see organizations with an ideological agenda who will begin to pressure each and every school district in the country to follow the same model. With all due respect, I think if we are going to create that kind of a precedent, at least again we ought to know what it is we are doing. I doubt that many Members do tonight.

Third, this Congress has already cut well over $6 million in Federal funds for the District of Columbia school system in the Labor-HEW bill. Yet, despite the fact we are squeezing down that money, we are asking that $5 million from a reduced budget level be set aside for this new experiment. As the gentleman from California has already indicated, even though there are about 50,000 youngsters who will be eligible for this experiment, less than 2,000 will probably be able to participate.

I think the precedent which is going to be set and the pressures which will then be brought upon State legislatures and Members of Congress to apply this all over the country, I think is a very high price to pay based on the kind of tokenism which this provision provides.

So while I have a great deal of respect for many of the people involved, and I have full confidence they are trying to do the right thing, I would simply suggest that this is a very high price for each of our school districts to pay to begin this tiny experiment here in the District of Columbia, and certainly the process which has been followed in bringing this product to the floor tonight does a disservice to each and every Member in this House and to the public we are supposed to represent.

Mr. Speaker, I would respectfully urge a "no" vote on the proposition when we get to the vote.

Mr. WALSH. Mr. Speaker, I yield myself 1 minute to respond to some of the other comments made earlier.

Mr. Speaker, we have worked on this bill now since almost a year ago this time. We had at least a dozen hearings. We had four or five meetings on the conference itself. The gentleman from California says he was not included in any of the discussion. That is not entirely true. He made some suggestions in other aspects of the bill that were heard and in fact actually compromised in honor.

But the issue of education here, what in God's name are you afraid of? The kids in this school system are being abused. We are trying to create some options for parents who do not have them now. Rich people can afford to go to private schools. Middle-class people who save their money can have that choice, too. Poor people do not have that choice. This is about providing kids a hand up and a handout and an opportunity to become leaders in this community, a community sorely in need of leaders.

Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, let me begin by thanking the gentleman from New York [Mr. WALSH] and his staff for their cooperation, and the gentleman from California [Mr. DIXON], and his staff, and the gentlewoman from the District of Columbia [Ms. NORTON], for their patience.

Let me begin by saying the confusion you heard about the tuition versus the enhanced educational scholarships is my fault. To Mr. WALSH's credit, he looked at me for assurance, and I miscommunicated with him. I want everybody to understand, blame me for that.

Having said that, I want to also make it clear that Mr. WALSH, for the first time in this debate, just mentioned the words "school children." Somehow in this whole debate we have lost sight of the very purpose we are here for, which is to try to help the children of the District of Columbia.

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

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

Mr. DIXON. Mr. Speaker, first of all, as I indicated to the gentleman, I have the greatest respect for the gentleman and his activities in this area. I just think the gentleman is off on the wrong foot.

More importantly, I mentioned the school kids very clearly. I said there were 80,000, 50,000 of whom would be eligible, but only about 1,500 to 2,000 could be funded. Do not characterize the debate as no one talking about the kids.

Mr. GUNDERSON. Mr. Speaker, reclaiming my time, I would say the gentleman mentioned the word "children" and would also say the gentleman from New York [Mr. WALSH] is the only one that said let us talk about what is good for the children of District of Columbia rather than what is good for the bureaucracy or the teacher's union or somebody else.

□ 1915

The gentleman from Wisconsin [Mr. OBEY], my colleague and friend, suggested that what we are going to establish here today is a national precedent. Know what? I hope he is right. I hope he is right, because I would suggest this is the first time in America where we have sat down and, first and foremost, at the request of the gentlewoman from the District of Columbia [Ms. NORTON] we have gone to the community and listened to those people and asked them what they thought we ought to do. Based upon their suggestions, literally hundreds if not thousands of them, we put together what I would like to believe is the most comprehensive education reform initiative that Congress has ever considered.

First and foremost, it is the first time that I know of where we have designed a system, a delivery system recognizing we do not have the public resources. We do not have them in this Congress, and they do not have them in the District of Columbia to pay for everything that needs to be done to help these children. So we have designed a system that gets the private sector to come in and provide additional money, additional scholarship money, additional foundation money, additional help to fix the school buildings, additional help to provide the technology.

The fact is, under this education reform initiative, what my colleagues are going to vote for tonight is a proposal that provides $96 million in new Federal funds for the D.C. school system at a time in which we are balancing the budget. It also is going to result in a foundation matching that $96 million over 5 years with 96 million additional dollars. We project that the private sector will provide $36 million in new technology assistance grants to provide the computers and the technology equipment these students from these schools need to learn.

Then we project that there will be $100 million in bona fide donations to the District of Columbia schools repairing those facilities and making them workable and learnable again. Add all of that up, and what do we have? We have 328 million new dollars for D.C. children over the next 5 years.

Know what? At a maximum, if the D.C. Council approves it, up to 10 percent of that money could end up in private schools. Not a penny could be used for religious instruction.

So tonight, the Republicans are bringing those who support increased funds for public schools, increased resources for public schools, we are bringing a proposal that not only does real comprehensive reform, but it does so through the public schools of D.C. for the children of D.C. I encourage its support and its approval.

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

Mr. DIXON. Mr. Speaker, may I inquire as to how much time I have remaining?

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman from California [Mr. DIXON] has 11 minutes remaining, and the gentleman from New York [Mr. WALSH] has 13½ minutes remaining.

Mr. DIXON. Mr. Speaker, I yield 6 minutes to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, as we approach the fifth month of the fiscal year, the appropriation of the District has finally come to the floor. This is the first time in more than 200 years that the D.C. appropriation has been so late. The subcommittee was prepared to move much sooner, but a disagreement on vouchers has held the bill up until now. Because of the District's dire financial condition, I hope all will agree that we must do whatever is necessary to avoid similar delay in the future.

Mr. Speaker, I want to work even more closely with the gentleman from New York [Mr. WALSH], chairman, and the gentleman from California [Mr. DIXON], ranking member, on next year's appropriations to try to help prevent any similar delay.

Mr. Speaker, I want to thank the gentleman from Louisiana [Mr. LIVINGSTON] and the gentleman from Wisconsin [Mr. OBEY] for the extra hours of work this bill has required of them. I thank the gentleman from New York [Mr. WALSH], the chairman, and the gentleman from California [Mr. DIXON], the ranking member, who had the major responsibility for the hard work that has been done on this bill.

Very special thanks are due to Senator JEFFORDS, who worked hard for a compromise and is himself a volunteer in the D.C. public schools. The gentleman from Wisconsin [Mr. GUNDERSON], who is the author of the entire education reform package attached to this bill, of which vouchers is only a tiny part, deserves to be congratulated for exceptional service beyond the call of duty. The gentleman could not have spent more time or effort on the education package if his next election depended on it. Unfortunately, the gentleman from Wisconsin has decided to retire, taking with him his special talent and effectiveness for making real changes in a collegial fashion, the only way to assure that change sticks.

The original package of the gentleman from Wisconsin [Mr. GUNDERSON] was the result of countless hours of work with D.C. residents and officials. The gentleman's tough package of reforms and benefits demonstrates that real changes can indeed be produced on a home rule basis. The voucher provision that has held this bill up for 4 months was not in the original package designed in cooperation with District residents.

Mr. Speaker, this bill puts me in an awkward position because I do not support many of its provisions. At the same time, it is impossible for me to oppose the appropriation bill for my own city 4 months into the appropriation year, after consultation with the mayor.

I should note first that among the improvements in the bill are the domestic partners restriction and the abortion restriction. I do not support these provisions, but each has been improved over prior provisions that actually changed DC law.

The abortion provision was especially onerous. Its restrictions were worse than were placed on other jurisdictions. I appreciate that, however unacceptable, these two provisions are at least no worse than the strictures under which the District has historically suffered.

Like me, the mayor does not support the voucher provision that has been the subject of most of the contention. If I am in an awkward position, he of course is in an impossible position. Only 2-weeks ago, the District's financial position left residents, businesses and the Federal Government itself snowed in when the District could not get vendors in the midst of a blizzard.

The Congress shut down the District for a full week in November. During 4 months without an appropriation, the District's financial position has deteriorated.

The negotiations between the gentleman from Wisconsin, [Mr. GUNDERSON], and Senator JEFFORDS have improved the bill and left open the possibility that no tuition vouchers will occur.

If the scholarship board and the council cannot agree, no voucher program can go forward. This provision, vesting authority with local authorities, is cited by Mayor Barry in indicating his support for passage, if not for the specific provisions of this bill.

I am doubtful that the voucher program will go into effect at all. A court suit challenging the constitutionality of the voucher proposal is inevitable. For the first time in more than 200 years that we have been a nation, this bill would allow direct tuition payments to religious schools. The provision allowing for the vouchers to be vetoed at the city council does not cure the problem. For a court, the issue would be, is the voucher proposal allowing for the funding of religious schools unconstitutional on its face? I believe that it is.

Ironically, the voucher provision respects home rule with one hand and disrespects it with the other. The DC council has to approve the plan. Indeed, the council could approve programs, such as afterschool programs in private schools that are in keeping with existing law and practices, allowing public school funds to follow children to private schools for special purposes.

At the same time the scholarship board is anti-home rule. It is a Federal board with a token appointment by the mayor. The Speaker, minority leader and majority and minority leaders of the Senate are the appointing authorities for a local school entity. How is that for devaluation of power back to the localities?

Ultimately, the appropriations bill is perhaps the ultimate home rule bill. I have, therefore, consulted with District officials. Both the mayor and I, I repeat, oppose the voucher provision. He believes that the way to address that provision is through the home rule council provision in the bill.

The position of the District, therefore, is that the only way to bring any relief to the District, which is insolvent at this time, after months of great suffering, is to free its appropriation.

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

Mr. Speaker, I would like to thank the gentlewoman from the District of Columbia [Ms. NORTON] for her summation of this bill. No one knows how important this bill is to the District more than she does. She knows that the money is needed. She knows that the District is hard-pressed.

Mr. Speaker, I am sure I understand the difficult position that the gentlewoman is in, because there may be an issue or two in the bill with which she has a philosophical problem. But overall, I think she has some sympathy for us supporting this bill. She did not support it, I do not want to put words in her mouth, but I understand the dilemma that she has. I would say to my colleague, I am deeply concerned that if we do not get an appropriation conference report passed today, I think it would be very, very difficult for us to come back with a continuing resolution that authorized or appropriated any of this Federal money, at least for the foreseeable future. I know that would be a difficulty for the District.

We have to move on. The status quo is not acceptable. It is not defensible. I see this conference report as progress.

While, again, there are issues in here that everyone may not agree with, it is needed and it is necessary.

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

Mr. DIXON. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. COLEMAN], a member of the Committee on Appropriations.

Mr. COLEMAN. Mr. Speaker, I think it should come as no surprise to anyone when the gentleman says there are two classes of children. We have two classes of women in the bill: the rich, who can afford an abortion for a young teenager, and the poor, who, of course, cannot get one because if they need Federal help they cannot get it because of this bill.

So we recognize there is a difference there for young women. So we should not be surprised about the fact that the gentleman from Wisconsin [Mr. GUNDERSON] stands up and says that he hopes that this will be the new national thing that we are going to do.

Mr. Speaker, I want to know this. How many of the private schools are going to accept vouchers and take kids with learning disabilities, physical impairments, mental problems? How many of those private schools are going to take these special kinds of cases and special children that the public school are required to take? Are they going to take all of those?

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

Mr. COLEMAN. I yield to the gentleman from Wisconsin.

Mr. GUNDERSON. Mr. Speaker, I am glad the gentleman asked that question. We have total prohibition on any kind of discrimination, and we require that any private school has to take an academically representative group of students that apply.

Mr. COLEMAN. Mr. Speaker, reclaiming my time, academically representative. The gentleman has not answered the question.

The reality is that what we are doing here is picking and choosing and leaving all the rest of the children in the public school, and I know that is the goal of the Republican agenda. I am not too worried, I will tell the gentleman from Wisconsin [Mr. OBEY] that the rest of the country will follow this example because it will not work.

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

Mr. Speaker, I would say to the gentleman from Wisconsin [Mr. GUNDERSON], I am informed that the bill, as a matter of fact, allows private schools to screen out and deny admission to students on the basis of religion, disability, test scores, and behavior. That, in fact, the corporation encourages the private school not to do that. After the gentleman from Maryland [Mr. HOYER] speaks, we will come back and look at the specific language that says that.

Mr. Speaker, I yield 3 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I rise today in reluctant opposition to this bill. However, I am pleased the conference report language contains language I offered during full committee markup. The language requests the District of Columbia Financial Responsibility and Management Assistance Authority to address in its March 1996 financial report and plan, first, how the District plans to restore funds removed from the Blue Plains budget and second, the timing for that restoration.

During fiscal year 1994, over $80 million dollars was transferred from the Water and Sewer Enterprise Fund. The Blue Plains budget falls within this fund. This substantial loss of funds had led to serious maintenance and plant operations problems at the facility.

According to the Environmental Protection Agency which recently inspected the facility, the plant is short of staff, maintenance, and chemicals. These shortages could potentially lead to a real threat of sewage flowing into the Potomac River. This can cause a serious threat to the ratepayers and suburban jurisdictions and have a devastating environmental impact on the region.

During its inspection, EPA found failure to pay vendors and contractors in a timely manner has resulted in contractors walking off their jobs at Blue Plains and vendors failing to make deliveries of chemicals or supply spare parts. This further hampers the plant's ability to operate and maintain plant equipment. Moreover, lack of preventive maintenance of and replacement parts for essential treatment process units has resulted in many units becoming inoperable and/or inaccurate.

According to EPA, the current level of staff has had a deleterious effect on plant operations: Shortages in the required number of engineers has restricted use of the plants ability to monitor the large number of environmentally sensitive processes, plan for necessary maintenance, and oversee ongoing construction projects.

In turn, EPA required the District to submit a short and long action plan demonstrating the city's ability to address current problems and how the city plans to meet its long term obligations.

The District submitted its plan to EPA on October 13. After a brief review of the plan, early indications are that the plans lay out proper activities, yet it is still uncertain how the District will be able to finance these activities and how the transferred funds will be returned in a timely fashion.

Current conditions at Blue Plains pose a health and safety threat to the sewage rate payers and residents of the metropolitan area who live downstream from the flow of untreated sewage. It poses a serious threat to the fragile environmental conditions of the Potomac, Chesapeake Bay, Anacostia, and Patuxent Rivers and the water life they support.

In order to prevent danger to life or environment, swift return of the funds is necessary so that the Blue Plains facility can return to operating in a more safe and efficient manner.

□ 1930

Mr. WALSH. Mr. Speaker, I yield 1 minute to the gentleman from Louisiana [Mr. LIVINGSTON], the distinguished chairman of the Committee on Appropriations.

Mr. LIVINGSTON. Mr. Speaker, I just want to take this opportunity to commend the distinguished chairman of the subcommittee, the distinguished ranking minority member, the gentleman from California, and all of the members of the subcommittee. I realize that my friend, the gentleman from California, is not entirely happy with this bill, but this, for my friends on the Republican side, is a good bill.

Members can always find reasons to vote against this bill: they do not represent the District of Columbia, they are back in California or the Midwest or the Northwest or the Northeast or wherever. The fact is, we are not going to get a better bill than this. This has gone through the process, through the hoops. There are reasons for conservatives to be happy, and there are reasons for moderates and liberals to be happy. The most important thing is that we are paying the bills for the District, and we are getting the District on a track toward downsizing their ever-increasing demands for more taxpayers' dollars.

This is a good bill. Let us put this to rest, and frankly, this will bring us closer to completing our appropriations process for fiscal year 1996. When this passes it will mean we only have four more bills on the appropriation cycle.

I urge my colleagues on both sides to vote for this bill.

Mr. WALSH. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. KINGSTON], a member of the subcommittee.

Mr. KINGSTON. Mr. Speaker, I thank the gentleman from New York for yielding time to me.

Mr. Speaker, I will not speak to the details of this bill. We have been batting it around enough. I do want to speak to the spirit of the bill and the compromise that went into it.

We all knew when we went into this bill that Washington, DC, was in financial trouble. We all knew that Washington, DC, had to change. We all knew that the estimates that we had for revenues and taxes and savings based on past legislation never came through quite the way we guessed they would. We knew it would be difficult. Yet, somehow through this process, we have a bill together. Now it appears that folks on one side of the aisle do not like it because it is too conservative and folks on the other side of the aisle do not like it because it is too liberal.

Mr. Speaker, this bill gives $1.4 billion as a budget for the District. That is a lot of money for a city of 554,000 people, which is about 50,000 lower than it had 10 years ago. Because of the many problems they have had, people have moved out of it.

This bill reduces their spending about $150 million. We know on the committee we actually passed a bill at one time that had $260 million in savings, but we were unable to get that through the Senate and we were unable to move it through the floor. In anticipation of being unable to move it through the floor, we have changed that amount of money.

We have the Financial Control Board. It is something that I think is going to take many, many years to change the city around, but I have here a list of folks who are going to vote "no" because the spending level is too high and the changes do not go far enough. Yet, as I hear from this side of the aisle, you have a list of people who are going to vote "no" because the cuts are too much.

Mr. Speaker, I think in order to keep this process going, in order to not go through the continuing resolution route, this bill represents the best compromise. We will never have a perfect Washington, DC, bill. It is never going to be the way the liberals would write it, it is never going to be the way the conservatives would write it, but this is our best shot for a reasonable bill. I urge my colleagues on both sides of the aisle to vote "yes."

Mr. WALSH. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. RIGGS].

Mr. RIGGS. Mr. Speaker, first of all, I rise to salute my colleagues, the gentleman from New York [Mr. WALSH] and the gentleman from Wisconsin [Mr. GUNDERSON], for their excellent work on this legislation, and to urge my Democrat colleagues to support the conference report on the District of Columbia appropriations bill.

This is a good opportunity to put your vote where your rhetoric has been. In fact, we have heard repeatedly claims from this side of the aisle during this session of Congress that we Republicans are somehow antieducation. The District of Columbia appropriations bill, which includes the Gunderson package of educational reforms, is a very proeducation bill.

We are all part-time residents of the Washington, DC, area because of our congressional duties, so we have heard the horror stories about the District of Colombia public schools. For example, we have heard stories regarding the restrooms at the schools, so unsanitary that the kids refuse to use them. We have heard stories about classrooms going without textbooks, about students going without teachers or having to face a succession of teachers who are in the schools on a temporary or substitute basis.

Listen to what the Gunderson bill does. First of all, it creates public charter schools. It would allow the District of Columbia public schools to align with other educational facilities in the District of Columbia such as the National Science Foundation, the National Gallery of Art, the Library of Congress, to help establish these charter schools.

In addition, these charter schools would help restructure the existing public schools, allowing innovative principals and teachers to work with parents, students, and academic associations to overhaul a system that is failing our kids. Make no doubt about it, the District of Columbia public schools are failing our kids. They have the worst test scores of any school district, any urban inner city school district in the country, and only 56 percent of the kids in the District of Columbia public schools actually graduate. This is a good bill that brings education innovation and progress to the District of Columbia public schools.

You say you are for education. You say we are antieducation. Here is an opportunity to join together in a bipartisan fashion to improve these schools, and give all students in these schools some educational opportunity and a new lease on life.

Mr. WALSH. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, I just want to respond to the concerns of the ranking member, the gentleman from California [Mr. DIXON], earlier about where the scholarship money would go.

First of all, on page 160 of the bill, we require on line 8 that the corporation shall ensure an equitable distribution of scholarship funds to students at diverse academic achievement levels. On

page 172 of the bill, section 2927, we require that all eligible institutions participating in the scholarship program must be participating in all civil rights acts, including section 504 of the rehabilitation act.

Then we go on, on page 173, section 2928, children with disabilities, that any private school that participates in the scholarship program must meet all of the idea requirements here as determined by the District of Columbia Board of Education.

Finally, I would point out on page 177, the Department of Education at the end of 4 years must do a comparison, which includes a comparison of test scores between scholarship students and D.C. public school students of similar backgrounds and academic achievement.

Mr. WALSH. Mr. Speaker, I have no more requests for time, and I reserve the balance of my time to close.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman from California [Mr. DIXON] has 2 minutes remaining.

Mr. DIXON. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I will have a motion to recommit to strike the voucher section. Let me speak very fast. The gentleman from Wisconsin [Mr. GUNDERSON] says on page 160, line 6, he reads, and he reads part of the paragraph. The paragraph reads: "The corporation," now this is the person giving the scholarship, "The corporation shall attempt to ensure an equitable distribution of funds to students of diverse academic backgrounds," "shall attempt."

The other side of it is the recipient and the school. He reads, I guess, part of the section on page 172. Keep in mind that I said that a person could be turned down for religion, disability, test scores, or behavior. In short, the Civil Rights Act and the AIDS Discrimination Act say nothing about a kid being turned away for behavior or for test scores. I am correct, a school can turn down somebody for behavior. They can turn them down for test scores. Yes, the corporation shall attempt to make a distribution.

At the appropriate time I will be asking to return this bill for the purpose of striking this section. Perhaps we can write a better voucher plan. I am interested in the kids of this District, too. From one through six, I went to school here. I am interested in all of the kids, not the 1,500 that this voucher system would serve. At the appropriate time I will ask Members to vote aye on a motion to recommit.

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

Mr. Speaker, I will be brief. We stand here and fiddle while Rome burns all around us. It is time for action. The status quo that is the District of Columbia is no longer defendable. We need to move and we need to move now. You can see how difficult any change is. We are talking about minimal change, but this is all we could get, and it is a fight, but it is a worthy fight. The future of the kids of this city, is at stake.

We have an opportunity here to give them some positive options, give them some opportunity in life that they did not have before, and I just cannot understand why we would not take that action.

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

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

Mr. RIGGS. For a point of clarification, Mr. Speaker, I do not know if the ranking member is following our conversation, but I would like to clarify one more time for our colleagues that under the gentleman's proposal, and in particular the Gunderson provisions, it would permit low-income parents to choose a private school if they are dissatisfied with their child's public school.

So under that scenario, if a low-income family is dissatisfied with the education, the performance of the public school their child is attending, then they would have another option available to them. They would be able to choose a private school through the use of the scholarships or vouchers that are in the gentleman's bill?

Mr. WALSH. That is correct. That is what this is about, providing some choice to the parents.

Mr. Speaker, in conclusion, let me say, in our relationship with the District of Columbia, we need to pay them what we have promised. We need to make that formula payment. Basically, it is paying our rent for being in this district. This is the vehicle to do it. If we do not do it with this vehicle, I do not know if we will get it done.

Mr. METCALF. Mr. Speaker, I rise to address the House for 1 minute and ask permission to extend and revise my remarks.

It is time for Congress to recognize that school choice is a viable and legitimate option. This is not an issue of preferring either private or public schools, but who should have the fundamental right to choose what is best for their children.

For those who can afford it, school choice is already an option. In fact, an increasing number of parents, including the President, are sending their children to private schools. Unfortunately, this option is not available for the rest of us.

In the end, this is really about who is more capable of caring for children. If you believe government cares more about your children than yourself, then we should keep the status quo and make minor changes. However, if you have the best in mind for your children, why can't you determine what school your child attends?

School choice is about giving parents and their children access to quality education. In a time when many schools are deteriorating, we need to reform our education system and give parents choice.

Mr. SAWYER. Mr. Speaker, I rise today in opposition to the conference report. As a former mayor, I sympathize with the need for a city to have a set budget to work from. I greatly regret that Washington, DC, has had to wait this long. However, the conferees have made it impossible for me to support this legislation by including a voucher proposal that represents a radical shift in Federal education policy.

This voucher proposal poses as a locally controlled program, while it really holds hostage millions of dollars that could be used for children in the District schools to force the city council to accept vouchers that they have said they do not want. I see many problems with this voucher program. However, the one that I find most objectionable is the lack of provisions for an unbiased, scientific evaluation of the effects of this experiment.

This legislation is unclear on who evaluates the program. In one place the legislation seems to state that the corporation administering the voucher program evaluates itself. In another, the department evaluates the program, but only after 4 years, and is only required to take into account a limited amount of data. Test scores, graduation rates, and parental satisfaction are mentioned as criteria for evaluation, but not the education levels of the parents or information about the families. There is no provision that the schools that accept the scholarships must administer the same tests so as to provide comparable data. This bill does not even specify the need to examine the overall effect this program has on the D.C. public schools. I thought that was the whole reason for reform.

This is a broad-based experiment in children's lives and yet we are not even going to evaluate the results properly. That is unconscionable. For these reasons, and for all of the others mentioned by my colleagues, I must oppose this conference report.

Mr. CLAY. Mr. Speaker, with some reluctance, I rise to oppose the D.C. appropriations bill and to urge my colleagues to support the motion to recommit that will prevent the use of Federal funds for private school vouchers.

Here we are again, on the floor of the House debating an appropriations bill that should have been passed 4 months ago. But the Republican majority continues to mismanage the people's business, seeking to bootstrap their radical ideas to regular spending bills. And this D.C. appropriations bill is the latest egregious example of their scheme of legislative blackmail.

I commend my colleague from Wisconsin, Mr. GUNDERSON, for his good faith attempt to help the District of Columbia improve its public schools. The citizens of this city and their elected officials have embraced many of his ideas. But, they have categorically rejected the idea that public dollars should be siphoned off to finance private school education. And, yet this conference report ignores the expressed will of D.C. citizens because radical elements in the Republican Party insist that its their way or the highway. Those same elements have made clear their intent to destroy public education, and they are wiling to trample on the democratic rights of over one-half million U.S. citizens in order to gain a foothold in their war against public education. While this Capitol

Building is the seat of national Government, it is not the "big house" and the District of Columbia is not Jerry Falwell's plantation.

Isn't it ironic that the very people who complain about Federal intrusion into the affairs of local school districts, and other aspects of modern life for that matter, are fighting to impose a federally funded, federally mandated private school voucher plan on the District of Columbia? Rest assured, if they try to force that idea on my constituents they will be in for the fight of their political lives.

Mr. Speaker, by substantial margins the American people rate improvement of public education as their No. 1 priority. I urge my colleagues to reject this attempt to highjack Federal tax dollars that instead should address that priority.

The SPEAKER pro tempore. All time has expired. Without objection, the previous question is ordered.

There was no objection.

MOTION TO RECOMMIT OFFERED BY MR. DIXON

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

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

Mr. DIXON. I am, in its present form.

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

The Clerk read as follows:

Mr. DIXON moves to recommit the conference report on the bill (H.R. 2546) to the committee of the conference with the instruction that the conferees amend the conference report to delete the following provisions: $5,000,000 for low-income scholarships under the heading "Federal Contribution for Education Reform", $5,000,000 for the District of Columbia Scholarship Corporation under the heading "Education Reform", and the entire text of "Subtitle N—Low-Income Scholarships" of Title II authorizing scholarships for low-income students.

The SPEAKER pro tempore. Under the rule, there is no debate on this motion. 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. DIXON. 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 180, nays 232, not voting 21, as follows:

[Roll No. 22]

YEAS—180

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Boehlert
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Danner
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
English
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Horn
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McHugh
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Ramstad
Rangel
Reed
Richardson
Rivers
Roemer
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stokes
Studds
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Wise
Woolsey
Wynn
Yates

NAYS—232

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
de la Garza
Deal
Diaz-Balart
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Ensign
Everett
Ewing
Fawell
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
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
Latham
LaTourette
Laughlin
Lazio
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McInnis
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Moran
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
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—21

Bryant (TX)
Chapman
DeLay
Dickey
Fields (TX)
Filner
Flake
Gephardt
Geren
Hayes
Largent
Leach
McIntosh
Oxley
Rose
Roukema
Smith (WA)
Stockman
Williams
Wilson
Wyden

□ 2003

Mr. GUTKNECHT and Mr. RADANOVICH changed their vote from "yea" to "nay."

Mr. BAESLER and Mr. PETERSON of Minnesota changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). 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 211, nays 201, not voting 22, as follows:

[Roll No. 23]

YEAS—211

Abercrombie
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Christensen
Chrysler
Clement
Clinger
Collins (GA)
Cox
Crane
Crapo
Cremeans
Cubin
Davis
de la Garza
Deal
Diaz-Balart
Doolittle
Dornan
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Ensign
Ewing
Fawell
Flanagan
Foley
Forbes
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk

Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gingrich
Gonzalez
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Heineman
Herger
Hobson
Hoekstra
Hoke
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Laughlin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manton
Manzullo
Martini
Matsui
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McNulty
Metcalf
Mica
Miller (FL)
Minge
Molinari
Moorhead
Moran
Morella
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Packard
Parker
Pastor
Paxon
Pombo
Porter
Portman
Pryce
Quinn
Radanovich
Regula
Richardson
Riggs
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Solomon
Souder
Spence
Stearns
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (NC)
Thomas
Torres
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff

NAYS—201

Ackerman
Allard
Andrews
Baesler
Baldacci
Barr
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Boehlert
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Cardin
Chenoweth
Clay
Clayton
Clyburn
Coble
Coburn
Coleman
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Coyne
Cramer
Cunningham
Danner
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Duncan
Durbin
Engel
English
Eshoo
Evans
Everett
Farr
Fattah
Fazio
Fields (LA)
Foglietta
Ford
Fowler
Frank (MA)
Frost
Furse
Gejdenson
Gibbons
Gilman
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hancock
Harman
Hastings (FL)
Hilleary
Hilliard
Hinchey
Holden
Horn
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
Klug
LaFalce
Lantos
Lazio
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney
Markey
Martinez
Mascara
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mink
Moakley
Mollohan
Montgomery
Murtha
Myers
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pomeroy
Poshard
Quillen
Rahall
Ramstad
Rangel
Reed
Rivers
Roberts
Roemer
Roybal-Allard
Rush
Sabo
Salmon
Sanders
Sawyer
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sisisky
Skaggs
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stump
Taylor (MS)
Tejeda
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Wise
Woolsey
Wynn
Yates
Zimmer

NOT VOTING—22

Bryant (TX)
Chapman
DeLay
Dickey
Fields (TX)
Filner
Flake
Gephardt
Geren
Hansen
Hayes
Largent
Leach
McIntosh
Oxley
Rose
Roukema
Smith (WA)
Stockman
Williams
Wilson
Wyden

□ 2021

Mr. ROBERTS changed his vote from "yea" to "nay."

Messrs. ZELIFF, BROWNBACK, and SCARBOROUGH changed their 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.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. HASTINGS of Washington). 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.

WHAT WOULD HAPPEN IF THE UNITED STATES OF AMERICA DEFAULTED?

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia [Ms. NORTON] is recognized for 5 minutes.

Ms. NORTON. Mr. Speaker, the D.C. appropriation has just passed this House after 4 very arduous months. The concern that I have had all along relates to the financial condition of the District.

As I have seen what has happened to this city, I have not been able to keep from analyzing the situation of the District to the situation that the United States of America could find itself. The District, Mr. Speaker, courted default as it was running out of money. It did not know what to do or could not do what had to be done, and so a financial authority was appointed, and that authority was necessary in order for the District to be able to borrow.

As one contemplates the problems facing this body with a debt limit, one wonders what would happen if the United States of America got close to default.

I can say this to you, Mr. Speaker, there would not be any higher authority to take over the United States of America. We are the ultimate authority, and so I would hope that we all try to figure out how to make sure that we do not get any closer to the threat of default.

I wanted to talk about the threat of default for a moment. The District, for example, has heard in the last couple of days from the bond ratings that they still do not believe that the District will rise again, and they are considering lowering the District's bond rating yet again. What trembles and shakes that has sent through the District of Columbia. In effect, Moody's did the same thing to the United States of America this very week when it threatened to downgrade our credit, the best credit in the world for over 200 years.

I want, therefore, to ask this body to consider not default but what the threat of default can do to interest rates, to confidence, how it can ripple through our country and through the world.

□ 2030

I want, therefore, to ask this body to consider not default, but what the threat of default can do to interest rates, to confidence, and how it can ripple through our country and the world.

I recognize the United States of America and the District of Columbia are different. Yet the fact is that there have been only a few large jurisdictions that have ever been threatened with default, and, for all of those, the results have been catastrophic.

So I would ask this body in the next few weeks to try to consider what is at stake. History will remember us for how we handle the first threat of default in the history of the United States. The threat of default is as bad in a very real sense as default itself. Who can forget what led to the budget agreement under which we now operate? What led to that agreement, of course, was a crash on Wall Street that came one day, absolutely unexpected, that came one day without warning. It is the possibility that the credit of the United States could be affected without warning that I hope this body will take into account in deciding what to do with the debt limit.

I am asking this body to respect the long record of the United States and to pass a clean debt limit bill. We must not allow the shutdown experience to be born again in the debt limit bill. The only way to respond to the experience we have had in the last couple of

months with the shutdown experience is to make sure we do not repeat bad history. If we are ever to repeat that history, we certainly should not repeat it with the full faith and credit of the United States.

I know what it is to lose your credit. I am from the District of Columbia, which today does not have credit. I ask my country then to look at its Capital City and to make sure that its credit in no way resembles that of its fallen city. I appreciate that there is a great difference. I hope that difference will continue to be great, and I hope that we will return to this body, not to have 4 days of haggling about what to do about the debt limit or what to attach to the debt limit, but that we will march forward together in a bipartisan way and pass, finally, one clean debt limit bill.

BUDGET MATTERS

The SPEAKER pro tempore (Mr. CHRYSLER). Under a previous order of the House, the gentleman from Hawaii [Mr. ABERCROMBIE] is recognized for 5 minutes.

Mr. ABERCROMBIE. Mr. Speaker, in light of Ms. NORTON's just-delivered remarks, I would like to say as someone coming from the last State to be admitted to the Union, the State of Hawaii, that I recognize only too fully what the implications are when you find yourself without representation, when you find yourself having to look to the good will of others.

In this particular instance, Mr. Speaker, I think that we need to pay some final attention before we leave the building, before we leave the floor, and pay some particular attention to the proposition, is this actually what we should be doing?

I do not mean tonight, Mr. Speaker. I think that the majority party, the Republican Party, and the House, have the opportunity to reconsider in the next day or two whether we want to go home, whether we need to go home bearing the burden of not having resolved the question of the debt limit.

Now, we have had arguments made, we can show headlines and present charts indicating that there was ostensibly a breakdown in the budget negotiations. The budget negotiations, I submit, Mr. Speaker, are separate and apart from those negotiations that might occur or should be occurring with respect to the extension of the debt limit.

In that regard, Mr. Speaker, I do not think they should be connected.

I have listened with care. I have listened with intensity today to the arguments being made. As you know, earlier today, in the absence of immediate legislative business, there was quite an extensive discussion of some hours' length on the floor by various Members with respect to the question of debt limitation, balancing of the budget, and the implications for tax credits or tax cuts.

Mr. Speaker, you may recall that I finished a special order just the other day, if you will, paraphrasing the title of an editorial to which I was referring in the Washington Post, the title being "Who won the budget battle?" I finished by saying the real question, Mr. Speaker, was who might lose in the budget battle? That is what really counts.

We do not want anybody to lose in that budget battle, because we are talking about not only the future, which has been brought up many times by speakers on both sides of the aisle, children, grandchildren, great grandchildren, who will pay, but, rather, what will be lost in terms of what has been referred to over and over again as the full faith and credit of the United States with respect to paying its debts.

Mr. Speaker, I submit there are two separate issues here that you and I, either individually, as Members of this body, or as representatives of positions in both caucuses can have, of fruitful discussion on this floor and in the context of the House of Representatives, institutionally speaking, as to what the best course of action is or should be with respect either to the budget or the debt limit.

But to argue or make the debt limit extension part of that discussion at the present time I think advances no one's agenda, Mr. Speaker. Not mine. I do not come down to the floor to try and make a political game, rhetorically or otherwise, over arguing this issue. It is much too important, bigger than you or I.

So I would hope that there would be consideration in the Republican Conference in the hours and immediate days to come, or, if we do leave without resolving the issue, that there would be a consideration that at least as far as the debt limit is concerned, that for now we set that aside as not being relevant to resolving the very real differences that may be between us politically or otherwise in terms of policy, and that we put the health and welfare literally of the Nation ahead of or at the top of all our priority lists, of all political parties concerned; that we separate that out, and that we have a full and fair discussion, not about the credit standing of the United States, but what kind of credit we can bring to ourselves as Members of this body, and what kind of credibility we can bring to the arguments that we are able to make about the budget: How we balance it, what we do about that, what we do about tax credits, what we do about whether or not there should be tax cuts; and that we argue this thing in a manner and in a context that establishes for the people of the United States, our colleagues, and those who may be viewing or observing our deliberations, that we do it in such a manner and in a context that reflects well not just on us, but on the seriousness of the issues at hand.

With that, Mr. Speaker, I close by reiterating my plea that we do not utilize the debt limit extension as one of the fundamental blocks in the building of whatever political stance we may take with respect to balancing the budget or any other aspect of the political discussion that has been under way in these last days.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 8 o'clock and 40 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 2113

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. CHRYSLER] at 9 o'clock and 13 minutes p.m.

CONFERENCE REPORT ON S. 652, TELECOMMUNICATIONS ACT OF 1996

Mr. BLILEY submitted the following conference report and statement on the Senate bill (S. 652) to provide for a pro-competitive, 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:

CONFERENCE REPORT (H. REPT. 104-458)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 652), to provide for a pro-competitive, de-regulatory 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, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

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

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

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "Telecommunications Act of 1996".

(b) REFERENCES.—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. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title; references.
Sec. 2. Table of contents.
Sec. 3. Definitions.

TITLE I—TELECOMMUNICATION SERVICES

Subtitle A—Telecommunications Services

Sec. 101. Establishment of part II of title II.
"PART II—DEVELOPMENT OF COMPETITIVE MARKETS
"Sec. 251. Interconnection.
"Sec. 252. Procedures for negotiation, arbitration, and approval of agreements.
"Sec. 253. Removal of barriers to entry.
"Sec. 254. Universal service.
"Sec. 255. Access by persons with disabilities.
"Sec. 256. Coordination for interconnectivity.
"Sec. 257. Market entry barriers proceeding.
"Sec. 258. Illegal changes in subscriber carrier selections.
"Sec. 259. Infrastructure sharing.
"Sec. 260. Provision of telemessaging service.
"Sec. 261. Effect on other requirements."
Sec. 102. Eligible telecommunications carriers.
Sec. 103. Exempt telecommunications companies.
Sec. 104. Nondiscrimination principle.

Subtitle B—Special Provisions Concerning Bell Operating Companies

Sec. 151. Bell operating company provisions.
"PART III—SPECIAL PROVISIONS CONCERNING BELL OPERATING COMPANIES
"Sec. 271. Bell operating company entry into interLATA services.
"Sec. 272. Separate affiliate; safeguards.
"Sec. 273. Manufacturing by Bell operating companies.
"Sec. 274. Electronic publishing by Bell operating companies.
"Sec. 275. Alarm monitoring services.
"Sec. 276. Provision of payphone service."

TITLE II—BROADCAST SERVICES

Sec. 201. Broadcast spectrum flexibility.
"Sec. 336. Broadcast spectrum flexibility."
Sec. 202. Broadcast ownership.
Sec. 203. Term of licenses.
Sec. 204. Broadcast license renewal procedures.
Sec. 205. Direct broadcast satellite service.
Sec. 206. Automated ship distress and safety systems.
"Sec. 365. Automated ship distress and safety systems."
Sec. 207. Restrictions on over-the-air reception devices.

TITLE III—CABLE SERVICES

Sec. 301. Cable Act reform.
Sec. 302. Cable service provided by telephone companies.
"PART V—VIDEO PROGRAMMING SERVICES PROVIDED BY TELEPHONE COMPANIES
"Sec. 651. Regulatory treatment of video programming services.
"Sec. 652. Prohibition on buy outs.
"Sec. 653. Establishment of open video systems."
Sec. 303. Preemption of franchising authority regulation of telecommunications services.
Sec. 304. Competitive availability of navigation devices.
"Sec. 629. Competitive availability of navigation devices."
Sec. 305. Video programming accessibility.
"Sec. 713. Video programming accessibility."

TITLE IV—REGULATORY REFORM

Sec. 401. Regulatory forbearance.
"Sec. 10. Competition in provision of telecommunications service."
Sec. 402. Biennial review of regulations; regulatory relief.
"Sec. 11. Regulatory reform."
Sec. 403. Elimination of unnecessary Commission regulations and functions.

TITLE V—OBSCENITY AND VIOLENCE

Subtitle A—Obscene, Harassing, and Wrongful Utilization of Telecommunications Facilities

Sec. 501. Short title.
Sec. 502. Obscene or harassing use of telecommunications facilities under the Communications Act of 1934.
Sec. 503. Obscene programming on cable television.
Sec. 504. Scrambling of cable channels for nonsubscribers.
"Sec. 640. Scrambling of cable channels for nonsubscribers."
Sec. 505. Scrambling of sexually explicit adult video service programming.
"Sec. 641. Scrambling of sexually explicit adult video service programming."
Sec. 506. Cable operator refusal to carry certain programs.
Sec. 507. Clarification of current laws regarding communication of obscene materials through the use of computers.
Sec. 508. Coercion and enticement of minors.
Sec. 509. Online family empowerment.
"Sec. 230. Protection for private blocking and screening of offensive material."

Subtitle B—Violence

Sec. 551. Parental choice in television programming.
Sec. 552. Technology fund.

Subtitle C—Judicial Review

Sec. 561. Expedited review.

TITLE VI—EFFECT ON OTHER LAWS

Sec. 601. Applicability of consent decrees and other law.
Sec. 602. Preemption of local taxation with respect to direct-to-home services.

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. Prevention of unfair billing practices for information or services provided over toll-free telephone calls.
Sec. 702. Privacy of customer information.
"Sec. 222. Privacy of customer information."
Sec. 703. Pole attachments.
Sec. 704. Facilities siting; radio frequency emission standards.
Sec. 705. Mobile services direct access to long distance carriers.
Sec. 706. Advanced telecommunications incentives.
Sec. 707. Telecommunications Development Fund.
"Sec. 714. Telecommunications Development Fund."
Sec. 708. National Education Technology Funding Corporation.
Sec. 709. Report on the use of advanced telecommunications services for medical purposes.
Sec. 710. Authorization of appropriations.

SEC. 3. DEFINITIONS.

(a) ADDITIONAL DEFINITIONS.—Section 3 (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) comparable 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"; and

(2) by adding at the end thereof the following:

"(33) AFFILIATE.—The term 'affiliate' means a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this paragraph, the term 'own' means to own an equity interest (or the equivalent thereof) of more than 10 percent.

"(34) AT&T CONSENT DECREE.—The term 'AT&T Consent Decree' 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.

"(35) BELL OPERATING COMPANY.—The term 'Bell operating company'—

"(A) means any of the following companies: 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; and

"(B) includes any successor or assign of any such company that provides wireline telephone exchange service; but

"(C) does not include an affiliate of any such company, other than an affiliate described in subparagraph (A) or (B).

"(36) CABLE SERVICE.—The term 'cable service' has the meaning given such term in section 602.

"(37) CABLE SYSTEM.—The term 'cable system' has the meaning given such term in section 602.

"(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 affiliate 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 access to telephone exchange services or facilities for the purpose of the origination or termination of telephone toll 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.

"(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 before the date of enactment of the Telecommunications Act of 1996 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 AT&T Consent Decree; or

"(B) established or modified by a Bell operating company after such date of enactment 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 should be included in the definition of such term.

"(45) NETWORK ELEMENT.—The term 'network element' means a facility or equipment used in the provision of a telecommunications service. Such term also includes features, functions, and capabilities that are provided by means of such facility or equipment, including subscriber numbers, databases, signaling systems, and information sufficient for billing and collection or used in the transmission, routing, or other provision of a telecommunications service.

"(46) NUMBER PORTABILITY.—The term '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.

"(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 recently 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 exchange access, 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 the Telecommunications Act of 1996.

"(48) TELECOMMUNICATIONS.—The term 'telecommunications' means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

"(49) TELECOMMUNICATIONS CARRIER.—The term 'telecommunications carrier' means any provider of telecommunications services, except that such term does not include aggregators of telecommunications services (as defined in section 226). A telecommunications carrier shall be treated as a common carrier under this Act only to the extent that it is engaged in providing telecommunications services, except that the Commission shall determine whether the provision of fixed and mobile satellite service shall be treated as common carriage.

"(50) 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).

"(51) TELECOMMUNICATIONS SERVICE.—The term '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.".

(b) COMMON TERMINOLOGY.—Except as otherwise provided in this Act, the terms used in this Act have the meanings provided in section 3 of the Communications Act of 1934 (47 U.S.C. 153), as amended by this section.

(c) STYLISTIC CONSISTENCY.—Section 3 (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.

(d) 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 I—TELECOMMUNICATION SERVICES

Subtitle A—Telecommunications Services

SEC. 101. ESTABLISHMENT OF PART II OF TITLE II.

(a) AMENDMENT.—Title II is amended by inserting after section 229 (47 U.S.C. 229) the following new part:

"PART II—DEVELOPMENT OF COMPETITIVE MARKETS

"SEC. 251. INTERCONNECTION.

"(a) GENERAL DUTY OF TELECOMMUNICATIONS CARRIERS.—Each telecommunications carrier has the duty—

"(1) to interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers; and

"(2) not to install network features, functions, or capabilities that do not comply with the guidelines and standards established pursuant to section 255 or 256.

"(b) OBLIGATIONS OF ALL LOCAL EXCHANGE CARRIERS.—Each local exchange carrier has the following duties:

"(1) RESALE.—The duty not to prohibit, and not to impose unreasonable or discriminatory conditions or limitations on, the resale of its telecommunications services.

"(2) NUMBER PORTABILITY.—The duty to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission.

"(3) DIALING PARITY.—The duty to provide dialing parity to competing providers of telephone exchange service and telephone toll service, and the duty to permit all such providers to have nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listing, with no unreasonable dialing delays.

"(4) 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 on rates, terms, and conditions that are consistent with section 224.

"(5) RECIPROCAL COMPENSATION.—The duty to establish reciprocal compensation arrangements for the transport and termination of telecommunications.

"(c) ADDITIONAL OBLIGATIONS OF INCUMBENT LOCAL EXCHANGE CARRIERS.—In addition to the duties contained in subsection (b), each incumbent local exchange carrier has the following duties:

"(1) DUTY TO NEGOTIATE.—The duty to negotiate in good faith in accordance with section 252 the particular terms and conditions of agreements to fulfill the duties described in paragraphs (1) through (5) of subsection (b) and this subsection. The requesting telecommunications carrier also has the duty to negotiate in good faith the terms and conditions of such agreements.

"(2) INTERCONNECTION.—The duty to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier's network—

"(A) for the transmission and routing of telephone exchange service and exchange access;

"(B) at any technically feasible point within the carrier's network;

"(C) that is at least equal in quality 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; and

"(D) on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, in accordance with the terms and conditions of the agreement and the requirements of this section and section 252.

"(3) UNBUNDLED ACCESS.—The duty to provide, to any requesting telecommunications carrier for the provision of a telecommunications service, nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory in accordance with the terms and conditions of the agreement and the requirements of this section and section 252. An incumbent local exchange carrier shall provide such unbundled network elements in a manner that allows requesting carriers to combine such elements in order to provide such telecommunications service.

"(4) RESALE.—The duty—

"(A) to offer for resale at wholesale rates any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers; and

"(B) not to prohibit, and not to impose unreasonable or discriminatory conditions or limitations on, the resale of such telecommunications

service, except that a State commission may, consistent with regulations prescribed by the Commission under this section, prohibit a reseller that obtains at wholesale rates a telecommunications service that is available at retail only to a category of subscribers from offering such service to a different category of subscribers.

"(5) NOTICE OF CHANGES.—The duty to provide 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.

"(6) COLLOCATION.—The duty to provide, on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, for physical collocation of equipment necessary for interconnection or access to unbundled network elements at the premises of the local exchange carrier, except that the carrier may provide for virtual collocation if the local exchange carrier demonstrates to the State commission that physical collocation is not practical for technical reasons or because of space limitations.

"(d) IMPLEMENTATION.—

"(1) IN GENERAL.—Within 6 months after the date of enactment of the Telecommunications Act of 1996, the Commission shall complete all actions necessary to establish regulations to implement the requirements of this section.

"(2) ACCESS STANDARDS.—In determining what network elements should be made available for purposes of subsection (c)(3), the Commission shall consider, at a minimum, whether—

"(A) access to such network elements as are proprietary in nature is necessary; and

"(B) the failure to provide access to such network elements would impair the ability of the telecommunications carrier seeking access to provide the services that it seeks to offer.

"(3) PRESERVATION 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—

"(A) establishes access and interconnection obligations of local exchange carriers;

"(B) is consistent with the requirements of this section; and

"(C) does not substantially prevent implementation of the requirements of this section and the purposes of this part.

"(e) NUMBERING ADMINISTRATION.—

"(1) COMMISSION AUTHORITY AND JURISDICTION.—The Commission shall create or 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 all or any portion of such jurisdiction.

"(2) COSTS.—The cost of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission.

"(f) EXEMPTIONS, SUSPENSIONS, AND MODIFICATIONS.—

"(1) EXEMPTION FOR CERTAIN RURAL TELEPHONE COMPANIES.—

"(A) EXEMPTION.—Subsection (c) of this section shall not apply to a rural telephone company until (i) such company has received a bona fide request for interconnection, services, or network elements, and (ii) the State commission determines (under subparagraph (B)) that such request is not unduly economically burdensome, is technically feasible, and is consistent with section 254 (other than subsections (b)(7) and (c)(1)(D) thereof).

"(B) STATE TERMINATION OF EXEMPTION AND IMPLEMENTATION SCHEDULE.—The party making a bona fide request of a rural telephone company for interconnection, services, or network elements shall submit a notice of its request to the State commission. The State commission shall conduct an inquiry for the purpose of determining whether to terminate the exemption under subparagraph (A). Within 120 days after the State commission receives notice of the request, the State commission shall terminate the exemption if the request is not unduly economically burdensome, is technically feasible, and is consistent with section 254 (other than subsections (b)(7) and (c)(1)(D) thereof). Upon termination of the exemption, a State commission shall establish an implementation schedule for compliance with the request that is consistent in time and manner with Commission regulations.

"(C) LIMITATION ON EXEMPTION.—The exemption provided by this paragraph shall not apply with respect to a request under subsection (c) from a cable operator providing video programming, and seeking to provide any telecommunications service, in the area in which the rural telephone company provides video programming. The limitation contained in this subparagraph shall not apply to a rural telephone company that is providing video programming on the date of enactment of the Telecommunications Act of 1996.

"(2) SUSPENSIONS AND MODIFICATIONS FOR RURAL CARRIERS.—A local exchange carrier with fewer than 2 percent of the Nation's subscriber lines installed in the aggregate nationwide may petition a State commission for a suspension or modification of the application of a requirement or requirements of subsection (b) or (c) to telephone exchange service facilities specified in such petition. The State commission shall grant such petition to the extent that, and for such duration as, the State commission determines that such suspension or modification—

"(A) is necessary—

"(i) to avoid a significant adverse economic impact on users of telecommunications services generally;

"(ii) to avoid imposing a requirement that is unduly economically burdensome; or

"(iii) to avoid imposing a requirement that is technically infeasible; and

"(B) is consistent with the public interest, convenience, and necessity.

The State commission shall act upon any petition filed under this paragraph within 180 days after receiving such petition. Pending such action, the State commission may suspend enforcement of the requirement or requirements to which the petition applies with respect to the petitioning carrier or carriers.

"(g) CONTINUED ENFORCEMENT OF EXCHANGE ACCESS AND INTERCONNECTION REQUIREMENTS.—On and after the date of enactment of the Telecommunications Act of 1996, each local exchange carrier, to the extent that it provides wireline services, shall provide exchange access, information access, and exchange services for such access to interexchange carriers and information service providers in accordance with the same equal access and nondiscriminatory interconnection restrictions and obligations (including receipt of compensation) that apply to such carrier on the date immediately preceding the date of enactment of the Telecommunications Act of 1996 under any court order, consent decree, or regulation, order, or policy of the Commission, until such restrictions and obligations are explicitly superseded by regulations prescribed by the Commission after such date of enactment. During the period beginning on such date of enactment and until such restrictions and obligations are so superseded, such restrictions and obligations shall be enforceable in the same manner as regulations of the Commission.

"(h) DEFINITION OF INCUMBENT LOCAL EXCHANGE CARRIER.—

"(1) DEFINITION.—For purposes of this section, the term 'incumbent local exchange carrier' means, with respect to an area, the local exchange carrier that—

"(A) on the date of enactment of the Telecommunications Act of 1996, provided telephone exchange service in such area; and

"(B)(i) on such date of enactment, was deemed to be a member of the exchange carrier association pursuant to section 69.601(b) of the Commission's regulations (47 C.F.R. 69.601(b)); or

"(ii) is a person or entity that, on or after such date of enactment, became a successor or assign of a member described in clause (i).

"(2) TREATMENT OF COMPARABLE CARRIERS AS INCUMBENTS.—The Commission may, by rule, provide for the treatment of a local exchange carrier (or class or category thereof) as an incumbent local exchange carrier for purposes of this section if—

"(A) such carrier occupies a position in the market for telephone exchange service within an area that is comparable to the position occupied by a carrier described in paragraph (1);

"(B) such carrier has substantially replaced an incumbent local exchange carrier described in paragraph (1); and

"(C) such treatment is consistent with the public interest, convenience, and necessity and the purposes of this section.

"(i) SAVINGS PROVISION.—Nothing in this section shall be construed to limit or otherwise affect the Commission's authority under section 201.

"SEC. 252. PROCEDURES FOR NEGOTIATION, ARBITRATION, AND APPROVAL OF AGREEMENTS.

"(a) AGREEMENTS ARRIVED AT THROUGH NEGOTIATION.—

"(1) VOLUNTARY NEGOTIATIONS.—Upon receiving a request for interconnection, services, or network elements pursuant to section 251, an incumbent local exchange carrier may negotiate and enter into a binding agreement with the requesting telecommunications carrier or carriers without regard to the standards set forth in subsections (b) and (c) of section 251. The agreement shall include a detailed schedule of itemized charges for interconnection and each service or network element included in the agreement. The agreement, including any interconnection agreement negotiated before the date of enactment of the Telecommunications Act of 1996, shall be submitted to the State commission under subsection (e) of this section.

"(2) MEDIATION.—Any party negotiating an agreement under this section may, at any point in the negotiation, ask a State commission to participate in the negotiation and to mediate any differences arising in the course of the negotiation.

"(b) AGREEMENTS ARRIVED AT THROUGH COMPULSORY ARBITRATION.—

"(1) ARBITRATION.—During the period from the 135th to the 160th day (inclusive) after the date on which an incumbent local exchange carrier receives a request for negotiation under this section, the carrier or any other party to the negotiation may petition a State commission to arbitrate any open issues.

"(2) DUTY OF PETITIONER.—

"(A) A party that petitions a State commission under paragraph (1) shall, at the same time as it submits the petition, provide the State commission all relevant documentation concerning—

"(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 commission under paragraph (1) shall provide a copy of the petition and any documentation to the other party or parties not later than the day on which the State commission receives the petition.

"(3) OPPORTUNITY TO RESPOND.—A non-petitioning party to a negotiation under this section may respond to the other party's petition and provide such additional information as it wishes within 25 days after the State commission receives the petition.

"(4) ACTION BY STATE COMMISSION.—

"(A) The State commission shall limit its consideration of any petition under paragraph (1) (and any response thereto) to the issues set forth in the petition and in the response, if any, filed under paragraph (3).

"(B) The State commission may require the petitioning party and the responding party to provide such information as may be necessary for the State commission to reach a decision on the unresolved issues. If any party refuses or fails unreasonably to respond on a timely basis to any reasonable request from the State commission, then the State commission may proceed on the basis of the best information available to it from whatever source derived.

"(C) The State commission shall resolve each issue set forth in the petition and the response, if any, by imposing appropriate conditions as required to implement subsection (c) upon the parties to the agreement, and shall conclude the resolution of any unresolved issues not later than 9 months after the date on which the local exchange carrier received the request under this section.

"(5) REFUSAL TO NEGOTIATE.—The refusal of any other party to the negotiation to participate further in the negotiations, to cooperate with the State commission 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 commission shall be considered a failure to negotiate in good faith.

"(c) STANDARDS FOR ARBITRATION.—In resolving by arbitration under subsection (b) any open issues and imposing conditions upon the parties to the agreement, a State commission shall—

"(1) ensure that such resolution and conditions meet the requirements of section 251, including the regulations prescribed by the Commission pursuant to section 251;

"(2) establish any rates for interconnection, services, or network elements according to subsection (d); and

"(3) provide a schedule for implementation of the terms and conditions by the parties to the agreement.

"(d) PRICING STANDARDS.—

"(1) INTERCONNECTION AND NETWORK ELEMENT CHARGES.—Determinations by a State commission of the just and reasonable rate for the interconnection of facilities and equipment for purposes of subsection (c)(2) of section 251, and the just and reasonable rate for network elements for purposes of subsection (c)(3) of such section—

"(A) shall be—

"(i) based on the cost (determined without reference to a rate-of-return or other rate-based proceeding) of providing the interconnection or network element (whichever is applicable), and

"(ii) nondiscriminatory, and

"(B) may include a reasonable profit.

"(2) CHARGES FOR TRANSPORT AND TERMINATION OF TRAFFIC.—

"(A) IN GENERAL.—For the purposes of compliance by an incumbent local exchange carrier with section 251(b)(5), a State commission shall not consider the terms and conditions for reciprocal compensation 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 transport and termination on each carrier's network facilities of calls that originate on the network facilities of the other carrier; and

"(ii) such terms and conditions determine such costs on the basis of a reasonable approximation of the additional costs of terminating such calls.

"(B) RULES OF CONSTRUCTION.—This paragraph shall not be construed—

"(i) to preclude arrangements that afford the 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 transporting or terminating calls, or to require carriers to maintain records with respect to the additional costs of such calls.

"(3) WHOLESALE PRICES FOR TELECOMMUNICATIONS SERVICES.—For the purposes of section 251(c)(4), a State commission shall determine wholesale rates on the basis of retail rates charged to subscribers for the telecommunications service requested, excluding the portion thereof attributable to any marketing, billing, collection, and other costs that will be avoided by the local exchange carrier.

"(e) APPROVAL BY STATE COMMISSION.—

"(1) APPROVAL REQUIRED.—Any interconnection agreement adopted by negotiation or arbitration shall be submitted for approval to the State commission. A State commission to which an agreement is submitted shall approve or reject the agreement, with written findings as to any deficiencies.

"(2) GROUNDS FOR REJECTION.—The State commission may only reject—

"(A) an agreement (or any portion thereof) adopted by negotiation under subsection (a) if it finds that—

"(i) the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or

"(ii) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity; or

"(B) an agreement (or any portion thereof) adopted by arbitration under subsection (b) if it finds that the agreement does not meet the requirements of section 251, including the regulations prescribed by the Commission pursuant to section 251, or the standards set forth in subsection (d) of this section.

"(3) PRESERVATION OF AUTHORITY.—Notwithstanding paragraph (2), but subject to section 253, nothing in this section shall prohibit a State commission from establishing or enforcing other requirements of State law in its review of an agreement, including requiring compliance with intrastate telecommunications service quality standards or requirements.

"(4) SCHEDULE FOR DECISION.—If the State commission does not act to approve or reject the agreement within 90 days after submission by the parties of an agreement adopted by negotiation under subsection (a), or within 30 days after submission by the parties of an agreement adopted by arbitration under subsection (b), the agreement shall be deemed approved. No State court shall have jurisdiction to review the action of a State commission in approving or rejecting an agreement under this section.

"(5) COMMISSION TO ACT IF STATE WILL NOT ACT.—If a State commission fails to act to carry out its responsibility under this section in any proceeding or other matter under this section, then the Commission shall issue an order preempting the State commission'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 commission under this section with respect to the proceeding or matter and act for the State commission.

"(6) REVIEW OF STATE COMMISSION ACTIONS.—In a case in which a State fails to act as described in paragraph (5), the proceeding by the Commission under such paragraph and any judicial review of the Commission's actions shall be the exclusive remedies for a State commission's failure to act. In any case in which a State commission makes a determination under this section, any party aggrieved by such determination may bring an action in an appropriate Federal district court to determine whether the agreement or statement meets the requirements of section 251 and this section.

"(f) STATEMENTS OF GENERALLY AVAILABLE TERMS.—

"(1) IN GENERAL.—A Bell operating company may prepare and file with a State commission a statement of the terms and conditions that such company generally offers within that State to comply with the requirements of section 251 and the regulations thereunder and the standards applicable under this section.

"(2) STATE COMMISSION REVIEW.—A State commission may not approve such statement unless such statement complies with subsection (d) of this section and section 251 and the regulations thereunder. Except as provided in section 253, 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.

"(3) SCHEDULE FOR REVIEW.—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 paragraph (2) (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.

"(4) AUTHORITY TO CONTINUE REVIEW.—Paragraph (3) shall not preclude the State commission from continuing to review a statement that has been permitted to take effect under subparagraph (B) of such paragraph or from approving or disapproving such statement under paragraph (2).

"(5) DUTY TO NEGOTIATE NOT AFFECTED.—The submission or approval of a statement under this subsection shall not relieve a Bell operating company of its duty to negotiate the terms and conditions of an agreement under section 251.

"(g) CONSOLIDATION OF STATE PROCEEDINGS.—Where not inconsistent with the requirements of this Act, a State commission may, to the extent practical, consolidate proceedings under sections 214(e), 251(f), 253, and this section in order to reduce administrative burdens on telecommunications carriers, other parties to the proceedings, and the State commission in carrying out its responsibilities under this Act.

"(h) FILING REQUIRED.—A State commission shall make a copy of each agreement approved under subsection (e) and each statement approved under subsection (f) available for public inspection and copying within 10 days after the agreement or statement is approved. The State commission may charge a reasonable and nondiscriminatory fee to the parties to the agreement or to the party filing the statement to cover the costs of approving and filing such agreement or statement.

"(i) AVAILABILITY TO OTHER TELECOMMUNICATIONS CARRIERS.—A local exchange carrier shall make available any interconnection, service, or network element provided under an

agreement approved under this section to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement.

"(j) DEFINITION OF INCUMBENT LOCAL EXCHANGE CARRIER.—For purposes of this section, the term 'incumbent local exchange carrier' has the meaning provided in section 251(h).

"SEC. 253. 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 service.

"(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 254, 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 SERVICE PROVIDERS.—Nothing in this section shall affect the application of section 332(c)(3) to commercial mobile service providers.

"(f) RURAL MARKETS.—It shall not be a violation of this section for a State to require a telecommunications carrier that seeks to provide telephone exchange service or exchange access in a service area served by a rural telephone company to meet the requirements in section 214(e)(1) for designation as an eligible telecommunications carrier for that area before being permitted to provide such service. This subsection shall not apply—

"(1) to a service area served by a rural telephone company that has obtained an exemption, suspension, or modification of section 251(c)(4) that effectively prevents a competitor from meeting the requirements of section 214(e)(1); and

"(2) to a provider of commercial mobile services.

"SEC. 254. UNIVERSAL SERVICE.

"(a) PROCEDURES TO REVIEW UNIVERSAL SERVICE REQUIREMENTS.—

"(1) FEDERAL-STATE JOINT BOARD ON UNIVERSAL SERVICE.—Within one month after the date of enactment of the Telecommunications Act of 1996, the Commission shall institute and refer to a Federal-State Joint Board under section 410(c) a proceeding to recommend changes to any of its regulations in order to implement sections 214(e) and this section, including the definition of the services that are supported by Federal universal service support mechanisms and a specific timetable for completion of such recommendations. In addition to the members of the Joint Board required under section 410(c), one member of such Joint Board shall be a State-appointed utility consumer advocate nominated by a national organization of State utility consumer advocates. The Joint Board shall, after notice and opportunity for public comment, make its recommendations to the Commission 9 months after the date of enactment of the Telecommunications Act of 1996.

"(2) COMMISSION ACTION.—The Commission shall initiate a single proceeding to implement the recommendations from the Joint Board required by paragraph (1) and shall complete such proceeding within 15 months after the date of enactment of the Telecommunications Act of 1996. The rules established by such proceeding shall include a definition of the services that are supported by Federal universal service support mechanisms and a specific timetable for implementation. Thereafter, the Commission shall complete any proceeding to implement subsequent recommendations from any Joint Board on universal service within one year after receiving such recommendations.

"(b) 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 AND RATES.—Quality services should be available at just, reasonable, and affordable rates.

"(2) ACCESS TO ADVANCED SERVICES.—Access to advanced telecommunications and information services should be provided in all regions of the Nation.

"(3) ACCESS IN RURAL AND HIGH COST AREAS.—Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.

"(4) EQUITABLE AND NONDISCRIMINATORY CONTRIBUTIONS.—All providers of telecommunications services should make an equitable and nondiscriminatory contribution to the preservation and advancement of universal service.

"(5) SPECIFIC AND PREDICTABLE SUPPORT MECHANISMS.—There should be specific, predictable and sufficient Federal and State mechanisms to preserve and advance universal service.

"(6) ACCESS TO ADVANCED TELECOMMUNICATIONS SERVICES FOR SCHOOLS, HEALTH CARE, AND LIBRARIES.—Elementary and secondary schools and classrooms, health care providers, and libraries should have access to advanced telecommunications services as described in subsection (h).

"(7) ADDITIONAL PRINCIPLES.—Such other principles as the Joint Board and the Commission determine are necessary and appropriate for the protection of the public interest, convenience, and necessity and are consistent with this Act.

"(c) DEFINITION.—

"(1) IN GENERAL.—Universal service is an evolving level of telecommunications services that the Commission shall establish periodically under this section, taking into account advances in telecommunications and information technologies and services. The Joint Board in recommending, and the Commission in establishing, the definition of the services that are supported by Federal universal service support mechanisms shall consider the extent to which such telecommunications services—

"(A) are essential to education, public health, or public safety;

"(B) have, through the operation of market choices by customers, been subscribed to by a substantial majority of residential customers;

"(C) are being deployed in public telecommunications networks by telecommunications carriers; and

"(D) are consistent with the public interest, convenience, and necessity.

"(2) ALTERATIONS AND MODIFICATIONS.—The Joint Board may, from time to time, recommend to the Commission modifications in the definition of the services that are supported by Federal universal service support mechanisms.

"(3) SPECIAL SERVICES.—In addition to the services included in the definition of universal service under paragraph (1), the Commission may designate additional services for such support mechanisms for schools, libraries, and health care providers for the purposes of subsection (h).

"(d) TELECOMMUNICATIONS CARRIER CONTRIBUTION.—Every telecommunications carrier that provides interstate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service. The Commission may exempt a carrier or class of carriers from this requirement if the carrier's telecommunications activities are limited to such an extent that the level of such carrier's contribution to the preservation and advancement of universal service would be de minimis. Any other provider of interstate telecommunications may be required to contribute to the preservation and advancement of universal service if the public interest so requires.

"(e) UNIVERSAL SERVICE SUPPORT.—After the date on which Commission regulations implementing this section take effect, only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific Federal universal service support. A carrier that receives such support shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. Any such support should be explicit and sufficient to achieve the purposes of this section.

"(f) STATE AUTHORITY.—A State may adopt regulations not inconsistent with the Commission's rules to preserve and advance universal service. Every telecommunications carrier that provides intrastate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, in a manner determined by the State to the preservation and advancement of universal service in that State. A State may adopt regulations to provide for additional definitions and standards to preserve and advance universal service within that State only to the extent that such regulations adopt additional specific, predictable, and sufficient mechanisms to support such definitions or standards that do not rely on or burden Federal universal service support mechanisms.

"(g) INTEREXCHANGE AND INTERSTATE SERVICES.—Within 6 months after the date of enactment of the Telecommunications Act of 1996, the Commission shall adopt rules to require that the rates charged by providers of interexchange telecommunications services to subscribers in rural and high cost areas shall be no higher than the rates charged by each such provider to its subscribers in urban areas. Such rules shall also require that a provider of interstate interexchange telecommunications services shall provide such services to its subscribers in each State at rates no higher than the rates charged to its subscribers in any other State.

"(h) TELECOMMUNICATIONS SERVICES FOR CERTAIN PROVIDERS.—

"(1) IN GENERAL.—

"(A) 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 in a State, including instruction relating to such services, to any public or nonprofit health care

provider that serves persons who reside in rural areas in that State at rates that are reasonably comparable to rates charged for similar services in urban areas in that State. A telecommunications carrier providing service under this paragraph shall be entitled to have an amount equal to the difference, if any, between the rates for services provided to health care providers for rural areas in a State and the rates for similar services provided to other customers in comparable rural areas in that State treated as a service obligation as a part of its obligation to participate in the mechanisms to preserve and advance universal service.

"(B) EDUCATIONAL PROVIDERS AND LIBRARIES.—All telecommunications carriers serving a geographic area shall, upon a bona fide request for any of its services that are within the definition of universal service under subsection (c)(3), provide such services to elementary schools, secondary schools, and libraries 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, with respect to interstate services, and the States, with respect to intrastate services, determine is appropriate and necessary to ensure affordable access to and use of such services by such entities. A telecommunications carrier providing service under this paragraph shall—

"(i) have an amount equal to the amount of the discount treated as an offset to its obligation to contribute to the mechanisms to preserve and advance universal service, or

"(ii) notwithstanding the provisions of subsection (e) of this section, receive reimbursement utilizing the support mechanisms to preserve and advance universal service.

"(2) ADVANCED SERVICES.—The Commission shall establish competitively neutral rules—

"(A) to enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services for all public and nonprofit elementary and secondary school classrooms, health care providers, and libraries; and

"(B) to define the circumstances under which a telecommunications carrier may be required to connect its network to such public institutional telecommunications users.

"(3) TERMS AND CONDITIONS.—Telecommunications services and network capacity provided to a public institutional telecommunications user under this subsection may not be sold, resold, or otherwise transferred by such user in consideration for money or any other thing of value.

"(4) ELIGIBILITY OF USERS.—No entity listed in this subsection shall be entitled to preferential rates or treatment as required by this subsection, if such entity operates as a for-profit business, is a school described in paragraph (5)(A) with an endowment of more than $50,000,000, or is a library not eligible for participation in State-based plans for funds under title III of the Library Services and Construction Act (20 U.S.C. 335c et seq.).

"(5) DEFINITIONS.—For purposes of this subsection:

"(A) 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).

"(B) HEALTH CARE PROVIDER.—The term 'health care provider' means—

"(i) post-secondary educational institutions offering health care instruction, teaching hospitals, and medical schools;

"(ii) community health centers or health centers providing health care to migrants;

"(iii) local health departments or agencies;

"(iv) community mental health centers;

"(v) not-for-profit hospitals;

"(vi) rural health clinics; and

"(vii) consortia of health care providers consisting of one or more entities described in clauses (i) through (vi).

"(C) 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 paragraph.

"(i) CONSUMER PROTECTION.—The Commission and the States should ensure that universal service is available at rates that are just, reasonable, and affordable.

"(j) LIFELINE ASSISTANCE.—Nothing in this section shall affect the collection, distribution, or administration of the Lifeline Assistance Program provided for by the Commission under regulations set forth in section 69.117 of title 47, Code of Federal Regulations, and other related sections of such title.

"(k) SUBSIDY OF COMPETITIVE SERVICES PROHIBITED.—A telecommunications carrier may not use services that are not competitive to subsidize services that are subject to competition. 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.

"SEC. 255. 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 or 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 1996, 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 Board shall review and update the guidelines periodically.

"(f) NO ADDITIONAL PRIVATE RIGHTS AUTHORIZED.—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. 256. COORDINATION FOR INTERCONNECTIVITY.

"(a) PURPOSE.—It is the purpose of this section—

"(1) to promote nondiscriminatory accessibility by the broadest number of users and vendors of communications products and services to public telecommunications networks used to provide telecommunications service through—

"(A) coordinated public telecommunications network planning and design by telecommunications carriers and other providers of telecommunications service; and

"(B) public telecommunications network interconnectivity, and interconnectivity of devices with such networks used to provide telecommunications service; and

"(2) to ensure the ability of users and information providers to seamlessly and transparently transmit and receive information between and across telecommunications networks.

"(b) COMMISSION FUNCTIONS.—In carrying out the purposes of this section, the Commission—

"(1) shall establish procedures for Commission oversight of coordinated network planning by telecommunications carriers and other providers of telecommunications service for the effective and efficient interconnection of public telecommunications networks used to provide telecommunications service; 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 public telecommunications network interconnectivity standards that promote access to—

"(A) public telecommunications networks used to provide telecommunications service;

"(B) network capabilities and services by individuals with disabilities; and

"(C) information services by subscribers of rural telephone companies.

"(c) COMMISSION'S AUTHORITY.—Nothing in this section shall be construed as expanding or limiting any authority that the Commission may have under law in effect before the date of enactment of the Telecommunications Act of 1996.

"(d) DEFINITION.—As used in this section, the term 'public telecommunications network interconnectivity' means the ability of two or more public telecommunications networks used to provide telecommunications service to communicate and exchange information without degeneration, and to interact in concert with one another.

"SEC. 257. MARKET ENTRY BARRIERS PROCEEDING.

"(a) ELIMINATION OF BARRIERS.—Within 15 months after the date of enactment of the Telecommunications Act of 1996, 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. 258. ILLEGAL CHANGES IN SUBSCRIBER CARRIER SELECTIONS.

"(a) PROHIBITION.—No telecommunications 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 telecommunications 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. 259. INFRASTRUCTURE SHARING.

"(a) REGULATIONS REQUIRED.—The Commission shall prescribe, within one year after the date of enactment of the Telecommunications Act of 1996, regulations that require incumbent local exchange carriers (as defined in section 251(h)) 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 eligible telecommunications carrier under section 214(e).

"(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) DEFINITION.—For purposes of this section, the term 'qualifying carrier' means a telecommunications carrier that—

"(1) lacks economies of scale or scope, as determined in accordance with regulations prescribed by the Commission pursuant to this section; and

"(2) offers telephone exchange service, exchange access, 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 eligible telecommunications carrier under section 214(e).

"SEC. 260. PROVISION OF TELEMESSAGING SERVICE.

"(a) NONDISCRIMINATION SAFEGUARDS.—Any local exchange carrier subject to the requirements of section 251(c) that provides telemessaging service—

"(1) shall not subsidize its telemessaging service directly or indirectly from its telephone exchange service or its exchange access; and

"(2) shall not prefer or discriminate in favor of its telemessaging service operations in its provision of telecommunications services.

"(b) EXPEDITED CONSIDERATION OF COMPLAINTS.—The Commission shall establish procedures for the receipt and review of complaints concerning violations of subsection (a) or the regulations thereunder that result in material financial harm to a provider of telemessaging service. Such procedures shall ensure that the Commission will make a final determination with respect to any such complaint within 120 days after receipt of the complaint. If the complaint contains an appropriate showing that the alleged violation occurred, the Commission shall, within 60 days after receipt of the complaint, order the local exchange carrier and any affiliates to cease engaging in such violation pending such final determination.

"(c) DEFINITION.—As used in this section, 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.

"SEC. 261. EFFECT ON OTHER REQUIREMENTS.

"(a) COMMISSION REGULATIONS.—Nothing in this part shall be construed to prohibit the Commission from enforcing regulations prescribed prior to the date of enactment of the Telecommunications Act of 1996 in fulfilling the requirements of this part, to the extent that such regulations are not inconsistent with the provisions of this part.

"(b) EXISTING STATE REGULATIONS.—Nothing in this part shall be construed to prohibit any State commission from enforcing regulations prescribed prior to the date of enactment of the Telecommunications Act of 1996, or from prescribing regulations after such date of enactment, in fulfilling the requirements of this part, if such regulations are not inconsistent with the provisions of this part.

"(c) ADDITIONAL STATE REQUIREMENTS.—Nothing in this part 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, as long as the State's requirements are not inconsistent with this part or the Commission's regulations to implement this part.".

(b) 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—COMMON CARRIER REGULATION"

(c) STYLISTIC 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 (a).

SEC. 102. ELIGIBLE TELECOMMUNICATIONS CARRIERS.

(a) IN GENERAL.—Section 214 (47 U.S.C. 214) is amended by adding at the end thereof the following new subsection:

"(e) PROVISION OF UNIVERSAL SERVICE.—

"(1) ELIGIBLE TELECOMMUNICATIONS CARRIERS.—A common carrier designated as an eligible telecommunications carrier under paragraph (2) or (3) shall be eligible to receive universal service support in accordance with section 254 and shall, throughout the service area for which the designation is received—

"(A) offer the services that are supported by Federal universal service support mechanisms under section 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and

"(B) advertise the availability of such services and the charges therefor using media of general distribution.

"(2) DESIGNATION OF ELIGIBLE TELECOMMUNICATIONS CARRIERS.—A State commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the State commission. Upon request and consistent with the public interest, convenience, and necessity, the State commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the State commission, so long as each additional requesting carrier meets the requirements of paragraph (1). Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the State commission shall find that the designation is in the public interest.

"(3) DESIGNATION OF ELIGIBLE TELECOMMUNICATIONS CARRIERS FOR UNSERVED AREAS.—If no common carrier will provide the services that are supported by Federal universal service support mechanisms under section 254(c) to an unserved community or any portion thereof that requests such service, the Commission, with respect to interstate services, or a State commission, with respect to intrastate services, shall determine which common carrier or carriers are best able to provide such service to the requesting unserved community or portion thereof and shall order such carrier or carriers to provide such service for that unserved community or portion thereof. Any carrier or carriers ordered to provide such service under this paragraph shall meet the requirements of paragraph (1)

and shall be designated as an eligible telecommunications carrier for that community or portion thereof.

"(4) RELINQUISHMENT OF UNIVERSAL SERVICE.—A State commission shall permit an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier. An eligible telecommunications carrier that seeks to relinquish its eligible telecommunications carrier designation for an area served by more than one eligible telecommunications carrier shall give advance notice to the State commission of such relinquishment. Prior to permitting a telecommunications carrier designated as an eligible telecommunications carrier to cease providing universal service in an area served by more than one eligible telecommunications carrier, the State commission shall require the remaining eligible telecommunications carrier or carriers to ensure that all customers served by the relinquishing carrier will continue to be served, and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining eligible telecommunications carrier. The State commission shall establish a time, not to exceed one year after the State commission approves such relinquishment under this paragraph, within which such purchase or construction shall be completed.

"(5) SERVICE AREA DEFINED.—The term 'service area' means a geographic area established by a State commission 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.".

SEC. 103. EXEMPT TELECOMMUNICATIONS COMPANIES.

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79 and following) is amended by redesignating sections 34 and 35 as sections 35 and 36, respectively, and by inserting the following new section after section 33:

"SEC. 34. EXEMPT TELECOMMUNICATIONS COMPANIES.

"(a) DEFINITIONS.—For purposes of this section—

"(1) EXEMPT TELECOMMUNICATIONS COMPANY.—The term 'exempt telecommunications company' means any person determined by the Federal Communications Commission to be engaged directly or indirectly, wherever located, through one or more affiliates (as defined in section 2(a)(11)(B)), and exclusively in the business of providing—

"(A) telecommunications services;

"(B) information services;

"(C) other services or products subject to the jurisdiction of the Federal Communications Commission; or

"(D) products or services that are related or incidental to the provision of a product or service described in subparagraph (A), (B), or (C).

No person shall be deemed to be an exempt telecommunications company under this section unless such person has applied to the Federal Communications Commission for a determination under this paragraph. A person applying in good faith for such a determination shall be deemed an exempt telecommunications company under this section, with all of the exemptions provided by this section, until the Federal Communications Commission makes such determination. The Federal Communications Commission shall make such determination within 60 days of its receipt of any such application filed after the enactment of this section and shall notify the Commission whenever a determination is made under this paragraph that any person is an exempt telecommunications company. Not later than 12 months after the date of enactment of this section, the Federal Communications Commission shall promulgate rules implementing the provisions of this paragraph which shall be applicable to applications filed under this paragraph after the effective date of such rules.

"(2) OTHER TERMS.—For purposes of this section, the terms 'telecommunications services' and 'information services' shall have the same meanings as provided in the Communications Act of 1934.

"(b) STATE CONSENT FOR SALE OF EXISTING RATE-BASED FACILITIES.—If a rate or charge for the sale of electric energy or natural gas (other than any portion of a rate or charge which represents recovery of the cost of a wholesale rate or charge) for, or in connection with, assets of a public utility company that is an associate company or affiliate of a registered holding company was in effect under the laws of any State as of December 19, 1995, the public utility company owning such assets may not sell such assets to an exempt telecommunications company that is an associate company or affiliate unless State commissions having jurisdiction over such public utility company approve such sale. Nothing in this subsection shall preempt the otherwise applicable authority of any State to approve or disapprove the sale of such assets. The approval of the Commission under this Act shall not be required for the sale of assets as provided in this subsection.

"(c) OWNERSHIP OF ETCS BY EXEMPT HOLDING COMPANIES.—Notwithstanding any provision of this Act, a holding company that is exempt under section 3 of this Act shall be permitted, without condition or limitation under this Act, to acquire and maintain an interest in the business of one or more exempt telecommunications companies.

"(d) OWNERSHIP OF ETCS BY REGISTERED HOLDING COMPANIES.—Notwithstanding any provision of this Act, a registered holding company shall be permitted (without the need to apply for, or receive, approval from the Commission, and otherwise without condition under this Act) to acquire and hold the securities, or an interest in the business, of one or more exempt telecommunications companies.

"(e) FINANCING AND OTHER RELATIONSHIPS BETWEEN ETCS AND REGISTERED HOLDING COMPANIES.—The relationship between an exempt telecommunications company and a registered holding company, its affiliates and associate companies, shall remain subject to the jurisdiction of the Commission under this Act: Provided, That—

"(1) section 11 of this Act shall not prohibit the ownership of an interest in the business of one or more exempt telecommunications companies by a registered holding company (regardless of activities engaged in or where facilities owned or operated by such exempt telecommunications companies are located), and such ownership by a registered holding company shall be deemed consistent with the operation of an integrated public utility system;

"(2) the ownership of an interest in the business of one or more exempt telecommunications companies by a registered holding company (regardless of activities engaged in or where facilities owned or operated by such exempt telecommunications companies are located) shall be considered as reasonably incidental, or economically necessary or appropriate, to the operations of an integrated public utility system;

"(3) the Commission shall have no jurisdiction under this Act over, and there shall be no restriction or approval required under this Act with respect to (A) the issue or sale of a security by a registered holding company for purposes of financing the acquisition of an exempt telecommunications company, or (B) the guarantee of a security of an exempt telecommunications company by a registered holding company; and

"(4) except for costs that should be fairly and equitably allocated among companies that are associate companies of a registered holding company, the Commission shall have no jurisdiction under this Act over the sales, service, and construction contracts between an exempt telecommunications company and a registered holding company, its affiliates and associate companies.

"(f) REPORTING OBLIGATIONS CONCERNING INVESTMENTS AND ACTIVITIES OF REGISTERED PUBLIC-UTILITY HOLDING COMPANY SYSTEMS.—

"(1) OBLIGATIONS TO REPORT INFORMATION.—Any registered holding company or subsidiary thereof that acquires or holds the securities, or an interest in the business, of an exempt telecommunications company shall file with the Commission such information as the Commission, by rule, may prescribe concerning—

"(A) investments and activities by the registered holding company, or any subsidiary thereof, with respect to exempt telecommunications companies, and

"(B) any activities of an exempt telecommunications company within the holding company system,

that are reasonably likely to have a material impact on the financial or operational condition of the holding company system.

"(2) AUTHORITY TO REQUIRE ADDITIONAL INFORMATION.—If, based on reports provided to the Commission pursuant to paragraph (1) of this subsection or other available information, the Commission reasonably concludes that it has concerns regarding the financial or operational condition of any registered holding company or any subsidiary thereof (including an exempt telecommunications company), the Commission may require such registered holding company to make additional reports and provide additional information.

"(3) AUTHORITY TO LIMIT DISCLOSURE OF INFORMATION.—Notwithstanding any other provision of law, the Commission shall not be compelled to disclose any information required to be reported under this subsection. Nothing in this subsection shall authorize the Commission to withhold the information from Congress, or prevent the Commission from complying with a request for information from any other Federal or State department or agency requesting the information for purposes within the scope of its jurisdiction. For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of such section 552.

"(g) ASSUMPTION OF LIABILITIES.—Any public utility company that is an associate company, or an affiliate, 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 exempt telecommunications company. Any public utility company that is an associate company, or an affiliate, 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 company in respect of any security of an exempt telecommunications company.

"(h) PLEDGING OR MORTGAGING OF ASSETS.—Any public utility company that is an associate company, or affiliate, 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 assets of the

public utility company or assets of any subsidiary company thereof for the benefit of an exempt telecommunications company.

"(i) PROTECTION AGAINST ABUSIVE AFFILIATE TRANSACTIONS.—A public utility company may enter into a contract to purchase services or products described in subsection (a)(1) from an exempt telecommunications company that is an affiliate or associate company of the public utility company only if—

"(1) every State commission having jurisdiction over the retail rates of such public utility company approves such contract; or

"(2) such public utility company is not subject to State commission retail rate regulation and the purchased services or products—

"(A) would not be resold to any affiliate or associate company; or

"(B) would be resold to an affiliate or associate company and every State commission having jurisdiction over the retail rates of such affiliate or associate company makes the determination required by subparagraph (A).

The requirements of this subsection shall not apply in any case in which the State or the State commission concerned publishes a notice that the State or State commission waives its authority under this subsection.

"(j) NONPREEMPTION OF RATE AUTHORITY.—Nothing in this Act 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 products or services purchased from or sold to an associate company or affiliate that is an exempt telecommunications company, regardless of whether such costs are incurred through the direct or indirect purchase or sale of products or services from such associate company or affiliate.

"(k) RECIPROCAL ARRANGEMENTS PROHIBITED.—Reciprocal arrangements among companies that are not affiliates or associate companies of each other that are entered into in order to avoid the provisions of this section are prohibited.

"(l) BOOKS AND RECORDS.—(1) Upon written order of a State commission, a State commission may examine the books, accounts, memoranda, contracts, and records of—

"(A) a public utility company subject to its regulatory authority under State law;

"(B) any exempt telecommunications company selling products or services to such public utility company or to an associate company of such public utility company; and

"(C) any associate company or affiliate of an exempt telecommunications company which sells products or services to a public utility company referred to in subparagraph (A),

wherever located, if such examination is required for the effective discharge of the State commission's regulatory responsibilities affecting the provision of electric or gas service in connection with the activities of such exempt telecommunications company.

"(2) Where a State commission issues an order pursuant to paragraph (1), the State commission shall not publicly disclose trade secrets or sensitive commercial information.

"(3) Any United States district court located in the State in which the State commission referred to in paragraph (1) is located shall have jurisdiction to enforce compliance with this subsection.

"(4) Nothing in this section shall—

"(A) preempt applicable State law concerning the provision of records and other information; or

"(B) in any way limit rights to obtain records and other information under Federal law, contracts, or otherwise.

"(m) 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, an affiliate or an associate company that is an exempt telecommunications company,

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 such exempt telecommunications company.

"(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 exempt telecommunications company 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 not later than 6 months after the selection of the auditor, and provided to the public utility company not later than 60 days thereafter.

"(n) 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 exempt telecommunications company.".

SEC. 104. NONDISCRIMINATION PRINCIPLE.

Section 1 (47 U.S.C. 151) is amended by inserting after "to all the people of the United States" the following: ", without discrimination on the basis of race, color, religion, national origin, or sex,".

Subtitle B—Special Provisions Concerning Bell Operating Companies

SEC. 151. BELL OPERATING COMPANY PROVISIONS.

(a) ESTABLISHMENT OF PART III OF TITLE II.—Title II is amended by adding at the end of part II (as added by section 101) the following new part:

"PART III—SPECIAL PROVISIONS CONCERNING BELL OPERATING COMPANIES

"SEC. 271. BELL OPERATING COMPANY ENTRY INTO INTERLATA SERVICES.

"(a) GENERAL LIMITATION.—Neither a Bell operating company, nor any affiliate of a Bell operating company, may provide interLATA services except as provided in this section.

"(b) INTERLATA SERVICES TO WHICH THIS SECTION APPLIES.—

"(1) IN-REGION SERVICES.—A Bell operating company, or any affiliate of that Bell operating company, may provide interLATA services originating in any of its in-region States (as defined in subsection (i)) if the Commission approves the application of such company for such State under subsection (d)(3).

"(2) OUT-OF-REGION SERVICES.—A Bell operating company, or any affiliate of that Bell operating company, may provide interLATA services originating outside its in-region States after the date of enactment of the Telecommunications Act of 1996, subject to subsection (j).

"(3) INCIDENTAL INTERLATA SERVICES.—A Bell operating company, or any affiliate of a Bell operating company, may provide incidental interLATA services (as defined in subsection (g)) originating in any State after the date of enactment of the Telecommunications Act of 1996.

"(4) TERMINATION.—Nothing in this section prohibits a Bell operating company or any of its affiliates from providing termination for interLATA services, subject to subsection (j).

"(c) REQUIREMENTS FOR PROVIDING CERTAIN IN-REGION INTERLATA SERVICES.—

"(1) AGREEMENT OR STATEMENT.—A Bell operating company meets the requirements of this paragraph if it meets the requirements of subparagraph (A) or subparagraph (B) of this paragraph for each State for which the authorization is sought.

"(A) PRESENCE OF A FACILITIES-BASED COMPETITOR.—A Bell operating company meets the requirements of this subparagraph if it has entered into one or more binding agreements that have been approved under section 252 specifying the terms and conditions under which the Bell operating company is providing access and interconnection to its network facilities for the network facilities of one or more unaffiliated competing providers of telephone exchange service (as defined in section 3(47)(A), but excluding exchange access) to residential and business subscribers. For the purpose of this subparagraph, such telephone exchange service may be offered by such competing providers either exclusively over their own telephone exchange service facilities or predominantly over their own telephone exchange service facilities in combination with the resale of the telecommunications 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.—A Bell operating company meets the requirements of this subparagraph if, after 10 months after the date of enactment of the Telecommunications Act of 1996, no such provider has requested the access and interconnection described in subparagraph (A) before the date which is 3 months before the date the company makes its application under subsection (d)(1), and a statement of the terms and conditions that the company generally offers to provide such access and interconnection has been approved or permitted to take effect by the State commission under section 252(f). For purposes of this subparagraph, a Bell operating company shall be considered not to have received any request for access and interconnection if the State commission of such State certifies that the only provider or providers making such a request have (i) failed to negotiate in good faith as required by section 252, or (ii) violated the terms of an agreement approved under section 252 by the provider's failure to comply, within a reasonable period of time, with the implementation schedule contained in such agreement.

"(2) SPECIFIC INTERCONNECTION REQUIREMENTS.—

"(A) AGREEMENT REQUIRED.—A Bell operating company meets the requirements of this paragraph if, within the State for which the authorization is sought—

"(i)(I) such company is providing access and interconnection pursuant to one or more agreements described in paragraph (1)(A), or

"(II) such company is generally offering access and interconnection pursuant to a statement described in paragraph (1)(B), and

"(ii) such access and interconnection meets the requirements of subparagraph (B) of this paragraph.

"(B) COMPETITIVE CHECKLIST.—Access or interconnection provided or generally offered by a Bell operating company to other telecommunications carriers meets the requirements of this subparagraph if such access and interconnection includes each of the following:

"(i) Interconnection in accordance with the requirements of sections 251(c)(2) and 252(d)(1).

"(ii) Nondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1).

"(iii) Nondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by the Bell operating company at just and reasonable rates in accordance with the requirements of section 224.

"(iv) Local loop transmission from the central office to the customer's premises, unbundled from local switching or other services.

"(v) Local transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services.

"(vi) Local switching unbundled from transport, local loop transmission, or other services.

"(vii) 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.

"(viii) White pages directory listings for customers of the other carrier's telephone exchange service.

"(ix) Until the date by which telecommunications numbering 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.

"(x) Nondiscriminatory access to databases and associated signaling necessary for call routing and completion.

"(xi) Until the date by which the Commission issues regulations pursuant to section 251 to require number portability, 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 such regulations.

"(xii) Nondiscriminatory access to such services or information as are necessary to allow the requesting carrier to implement local dialing parity in accordance with the requirements of section 251(b)(3).

"(xiii) Reciprocal compensation arrangements in accordance with the requirements of section 252(d)(2).

"(xiv) Telecommunications services are available for resale in accordance with the requirements of sections 251(c)(4) and 252(d)(3).

"(d) ADMINISTRATIVE PROVISIONS.—

"(1) APPLICATION TO COMMISSION.—On and after the date of enactment of the Telecommunications Act of 1996, a Bell operating company or its affiliate may apply to the Commission for authorization to provide interLATA services originating in any in-region State. The application shall identify each State for which the authorization is sought.

"(2) CONSULTATION.—

"(A) CONSULTATION WITH THE ATTORNEY GENERAL.—The Commission shall notify the Attorney General promptly of any application under paragraph (1). 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 the application using any standard the Attorney General considers appropriate. The Commission shall give substantial weight to the Attorney General's evaluation, but such evaluation shall not have any preclusive effect on any Commission decision under paragraph (3).

"(B) CONSULTATION WITH STATE COMMISSIONS.—Before making any determination under this subsection, the Commission shall consult with the State commission of any State that is the subject of the application in order to verify the compliance of the Bell operating company with the requirements of subsection (c).

"(3) DETERMINATION.—Not later than 90 days after receiving an application under paragraph (1), the Commission shall issue a written determination approving or denying the authorization requested in the application for each State. The Commission shall not approve the authorization requested in an application submitted under paragraph (1) unless it finds that—

"(A) the petitioning Bell operating company has met the requirements of subsection (c)(1) and—

"(i) with respect to access and interconnection provided pursuant to subsection (c)(1)(A), has fully implemented the competitive checklist in subsection (c)(2)(B); or

"(ii) with respect to access and interconnection generally offered pursuant to a statement under subsection (c)(1)(B), such statement offers all of the items included in the competitive checklist in subsection (c)(2)(B);

"(B) the requested authorization will be carried out in accordance with the requirements of section 272; and

"(C) the requested authorization is consistent with the public interest, convenience, and necessity.

The Commission shall state the basis for its approval or denial of the application.

"(4) LIMITATION ON COMMISSION.—The Commission may not, by rule or otherwise, limit or extend the terms used in the competitive checklist set forth in subsection (c)(2)(B).

"(5) PUBLICATION.—Not later than 10 days after issuing a determination under paragraph (3), the Commission shall publish in the Federal Register a brief description of the determination.

"(6) ENFORCEMENT OF CONDITIONS.—

"(A) COMMISSION AUTHORITY.—If at any time after the approval of an application under paragraph (3), the Commission determines that a Bell operating company has ceased to meet any of the conditions required for such approval, the Commission may, after notice and opportunity for a hearing—

"(i) issue an order to such company to correct the deficiency;

"(ii) impose a penalty on such company pursuant to title V; or

"(iii) suspend or revoke such approval.

"(B) 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 for approval under paragraph (3). Unless the parties otherwise agree, the Commission shall act on such complaint within 90 days.

"(e) LIMITATIONS.—

"(1) JOINT MARKETING OF LOCAL AND LONG DISTANCE SERVICES.—Until a Bell operating company is authorized pursuant to subsection (d) to provide interLATA services in an in-region State, or until 36 months have passed since the date of enactment of the Telecommunications Act of 1996, 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 State telephone exchange service obtained from such company pursuant to section 251(c)(4) with interLATA services offered by that telecommunications carrier.

"(2) INTRALATA TOLL DIALING PARITY.—

"(A) PROVISION REQUIRED.—A Bell operating company granted authority to provide interLATA services under subsection (d) shall provide intraLATA toll dialing parity throughout that State coincident with its exercise of that authority.

"(B) LIMITATION.—Except for single-LATA States and States that have issued an order by December 19, 1995, requiring a Bell operating company to implement intraLATA toll dialing parity, a State may not require a Bell operating company to implement intraLATA toll dialing parity in that State before a Bell operating company has been granted authority under this section to provide interLATA services originating in that State or before 3 years after the date of enactment of the Telecommunications Act of 1996, whichever is earlier. Nothing in this subparagraph precludes a State from issuing an order requiring intraLATA toll dialing parity in that State prior to either such date so long as such order does not take effect until after the earlier of either such dates.

"(f) EXCEPTION FOR PREVIOUSLY AUTHORIZED ACTIVITIES.—Neither subsection (a) nor section 273 shall prohibit a Bell operating company or affiliate from engaging, at any time after the date of enactment of the Telecommunications Act of 1996, in any activity to the extent authorized by, and subject to the terms and conditions contained in, an order entered by the United States District Court for the District of Columbia pursuant to section VII or VIII(C) of the AT&T Consent Decree if such order was entered on or before such date of enactment, to the extent such order is not reversed or vacated on appeal. Nothing in this subsection shall be construed to limit, or to impose terms or conditions on, an activity in which a Bell operating company is otherwise authorized to engage under any other provision of this section.

"(g) DEFINITION OF INCIDENTAL INTERLATA SERVICES.—For purposes of this section, the term 'incidental interLATA services' means the interLATA provision by a Bell operating company or its affiliate—

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

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

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

"(D) of alarm monitoring services;

"(2) of two-way interactive video services or Internet services over dedicated facilities to or for elementary and secondary schools as defined in section 254(h)(5);

"(3) of 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) of 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;

"(5) of signaling information used in connection with the provision of telephone exchange services or exchange access by a local exchange carrier; or

"(6) of network control signaling information to, and receipt of 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) LIMITATIONS.—The provisions of subsection (g) are intended to be narrowly construed. The interLATA services provided under subparagraph (A), (B), or (C) of subsection (g)(1) 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. The Commission shall ensure that the provision of services authorized under subsection (g) by a Bell operating company or its affiliate will not adversely affect telephone exchange service ratepayers or competition in any telecommunications market.

"(i) ADDITIONAL DEFINITIONS.—As used in this section—

"(1) IN-REGION STATE.—The term 'in-region State' means a State in which a Bell operating company or any of its affiliates was authorized to provide wireline telephone exchange service pursuant to the reorganization plan approved under the AT&T Consent Decree, as in effect on the day before the date of enactment of the Telecommunications Act of 1996.

"(2) 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.

"(3) 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.

"(j) 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 in-region State of that Bell operating company, and

"(2) allow the called party to determine the interLATA carrier,

shall be considered an in-region service subject to the requirements of subsection (b)(1).

"SEC. 272. 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(c) 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(c); 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) Manufacturing activities (as defined in section 273(h)).

"(B) Origination of interLATA telecommunications services, other than—

"(i) incidental interLATA services described in paragraphs (1), (2), (3), (5), and (6) of section 271(g);

"(ii) out-of-region services described in section 271(b)(2); or

"(iii) previously authorized activities described in section 271(f).

"(C) InterLATA information services, other than electronic publishing (as defined in section 274(h)) and alarm monitoring services (as defined in section 275(e)).

"(b) STRUCTURAL AND TRANSACTIONAL REQUIREMENTS.—The separate affiliate required by this section—

"(1) shall operate independently from the Bell operating company;

"(2) 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;

"(3) shall have separate officers, directors, and employees from the Bell operating company of which it is an affiliate;

"(4) 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

"(5) 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; and

"(2) shall account for all transactions with an affiliate described in subsection (a) in accordance with accounting principles designated or approved by the Commission.

"(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 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) FULFILLMENT OF CERTAIN REQUESTS.—A Bell operating company and an affiliate that is subject to the requirements of section 251(c)—

"(1) shall 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) shall not provide any facilities, services, or information concerning its provision of exchange access 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;

"(3) shall charge the affiliate described in subsection (a), or impute to itself (if using the access for its provision of its own services), an amount for access to its telephone exchange service and exchange access that is no less than the amount charged to any unaffiliated interexchange carriers for such service; and

"(4) 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, and so long as the costs are appropriately allocated.

"(f) SUNSET.—

"(1) MANUFACTURING AND LONG DISTANCE.—The provisions of this section (other than subsection (e)) shall cease to apply with respect to the manufacturing activities or the interLATA telecommunications services of a Bell operating company 3 years after the date such Bell operating company or any Bell operating company affiliate is authorized to provide interLATA telecommunications services under section 271(d), unless the Commission extends such 3-year period by rule or order.

"(2) INTERLATA INFORMATION SERVICES.—The provisions of this section (other than subsection (e)) shall cease to apply with respect to the interLATA information services of a Bell operating company 4 years after the date of enactment of the Telecommunications Act of 1996, unless the Commission extends such 4-year period by rule or order.

"(3) PRESERVATION OF EXISTING AUTHORITY.—Nothing in this subsection shall be construed to limit the authority of the Commission under any other section of this Act to prescribe safeguards consistent with the public interest, convenience, and necessity.

"(g) JOINT MARKETING.—

"(1) AFFILIATE SALES OF TELEPHONE EXCHANGE SERVICES.—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) BELL OPERATING COMPANY SALES OF AFFILIATE SERVICES.—A Bell operating company may not market or sell interLATA service provided by an affiliate required by this section within any of its in-region States until such company is authorized to provide interLATA services in such State under section 271(d).

"(3) RULE OF CONSTRUCTION.—The joint marketing and sale of services permitted under this subsection shall not be considered to violate the nondiscrimination provisions of subsection (c).

"(h) TRANSITION.—With respect to any activity in which a Bell operating company is engaged on the date of enactment of the Telecommunications Act of 1996, such company shall have one year from such date of enactment to comply with the requirements of this section.

"SEC. 273. MANUFACTURING BY BELL OPERATING COMPANIES.

"(a) AUTHORIZATION.—A Bell operating company may manufacture and provide telecommunications equipment, and manufacture customer premises equipment, if the Commission authorizes that Bell operating company or any Bell operating company affiliate to provide interLATA services under section 271(d), subject

to the requirements of this section and the regulations prescribed thereunder, 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.

"(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) CERTAIN RESEARCH ARRANGEMENTS; ROYALTY AGREEMENTS.—Subsection (a) shall not prohibit a Bell operating company from—

"(A) engaging in 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 interconnecting 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 the Telecommunications Act of 1996. 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 subsection restricts any manufacturer from engaging in any activity in which it is lawfully engaged on the date of enactment of the Telecommunications Act of 1996.

"(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 that is not an accredited standards development organization and that establishes industry-wide standards for telecommunications equipment or customer premises equipment, or industry-wide generic network requirements for such equipment, or that 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 the Telecommunications Act of 1996, 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.

"(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 telephone 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 of the Telecommunications Act of 1996.

"(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) NONDISCRIMINATION STANDARDS FOR MANUFACTURING.—In the procurement or awarding of supply contracts for telecommunications equipment, a Bell operating company, or any entity acting on its behalf, for the duration of the requirement for a separate subsidiary including manufacturing under this Act—

"(A) shall consider such equipment, produced or supplied by unrelated persons; and

"(B) may not discriminate in favor of equipment produced or supplied by an affiliate or related person.

"(2) PROCUREMENT STANDARDS.—Each Bell operating company or any entity acting on its behalf shall make procurement decisions and award all supply contracts for equipment, services, and software on the basis of an objective assessment of price, qualify, delivery, and other commercial factors.

"(3) NETWORK PLANNING AND DESIGN.—A Bell operating company shall, to the extent 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.

"(4) SALES RESTRICTIONS.—Neither a Bell operating company engaged in manufacturing nor a manufacturing affiliate of such a company shall restrict sales to any local exchange carrier of telecommunications equipment, including software integral to the operation of such equipment and related upgrades.

"(5) 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) 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.

"(h) DEFINITION.—As used in this section, the term 'manufacturing' has the same meaning as such term has under the AT&T Consent Decree.

"SEC. 274. 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 owned by 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 a 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 the Telecommunications Act of 1996 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 4 years after the date of enactment of the Telecommunications Act of 1996.

"(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 AT&T Consent Decree.

"(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, or

"(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. 275. ALARM MONITORING SERVICES.

"(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 5 years after the date of enactment of the Telecommunications Act of 1996.

"(2) EXISTING ACTIVITIES.—Paragraph (1) does not prohibit or limit the provision, directly or through an affiliate, of alarm monitoring services by a Bell operating company that was engaged in providing alarm monitoring services as of November 30, 1995, directly or through an affiliate. Such Bell operating company or affiliate may not acquire any equity interest in, or obtain financial control of, any unaffiliated alarm monitoring service entity after November 30, 1995, and until 5 years after the date of enactment of the Telecommunications Act of 1996, except that this sentence shall not prohibit an exchange of customers for the customers of an unaffiliated alarm monitoring service entity.

"(b) NONDISCRIMINATION.—An incumbent local exchange carrier (as defined in section 251(h)) engaged in the provision of alarm monitoring services shall—

"(1) provide nonaffiliated entities, upon reasonable request, with the network services it provides to its own alarm monitoring operations, on nondiscriminatory terms and conditions; and

"(2) not subsidize its alarm monitoring 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. 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 incumbent local exchange carrier (as defined in section 251(h)) and its affiliates to cease engaging in such violation pending such final determination.

"(d) USE OF DATA.—A local exchange carrier may not record or use 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 such local exchange carrier, or any other entity. Any regulations necessary to enforce this subsection shall be issued initially within 6 months after the date of enactment of the Telecommunications Act of 1996.

"(e) DEFINITION OF 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—

"(1) 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

"(2) to transmit a signal regarding such threat by means of transmission facilities of a local exchange carrier 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.

"SEC. 276. 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 from its telephone exchange service operations or its exchange access operations; and

"(2) shall not prefer or discriminate in favor of its 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 the Telecommunications Act of 1996, 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 service 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 such date of enactment, 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;

"(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 the location provider's 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, unless the Commission determines in the rulemaking pursuant to this section that it is not in the public interest; and

"(E) provide for all payphone service providers to have the right to negotiate with the location provider on the location provider's 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 enactment of the Telecommunications Act of 1996.

"(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 such 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.".

(b) REVIEW OF ENTRY DECISIONS.—Section 402(b) (47 U.S.C. 402(b)) is amended—

(1) in paragraph (6), by striking "(3), and (4)" and inserting "(3), (4), and (9)"; and

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

"(9) By any applicant for authority to provide interLATA services under section 271 of this Act whose application is denied by the Commission.".

TITLE II—BROADCAST SERVICES

SEC. 201. BROADCAST SPECTRUM FLEXIBILITY.

Title III 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—

"(1) should 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) shall adopt regulations that allow the holders of such licenses 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.—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 either the additional license or the original license held by the licensee be surrendered to the Commission for reallocation or reassignment (or both) pursuant to Commission regulation.

"(d) 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.

"(e) 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 enactment of the Telecommunications Act of

1996, 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.

"(f) 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.

"(g) 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 the Telecommunications Act of 1996, as further defined in the proceedings described in paragraph (1) of this subsection.".

SEC. 202. BROADCAST OWNERSHIP.

(a) NATIONAL RADIO STATION OWNERSHIP RULE CHANGES REQUIRED.—The Commission shall modify section 73.3555 of its regulations (47 C.F.R. 73.3555) by eliminating any provisions limiting the number of AM or FM broadcast stations which may be owned or controlled by one entity nationally.

(b) LOCAL RADIO DIVERSITY.—

(1) APPLICABLE CAPS.—The Commission shall revise section 73.3555(a) of its regulations (47 C.F.R. 73.3555) to provide that—

(A) in a radio market with 45 or more commercial radio stations, a party may own, operate, or control up to 8 commercial radio stations, not more than 5 of which are in the same service (AM or FM);

(B) in a radio market with between 30 and 44 (inclusive) commercial radio stations, a party may own, operate, or control up to 7 commercial radio stations, not more than 4 of which are in the same service (AM or FM);

(C) in a radio market with between 15 and 29 (inclusive) commercial radio stations, a party may own, operate, or control up to 6 commercial radio stations, not more than 4 of which are in the same service (AM or FM); and

(D) in a radio market with 14 or fewer commercial radio stations, a party may own, operate, or control up to 5 commercial radio stations, not more than 3 of which are in the same service (AM or FM), except that a party may not own, operate, or control more than 50 percent of the stations in such market.

(2) EXCEPTION.—Notwithstanding any limitation authorized by this subsection, the Commission may permit a person or entity to own, operate, or control, or have a cognizable interest in, radio broadcast stations if the Commission determines that such ownership, operation, control, or interest will result in an increase in the number of radio broadcast stations in operation.

(c) TELEVISION OWNERSHIP LIMITATIONS.—

(1) NATIONAL OWNERSHIP LIMITATIONS.—The Commission shall modify its rules for multiple ownership set forth in section 73.3555 of its regulations (47 C.F.R. 73.3555)—

(A) by eliminating the restrictions on the number of television stations that a person or entity may directly or indirectly own, operate, or control, or have a cognizable interest in, nationwide; and

(B) by increasing the national audience reach limitation for television stations to 35 percent.

(2) LOCAL OWNERSHIP LIMITATIONS.—The Commission shall conduct a rulemaking proceeding to determine whether to retain, modify, or eliminate its limitations on the number of television stations that a person or entity may own, operate, or control, or have a cognizable interest in, within the same television market.

(d) RELAXATION OF ONE-TO-A-MARKET.—With respect to its enforcement of its one-to-a-market ownership rules under section 73.3555 of its regulations, the Commission shall extend its waiver policy to any of the top 50 markets, consistent with the public interest, convenience, and necessity.

(e) DUAL NETWORK CHANGES.—The Commission shall revise section 73.658(g) of its regulations (47 C.F.R. 658(g)) to permit a television broadcast station to affiliate with a person or entity that maintains 2 or more networks of television broadcast stations unless such dual or multiple networks are composed of—

(1) two or more persons or entities that, on the date of enactment of the Telecommunications Act of 1996, are "networks" as defined in section 73.3613(a)(1) of the Commission's regulations (47 C.F.R. 73.3613(a)(1)); or

(2) any network described in paragraph (1) and an English-language program distribution service that, on such date, provides 4 or more hours of programming per week on a national basis pursuant to network affiliation arrangements with local television broadcast stations in markets reaching more than 75 percent of television homes (as measured by a national ratings service).

(f) CABLE CROSS OWNERSHIP.—

(1) ELIMINATION OF RESTRICTIONS.—The Commission shall revise section 76.501 of its regulations (47 C.F.R. 76.501) to permit a person or entity to own or control a network of broadcast stations and a cable system.

(2) SAFEGUARDS AGAINST DISCRIMINATION.—The Commission shall revise such regulations if necessary to ensure carriage, channel positioning, and nondiscriminatory treatment of nonaffiliated broadcast stations by a cable system described in paragraph (1).

(g) LOCAL MARKETING AGREEMENTS.—Nothing in this section shall be construed to prohibit the origination, continuation, or renewal of any television local marketing agreement that is in compliance with the regulations of the Commission.

(h) FURTHER COMMISSION REVIEW.—The Commission shall review its rules adopted pursuant to this section and all of its ownership rules biennially as part of its regulatory reform review under section 11 of the Communications Act of 1934 and shall determine whether any of such rules are necessary in the public interest as the result of competition. The Commission shall repeal or modify any regulation it determines to be no longer in the public interest.

(i) ELIMINATION OF STATUTORY RESTRICTION.—Section 613(a) (47 U.S.C. 533(a)) is amended—

(1) by striking paragraph (1);

(2) by redesignating paragraph (2) as subsection (a);

(3) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively;

(4) by striking "and" at the end of paragraph (1) (as so redesignated);

(5) by striking the period at the end of paragraph (2) (as so redesignated) and inserting "; and"; and

(6) by adding at the end the following new paragraph:

"(3) shall not apply the requirements of this subsection to any cable operator in any franchise area in which a cable operator is subject to effective competition as determined under section 623(l).".

SEC. 203. TERM OF LICENSES.

Section 307(c) (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 8 years. Upon application therefor, a renewal of such license may be granted from time to time for a term of not to exceed 8 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, the 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. 204. BROADCAST LICENSE RENEWAL PROCEDURES.

(a) RENEWAL PROCEDURES.—

(1) AMENDMENT.—Section 309 (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.".

(2) CONFORMING AMENDMENT.—Section 309(d) (47 U.S.C. 309(d)) is amended by inserting after "with subsection (a)" each place it appears the following: "(or subsection (k) in the case of renewal of any broadcast station license)".

(b) SUMMARY OF COMPLAINTS ON VIOLENT PROGRAMMING.—Section 308 (47 U.S.C. 308) is amended by adding at the end the following new subsection:

"(d) SUMMARY OF COMPLAINTS.—Each applicant for the renewal of a commercial or noncommercial television license shall 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 Commission regulations) that comment on the applicant's programming, if any, and that are characterized by the commentor as constituting violent programming.".

(c) EFFECTIVE DATE.—The amendments made by this section apply to applications filed after May 1, 1995.

SEC. 205. DIRECT BROADCAST SATELLITE SERVICE.

(a) DBS SIGNAL SECURITY.—Section 705(e)(4) (47 U.S.C. 605(e)(4)) is amended by inserting "or direct-to-home satellite services," 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. As used in 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 in the uplink process to the satellite.".

SEC. 206. AUTOMATED SHIP DISTRESS AND SAFETY SYSTEMS.

Part II of title III is amended by inserting after section 364 (47 U.S.C. 362) the following new section:

"SEC. 365. AUTOMATED SHIP DISTRESS AND SAFETY SYSTEMS.

"Notwithstanding any provision of this Act 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. 207. RESTRICTIONS ON OVER-THE-AIR RECEPTION DEVICES.

Within 180 days after the date of enactment of this Act, the Commission shall, pursuant to section 303 of the Communications Act of 1934, promulgate regulations to prohibit restrictions that impair a viewer's ability to receive video programming services through devices designed for over-the-air reception of television broadcast signals, multichannel multipoint distribution service, or direct broadcast satellite services.

TITLE III—CABLE SERVICES

SEC. 301. CABLE ACT REFORM.

(a) DEFINITIONS.—

(1) DEFINITION OF CABLE SERVICE.—Section 602(6)(B) (47 U.S.C. 522(6)(B)) is amended by inserting "or use" after "the selection".

(2) CHANGE IN DEFINITION OF CABLE SYSTEM.—Section 602(7) (47 U.S.C. 522(7)) is amended by striking "(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) UPPER TIER REGULATION.—Section 623(c) (47 U.S.C. 543(c)) is amended—

(A) in paragraph (1)(B), by striking "subscriber, franchising authority, or other relevant State or local government entity" and inserting "franchising authority (in accordance with paragraph (3))";

(B) in paragraph (1)(C), by striking "such complaint" and inserting "the first complaint filed with the franchising authority under paragraph (3)"; and

(C) by striking paragraph (3) and inserting the following:

"(3) REVIEW OF RATE CHANGES.—The Commission shall review any complaint submitted by a franchising authority after the date of enactment of the Telecommunications Act of 1996 concerning an increase in rates for cable programming services and issue a final order within 90 days after it receives such a complaint, unless the parties agree to extend the period for such review. A franchising authority may not file a complaint under this paragraph unless, within 90 days after such increase becomes effective it receives subscriber complaints.

"(4) SUNSET OF UPPER TIER RATE REGULATION.—This subsection shall not apply to cable programming services provided after March 31, 1999.".

(2) SUNSET OF UNIFORM RATE STRUCTURE IN MARKETS WITH EFFECTIVE COMPETITION.—Section 623(d) (47 U.S.C. 543(d)) is amended by adding at the end thereof the following: "This subsection does not apply to (1) a cable operator with respect to the provision of cable service over its cable system in any geographic area in which the video programming services offered by the operator in that area are subject to effective competition, or (2) any video programming offered on a per channel or per program basis. Bulk discounts to multiple dwelling units shall not be subject to this subsection, except that a cable operator of a cable system that is not subject to effective competition may not charge predatory prices to a multiple dwelling unit. Upon a prima facie showing by a complainant that there are reasonable grounds to believe that the discounted price is predatory, the cable system shall have the burden of showing that its discounted price is not predatory.".

(3) EFFECTIVE COMPETITION.—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 "; or"; and

(C) by adding at the end the following:

"(D) a local exchange carrier or its affiliate (or any multichannel video programming distributor using the facilities of such carrier or its affiliate) offers video programming services directly to subscribers by any means (other than direct-to-home satellite services) 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 so offered 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.—Subsections (a), (b), and (c) do 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 services 50,000 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) MARKET DETERMINATIONS.—

(1) MARKET DETERMINATIONS; EXPEDITED DECISIONMAKING.—Section 614(h)(1)(C) (47 U.S.C. 534(h)(1)(C)) is amended—

(A) by striking "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," in clause (i) and inserting "by the Commission by regulation or order using, where available, commercial publications which delineate television markets based on viewing patterns,"; and

(B) by striking clause (iv) and inserting the following:

"(iv) Within 120 days after the date on which a request is filed under this subparagraph (or 120 days after the date of enactment of the Telecommunications Act of 1996, if later), 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. 534(h)(1)(C)) on the date of enactment of this Act; and

(B) any request filed under that section after that date.

(e) TECHNICAL STANDARDS.—Section 624(e) (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.".

(f) CABLE EQUIPMENT COMPATIBILITY.—Section 624A (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 cassette 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;".

(g) SUBSCRIBER NOTICE.—Section 632 (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.".

(h) PROGRAM ACCESS.—Section 628 (47 U.S.C. 548) 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 common 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. For the purposes of this subsection, two or fewer common officers or directors shall not by itself establish an attributable interest by a common carrier in a satellite cable programming vendor (or its parent company).".

(i) ANTITRAFFICKING.—Section 617 (47 U.S.C. 537) is amended—

(1) by striking subsections (a) through (d); and

(2) in subsection (e), by striking "(e)" and all that follows through "a franchising authority" and inserting "A franchising authority".

(j) AGGREGATION OF EQUIPMENT COSTS.—Section 623(a) (47 U.S.C. 543(a)) is amended by adding at the end the following new paragraph:

"(7) AGGREGATION OF EQUIPMENT COSTS.—

"(A) IN GENERAL.—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.

"(B) REVISION TO COMMISSION RULES; FORMS.—Within 120 days of the date of enactment of the Telecommunications Act of 1996, the Commission shall issue revisions to the appropriate rules and forms necessary to implement subparagraph (A).".

(k) 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 associated with a cable system (including losses associated with the grant or award of a 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, upon which no final action has been taken by December 1, 1995.

SEC. 302. CABLE SERVICE PROVIDED BY TELEPHONE COMPANIES.

(a) PROVISIONS FOR REGULATION OF CABLE SERVICE PROVIDED BY TELEPHONE COMPANIES.—Title VI (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. REGULATORY TREATMENT OF VIDEO PROGRAMMING SERVICES.

"(a) LIMITATIONS ON CABLE REGULATION.—

"(1) RADIO-BASED SYSTEMS.—To the extent that a common carrier (or any other person) is providing video programming to subscribers using radio communication, such carrier (or other person) shall be subject to the requirements of title III and section 652, but shall not otherwise be subject to the requirements of this title.

"(2) COMMON CARRIAGE OF VIDEO TRAFFIC.—To the extent that a common carrier is providing transmission of video programming on a common carrier basis, such carrier shall be subject to the requirements of title II and section 652, but shall not otherwise be subject to the requirements of this title. This paragraph shall not affect the treatment under section 602(7)(C) of a facility of a common carrier as a cable system.

"(3) CABLE SYSTEMS AND OPEN VIDEO SYSTEMS.—To the extent that a common carrier is providing video programming to its subscribers in any manner other than that described in paragraphs (1) and (2)—

"(A) such carrier shall be subject to the requirements of this title, unless such programming is provided by means of an open video system for which the Commission has approved a certification under section 653; or

"(B) if such programming is provided by means of an open video system for which the Commission has approved a certification under section 653, such carrier shall be subject to the requirements of this part, but shall be subject to parts I through IV of this title only as provided in 653(c).

"(4) ELECTION TO OPERATE AS OPEN VIDEO SYSTEM.—A common carrier that is providing video programming in a manner described in paragraph (1) or (2), or a combination thereof, may elect to provide such programming by means of an open video system that complies with section 653. If the Commission approves such carrier's certification under section 653, such carrier shall be subject to the requirements of this part, but shall be subject to parts I through IV of this title only as provided in 653(c).

"(b) LIMITATIONS ON INTERCONNECTION OBLIGATIONS.—A local exchange carrier that provides cable service through an open video system or a cable system shall not be required, pursuant to title II of this Act, to make capacity available on a nondiscriminatory basis to any other person for the provision of cable service directly to subscribers.

"(c) ADDITIONAL REGULATORY RELIEF.—A common carrier shall not be required to obtain a certificate under section 214 with respect to the establishment or operation of a system for the delivery of video programming.

"SEC. 652. PROHIBITION ON BUY OUTS.

"(a) ACQUISITIONS BY 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 directly or indirectly 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) ACQUISITIONS BY 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 VENTURES.—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) EXCEPTIONS.—

"(1) RURAL SYSTEMS.—Notwithstanding subsections (a), (b), and (c) of this section, 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 the operator of such system or facilities for the use of such system or facilities to the extent that—

"(A) such system or facilities only serve incorporated or unincorporated—

"(i) places or territories that have fewer than 35,000 inhabitants; and

"(ii) are outside an urbanized area, as defined by the Bureau of the Census; and

"(B) in the case of a local exchange carrier, such system, in the aggregate with any other system in which such carrier has an interest, serves less than 10 percent of the households in the telephone service area of such carrier.

"(2) JOINT USE.—Notwithstanding subsection (c), a local exchange carrier may obtain, with the concurrence of the cable operator on the rates, terms, and conditions, the use of that part of the transmission facilities of 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.

"(3) ACQUISITIONS IN COMPETITIVE MARKETS.—Notwithstanding subsections (a) and (c), a local exchange carrier may 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 such market has more than 1 cable system

operator, and the subject cable system is not the cable system with the most subscribers in such television market;

"(B) the subject cable system and the cable system with the most subscribers 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 cable system operators with the most subscribers as such operators existed on May 1, 1995; and

"(D) the system with the most subscribers in the television market is owned by or under common ownership or control of any one of the 10 largest cable system operators as such operators existed on May 1, 1995.

"(4) EXEMPT CABLE SYSTEMS.—Subsection (a) does not apply to any cable system if—

"(A) the cable system serves no more than 17,000 cable subscribers, of which no less than 8,000 live within an urban area, and no less than 6,000 live within a nonurbanized area as of June 1, 1995;

"(B) the cable system is not owned by, or under common ownership or control with, any of the 50 largest cable system operators in existence on June 1, 1995; and

"(C) the cable system operates in a television market that was not in the top 100 television markets as of June 1, 1995.

"(5) SMALL CABLE SYSTEMS IN NONURBAN AREAS.—Notwithstanding subsections (a) and (c), a local exchange carrier with less than $100,000,000 in annual operating revenues (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 in, or any management interest in, or enter into a joint venture or partnership with, any cable system within the local exchange carrier's telephone service area that serves no more than 20,000 cable subscribers, if no more than 12,000 of those subscribers live within an urbanized area, as defined by the Bureau of the Census.

"(6) WAIVERS.—The Commission may waive the restrictions of subsections (a), (b), or (c) only if—

"(A) 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 affected 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; and

"(B) the local franchising authority approves of such waiver.

"(e) DEFINITION OF TELEPHONE SERVICE AREA.—For purposes of this section, 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 provided telephone exchange service as of January 1, 1993, but if any common carrier after such date transfers its telephone 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.

"SEC. 653. ESTABLISHMENT OF OPEN VIDEO SYSTEMS.

"(a) OPEN VIDEO SYSTEMS.—

"(1) CERTIFICATES OF COMPLIANCE.—A local exchange carrier may provide cable service to its cable service subscribers in its telephone service area through an open video system that complies with this section. To the extent permitted by such regulations as the Commission may prescribe consistent with the public interest, convenience, and necessity, an operator of a cable system or any other person may provide video programming through an open video system that complies with this section. An operator of an open video system shall qualify for reduced regulatory burdens under subsection (c) of this section if the operator of such system certifies to the Commission that such carrier complies with the Commission's regulations under subsection (b) and the Commission approves such certification. The Commission shall publish notice of the receipt of any such certification and shall act to approve or disapprove any such certification within 10 days after receipt of such certification.

"(2) 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, in the case of any violation of this section, require carriage, award damages to any person denied carriage, or any combination of such sanctions. Any aggrieved party may seek any other remedy available under this Act.

"(b) COMMISSION ACTIONS.—

"(1) REGULATIONS REQUIRED.—Within 6 months after the date of enactment of the Telecommunications Act of 1996, the Commission shall complete all actions necessary (including any reconsideration) to prescribe regulations that—

"(A) except as required pursuant to section 611, 614, or 615, prohibit an operator of an open video system from discriminating among video programming providers with regard to carriage on its open video system, and ensure that the rates, terms, and conditions for such carriage are just and reasonable, and are not unjustly or unreasonably discriminatory;

"(B) if demand exceeds the channel capacity of the open video system, prohibit an operator of an open video system and its affiliates from selecting the video programming services for carriage on more than one-third of the activated channel capacity on such system, but nothing in this subparagraph shall be construed to limit the number of channels that the carrier and its affiliates may offer to provide directly to subscribers;

"(C) permit an operator of an open video system to carry on only one channel any video programming service that is offered by more than one video programming provider (including the local exchange 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 open video systems 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.); and

"(E)(i) prohibit an operator of an open video system from unreasonably discriminating in favor of the operator or its affiliates with regard to material or information (including advertising) provided by the operator to subscribers for the purposes of selecting programming on the open video system, or in the way such material or information is presented to subscribers;

"(ii) require an operator of an open video system to ensure that video programming providers or copyright holders (or both) are able suitably and uniquely to identify their programming services to subscribers;

"(iii) if such identification is transmitted as part of the programming signal, require the carrier to transmit such identification without change or alteration; and

"(iv) prohibit an operator of an open video system from omitting television broadcast stations or other unaffiliated video programming services carried on such system from any navigational device, guide, or menu.

"(2) CONSUMER ACCESS.—Subject to the requirements of paragraph (1) and the regulations thereunder, 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.

"(c) REDUCED REGULATORY BURDENS FOR OPEN VIDEO SYSTEMS.—

"(1) IN GENERAL.—Any provision that applies to a cable operator under—

"(A) sections 613 (other than subsection (a) thereof), 616, 623(f), 628, 631, and 634 of this title, shall apply,

"(B) sections 611, 614, and 615 of this title, and section 325 of title III, shall apply in accordance with the regulations prescribed under paragraph (2), and

"(C) sections 612 and 617, and parts III and IV (other than sections 623(f), 628, 631, and 634), of this title shall not apply,

to any operator of an open video system for which the Commission has approved a certification under this section.

"(2) IMPLEMENTATION.—

"(A) COMMISSION ACTION.—In the rulemaking proceeding to prescribe the regulations required by subsection (b)(1), the Commission shall, to the extent possible, impose obligations that are no greater or lesser than the obligations contained in the provisions described in paragraph (1)(B) of this subsection. The Commission shall complete all action (including any reconsideration) to prescribe such regulations no later than 6 months after the date of enactment of the Telecommunications Act of 1996.

"(B) FEES.—An operator of an open video system under this part may be subject to the payment of fees on the gross revenues of the operator for the provision of cable service imposed by a local franchising authority or other governmental entity, in lieu of the franchise fees permitted 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 franchise area, as determined in accordance with regulations prescribed by the Commission. An operator of an open video system may designate that portion of a subscriber's bill attributable to the fee under this subparagraph as a separate item on the bill.

"(3) REGULATORY STREAMLINING.—With respect to the establishment and operation of an open video system, the requirements of this section shall apply in lieu of, and not in addition to, the requirements of title II.

"(4) TREATMENT AS CABLE OPERATOR.—Nothing in this Act precludes a video programming provider making use of a open video system from being treated as an operator of a cable system for purposes of section 111 of title 17, United States Code.

"(d) DEFINITION OF TELEPHONE SERVICE AREA.—For purposes of this section, 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 is offering telephone exchange service.".

(b) CONFORMING AND TECHNICAL AMENDMENTS.—

(1) REPEAL.—Subsection (b) of section 613 (47 U.S.C. 533(b)) is repealed.

(2) DEFINITIONS.—Section 602 (47 U.S.C. 531) is amended—

(A) in paragraph (7), by striking ", or (D)" and inserting the following: ", unless the extent of such use is solely to provide interactive on-demand services; (D) an open video system that complies with section 653 of this title; or (E)";

(B) by redesignating paragraphs (12) through (19) as paragraphs (13) through (20), respectively; and

(C) by inserting after paragraph (11) the following new paragraph:

"(12) the term 'interactive on-demand services' means a service providing video programming to subscribers over switched networks on an on-demand, point-to-point basis, but does not include services providing video programming prescheduled by the programming provider;".

(3) TERMINATION OF VIDEO-DIALTONE REGULATIONS.—The Commission's regulations and policies with respect to video dialtone requirements issued in CC Docket No. 87-266 shall cease to be effective on the date of enactment of this Act. This paragraph shall not be construed to require the termination of any video-dialtone system that the Commission has approved before the date of enactment of this Act.

SEC. 303. PREEMPTION OF FRANCHISING AUTHORITY REGULATION OF TELECOMMUNICATIONS SERVICES.

(a) PROVISION OF TELECOMMUNICATIONS SERVICES BY A CABLE OPERATOR.—Section 621(b) (47 U.S.C. 541(b)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) If 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 impose any requirement under this title 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 institutional networks, as a condition of the initial grant of a franchise, a franchise renewal, or a transfer of a franchise.".

(b) 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 thereof.

SEC. 304. COMPETITIVE AVAILABILITY OF NAVIGATION DEVICES.

Part III of title VI is amended by inserting after section 628 (47 U.S.C. 548) the following new section:

"SEC. 629. COMPETITIVE AVAILABILITY OF NAVIGATION DEVICES.

"(a) COMMERCIAL CONSUMER AVAILABILITY OF EQUIPMENT USED TO ACCESS SERVICES PROVIDED BY MULTICHANNEL VIDEO PROGRAMMING DISTRIBUTORS.—The Commission shall, in consultation with appropriate industry standard-setting organizations, adopt regulations to assure the commercial availability, to consumers of multichannel video programming and other services offered over multichannel video programming systems, of converter boxes, interactive communications equipment, and other equipment used by consumers to access multichannel video programming and other services offered over multichannel video programming systems, from manufacturers, retailers, and other vendors not affiliated with any multichannel video programming distributor. Such regulations shall not prohibit any multichannel video programming distributor from also offering converter boxes, interactive communications equipment, and other equipment used by consumers to access multichannel video programming and other services offered over multichannel video programming systems, to consumers, if the system operator's charges to consumers for such devices and equipment are separately stated and not subsidized by charges for any such service.

"(b) PROTECTION OF SYSTEM SECURITY.—The Commission shall not prescribe regulations under subsection (a) which would jeopardize security of multichannel video programming and other services offered over multichannel video programming systems, or impede the legal rights of a provider of such services to prevent theft of service.

"(c) WAIVER.—The Commission shall waive a regulation adopted under subsection (a) for a limited time upon an appropriate showing by a provider of multichannel video programming and other services offered over multichannel video programming systems, or an equipment provider, that such waiver is necessary to assist the development or introduction of a new or improved multichannel video programming or other service offered over multichannel video programming systems, technology, or products. Upon an appropriate showing, the Commission shall grant any such waiver request within 90 days of any application filed under this subsection, and such waiver shall be effective for all service providers and products in that category and for all providers of services and products.

"(d) AVOIDANCE OF REDUNDANT REGULATIONS.—

"(1) COMMERCIAL AVAILABILITY DETERMINATIONS.—Determinations made or regulations prescribed by the Commission with respect to commercial availability to consumers of converter boxes, interactive communications equipment, and other equipment used by consumers to access multichannel video programming and other services offered over multichannel video programming systems, before the date of enactment of the Telecommunications Act of 1996 shall fulfill the requirements of this section.

"(2) REGULATIONS.—Nothing in this section affects section 64.702(e) of the Commission's regulations (47 C.F.R. 64.702(e)) or other Commission regulations governing interconnection and competitive provision of customer premises equipment used in connection with basic common carrier communications services.

"(e) SUNSET.—The regulations adopted under this section shall cease to apply when the Commission determines that—

"(1) the market for the multichannel video programming distributors is fully competitive;

"(2) the market for converter boxes, and interactive communications equipment, used in conjunction with that service is fully competitive; and

"(3) elimination of the regulations would promote competition and the public interest.

"(f) COMMISSION'S AUTHORITY.—Nothing in this section shall be construed as expanding or limiting any authority that the Commission may have under law in effect before the date of enactment of the Telecommunications Act of 1996.".

SEC. 305. VIDEO PROGRAMMING ACCESSIBILITY.

Title VII is amended by inserting after section 712 (47 U.S.C. 612) the following new section:

"SEC. 713. VIDEO PROGRAMMING ACCESSIBILITY.

"(a) COMMISSION INQUIRY.—Within 180 days after the date of enactment of the Telecommunications Act of 1996, 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 such 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 the Telecommunications Act of 1996, 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 the Telecommunications Act of 1996, 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.

"(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.".

TITLE IV—REGULATORY REFORM

SEC. 401. REGULATORY FORBEARANCE.

Title I is amended by inserting after section 9 (47 U.S.C. 159) the following new section:

"SEC. 10. 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 telecommunications service, or class of telecommunications carriers or telecommunications 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 telecommunications carrier or telecommunications 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; and

"(3) forbearance from applying such provision or regulation 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 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) PETITION FOR FORBEARANCE.—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 forbearance under subsection (a) within one year after the Commission receives it, unless the one-year period is extended by the Commission. The Commission may extend the initial one-year period by an additional 90 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(f), the Commission may not forbear from applying the requirements of section 251(c) or 271 under subsection (a) of this section until it determines that those requirements have been fully implemented.

"(e) STATE ENFORCEMENT AFTER COMMISSION FORBEARANCE.—A State commission may not continue to apply or enforce any provision of this Act that the Commission has determined to forbear from applying under subsection (a).".

SEC. 402. BIENNIAL REVIEW OF REGULATIONS; REGULATORY RELIEF.

(a) BIENNIAL REVIEW.—Title I is amended by inserting after section 10 (as added by section 401) the following new section:

"SEC. 11. REGULATORY REFORM.

"(a) BIENNIAL REVIEW OF REGULATIONS.—In every even-numbered year (beginning with 1998), the Commission—

"(1) shall review all regulations issued under this Act in effect at the time of the review that apply to the operations or activities of any provider of telecommunications service; and

"(2) shall determine whether any such regulation is no longer necessary in the public interest as the result of meaningful economic competition between providers of such service.

"(b) EFFECT OF DETERMINATION.—The Commission shall repeal or modify any regulation it determines to be no longer necessary in the public interest.".

(b) 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.—The Commission shall permit any common 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) FORBEARANCE AUTHORITY NOT LIMITED.—Nothing in this subsection shall be construed to limit the authority of the Commission to waive, modify, or forbear from applying any of the requirements to which reference is made in paragraph (1) under any other provision of this Act or other law.

(4) EFFECTIVE DATE OF AMENDMENTS.—The amendments made by paragraph (1) of this subsection shall apply with respect to any charge, classification, regulation, or practice filed on or after one year after the date of enactment of this Act.

(c) CLASSIFICATION OF CARRIERS.—In classifying carriers according to section 32.11 of its regulations (47 C.F.R. 32.11) and in establishing reporting requirements pursuant to part 43 of its regulations (47 C.F.R. part 43) and section 64.903 of its regulations (47 C.F.R. 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 this Act.

SEC. 403. ELIMINATION OF UNNECESSARY COMMISSION REGULATIONS AND FUNCTIONS.

(a) MODIFICATION OF AMATEUR RADIO EXAMINATION PROCEDURES.—Section 4(f)(4) (47 U.S.C. 154(f)(4)) is amended—

(1) in subparagraph (A)—

(A) by inserting "or administering" after "for purposes of preparing";

(B) by inserting "of" after "than the class"; and

(C) by inserting "or administered" after "for which the examination is being prepared";

(2) by striking subparagraph (B);

(3) in subparagraph (H), by striking "(A), (B), and (C)" and inserting "(A) and (B)";

(4) in subparagraph (J)—

(A) by striking "or (B)"; and

(B) by striking the last sentence; and

(5) by redesignating subparagraphs (C) through (J) as subparagraphs (B) through (I), respectively.

(b) AUTHORITY TO DESIGNATE ENTITIES TO INSPECT.—Section 4(f)(3) (47 U.S.C. 154(f)(3)) is amended by inserting before the period at the end the following: ": And provided further, That, in the alternative, an entity designated by the Commission may make the inspections referred to in this paragraph".

(c) EXPEDITING INSTRUCTIONAL TELEVISION FIXED SERVICE PROCESSING.—Section 5(c)(1) (47 U.S.C. 155(c)(1)) is amended by striking the last sentence and inserting the following: "Except for cases involving the authorization of service in the instructional television fixed service, or as otherwise provided in this Act, nothing in this paragraph shall authorize the Commission to provide for the conduct, by any person or persons other than persons referred to in paragraph (2) or (3) of section 556(b) of title 5, United States Code, of any hearing to which such section applies.".

(d) 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,".

(e) 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.".

(f) 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.".

(g) 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".

(h) ELIMINATE FCC JURISDICTION OVER GOVERNMENT-OWNED SHIP RADIO STATIONS.—

(1) Section 305 (47 U.S.C. 305) is amended by striking subsection (b) and redesignating subsections (c) and (d) as (b) and (c), respectively.

(2) 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,".

(i) PERMIT OPERATION OF DOMESTIC SHIP AND AIRCRAFT RADIOS WITHOUT LICENSE.—Section 307(e) (47 U.S.C. 307(e)) is amended to read as follows:

"(e)(1) Notwithstanding any license requirement established in this Act, if the Commission determines that such authorization serves the public interest, convenience, and necessity, the Commission may by rule authorize the operation of radio stations without individual licenses in the following radio services: (A) the citizens band radio service; (B) the radio control service; (C) the aviation radio service for aircraft stations operated on domestic flights when such aircraft are not otherwise required to carry a radio station; and (D) the maritime radio service for ship stations navigated on domestic voyages when such ships are not otherwise required to carry a radio station.

"(2) Any radio station operator who is authorized by the Commission to operate without an individual license shall comply with all other provisions of this Act and with rules prescribed by the Commission under this Act.

"(3) For purposes of this subsection, the terms 'citizens band radio service', 'radio control service', 'aircraft station' and 'ship station' shall have the meanings given them by the Commission by rule.".

(j) 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 subparagraphs (A) through (F), respectively.

(k) FOREIGN DIRECTORS.—Section 310(b) (47 U.S.C. 310(b)) is amended—

(1) in paragraph (3), by striking "of which any officer or director is an alien or"; and

(2) in paragraph (4), by striking "of which any officer or more than one-fourth of the directors are aliens, or".

(l) 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.".

(m) MODIFICATION OF CONSTRUCTION PERMIT REQUIREMENT.—Section 319(d) is amended by striking the last two sentences and inserting the following: "With respect to any broadcasting station, the Commission shall not have any authority to waive the requirement of a permit for construction, except that the Commission may by regulation determine that a permit shall not be required for minor changes in the facilities of authorized broadcast stations. With respect to any other station or class of stations, the Commission shall not waive the requirement for a construction permit unless the Commission determines that the public interest, convenience, and necessity would be served by such a waiver.".

(n) CONDUCT OF INSPECTIONS.—Section 362(b) (47 U.S.C. 362(b)) is amended to read as follows:

"(b) Every ship of the United States that is subject to this part shall have the equipment and apparatus prescribed therein inspected at least once each year by the Commission or an entity designated by the Commission. If, after such inspection, the Commission is satisfied that all relevant provisions of this Act and the station license have been complied with, the fact shall be so certified on the station license by the Commission. The Commission shall make such additional inspections at frequent intervals as the Commission determines may be necessary to ensure compliance with the requirements of this Act. The Commission may, upon a finding that the public interest could be served thereby—

"(1) waive the annual inspection required under this section for a period of up to 90 days for the sole purpose of enabling a vessel to complete its voyage and proceed to a port in the United States where an inspection can be held; or

"(2) waive the annual inspection required under this section for a vessel that is in compliance with the radio provisions of the Safety Convention and that is operating solely in waters beyond the jurisdiction of the United States, provided that such inspection shall be performed within 30 days of such vessel's return to the United States.".

(o) INSPECTION BY OTHER ENTITIES.—Section 385 (47 U.S.C. 385) is amended—

(1) by inserting "or an entity designated by the Commission" after "The Commission"; and

(2) 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.".

TITLE V—OBSCENITY AND VIOLENCE

Subtitle A—Obscene, Harassing, and Wrongful Utilization of Telecommunications Facilities

SEC. 501. SHORT TITLE.

This title may be cited as the "Communications Decency Act of 1996".

SEC. 502. OBSCENE OR HARASSING USE OF TELECOMMUNICATIONS FACILITIES UNDER THE COMMUNICATIONS ACT OF 1934.

Section 223 (47 U.S.C. 223) is amended—

(1) by striking subsection (a) and inserting in lieu thereof:

"(a) Whoever—

"(1) in interstate or foreign communications—

"(A) by means of a 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) by means of a 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 or indecent, knowing that the recipient of the communication is under 18 years of age, regardless of whether the maker of such communication placed the call or initiated the communication;

"(C) 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;

"(D) makes or causes the telephone of another repeatedly or continuously to ring, with intent to harass any person at the called number; or

"(E) 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; or

"(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 under title 18, United States Code, or imprisoned not more than two years, or both."; and

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

"(d) Whoever—

"(1) in interstate or foreign communications knowingly—

"(A) uses an interactive computer service to send to a specific person or persons under 18 years of age, or

"(B) uses any interactive computer service to display in a manner available to a person under 18 years of age,

any comment, request, suggestion, proposal, image, or other communication that, in context, depicts or describes, in terms patently offensive as measured by contemporary community standards, sexual or excretory activities or organs, regardless of whether the user of such service 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 under title 18, United States Code, or imprisoned not more than two years, or both.

"(e) In addition to any other defenses available by law:

"(1) No person shall be held to have violated subsection (a) or (d) solely for providing access or connection to or from a facility, system, or network not under that person's control, including transmission, downloading, intermediate storage, access software, or other related capabilities that are incidental to providing such access or connection that does not include the creation of the content of the communication.

"(2) The defenses provided by paragraph (1) of this subsection shall not be applicable to a person who is a conspirator with an entity actively involved in the creation or knowing distribution of communications that violate this section, or who knowingly advertises the availability of such communications.

"(3) The defenses provided in paragraph (1) of this subsection shall not be applicable to a person who provides access or connection to a facility, system, or network engaged in the violation of this section that is owned or controlled by such person.

"(4) 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 or her employment or

agency and the employer (A) having knowledge of such conduct, authorizes or ratifies such conduct, or (B) recklessly disregards such conduct.

"(5) It is a defense to a prosecution under subsection (a)(1)(B) or (d), or under subsection (a)(2) with respect to the use of a facility for an activity under subsection (a)(1)(B) that a person—

"(A) has taken, in good faith, reasonable, effective, and appropriate actions under the circumstances to restrict or prevent access by minors to a communication specified in such subsections, which may involve any appropriate measures to restrict minors from such communications, including any method which is feasible under available technology; or

"(B) has restricted access to such communication by requiring use of a verified credit card, debit account, adult access code, or adult personal identification number.

"(6) The Commission may describe measures which are reasonable, effective, and appropriate to restrict access to prohibited communications under subsection (d). Nothing in this section authorizes the Commission to enforce, or is intended to provide the Commission with the authority to approve, sanction, or permit, the use of such measures. The Commission shall have no enforcement authority over the failure to utilize such measures. The Commission shall not endorse specific products relating to such measures. The use of such measures shall be admitted as evidence of good faith efforts for purposes of paragraph (5) in any action arising under subsection (d). Nothing in this section shall be construed to treat interactive computer services as common carriers or telecommunications carriers.

"(f)(1) No cause of action may be brought in any court or administrative agency against any person on account of any activity that is not in violation of any law punishable by criminal or civil penalty, and that 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.

"(2) No State or local government may impose any liability for commercial activities or actions by commercial entities, nonprofit libraries, or institutions of higher education in connection with an activity or action described in subsection (a)(2) or (d) 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.

"(g) Nothing in subsection (a), (d), (e), or (f) or in the defenses to prosecution under (a) or (d) shall be construed to affect or limit the application or enforcement of any other Federal law.

"(h) For purposes of this section—

"(1) The use of the term 'telecommunications device' in this section—

"(A) shall not impose new obligations on broadcasting station licensees and cable operators covered by obscenity and indecency provisions elsewhere in this Act; and

"(B) does not include an interactive computer service.

"(2) The term 'interactive computer service' has the meaning provided in section 230(e)(2).

"(3) The term 'access software' means software (including client or server software) or enabling tools that do not create or provide the content of the communication but that allow a user to do any one or more of the following:

"(A) filter, screen, allow, or disallow content;

"(B) pick, choose, analyze, or digest content; or

"(C) transmit, receive, display, forward, cache, search, subset, organize, reorganize, or translate content.

"(4) The term 'institution of higher education' has the meaning provided in section 1201 of the Higher Education Act of 1965 (20 U.S.C. 1141).

"(5) The term 'library' means a library eligible for participation in State-based plans for funds under title III of the Library Services and Construction Act (20 U.S.C. 355e et seq.).".

SEC. 503. OBSCENE PROGRAMMING ON CABLE TELEVISION.

Section 639 (47 U.S.C. 559) is amended by striking "not more than $10,000" and inserting "under title 18, United States Code,".

SEC. 504. 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) SUBSCRIBER REQUEST.—Upon request by a cable service subscriber, a cable operator shall, without charge, fully scramble or otherwise fully block the audio and video programming of each channel carrying such programming 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 viewed or heard in an understandable manner.".

SEC. 505. 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 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 the programming cannot be viewed or heard in an understandable manner.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 30 days after the date of enactment of this Act.

SEC. 506. 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 and".

SEC. 507. CLARIFICATION OF CURRENT LAWS REGARDING COMMUNICATION OF OBSCENE MATERIALS THROUGH THE USE OF COMPUTERS.

(a) IMPORTATION OR TRANSPORTATION.—Section 1462 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph, by inserting "or interactive computer service (as defined in section 230(e)(2) of the Communications Act of 1934)" after "carrier"; and

(2) in the second undesignated paragraph—

(A) by inserting "or receives," after "takes";

(B) by inserting "or interactive computer service (as defined in section 230(e)(2) of the Communications Act of 1934)" after "common carrier"; and

(C) by inserting "or importation" after "carriage".

(b) TRANSPORTATION FOR PURPOSES OF SALE OR DISTRIBUTION.—The first undesignated paragraph of section 1465 of title 18, United States Code, is amended—

(1) by striking "transports in" and inserting "transports or travels in, or uses a facility or means of,";

(2) by inserting "or an interactive computer service (as defined in section 230(e)(2) of the Communications Act of 1934) in or affecting such commerce" after "foreign commerce" the first place it appears;

(3) by striking ", or knowingly travels in" and all that follows through "obscene material in interstate or foreign commerce," and inserting "of".

(c) INTERPRETATION.—The amendments made by this section are clarifying and shall not be interpreted to limit or repeal any prohibition contained in sections 1462 and 1465 of title 18, United States Code, before such amendment, under the rule established in United States v. Alpers, 338 U.S. 680 (1950).

SEC. 508. COERCION AND ENTICEMENT OF MINORS.

Section 2422 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever knowingly"; and

(2) by adding at the end the following:

"(b) Whoever, using any facility or means of interstate or foreign commerce, including the mail, or within the special maritime and territorial jurisdiction of the United States, knowingly persuades, induces, entices, or coerces any individual who has not attained the age of 18 years to engage in prostitution or any sexual act for which any person may be criminally prosecuted, or attempts to do so, shall be fined under this title or imprisoned not more than 10 years, or both.".

SEC. 509. 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.

"(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—

"(1) to promote the continued development of the Internet and other interactive computer services and other interactive media;

"(2) to preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by Federal or State regulation;

"(3) to encourage the development of technologies which maximize user control over what information is received by individuals, families, and schools who use the Internet and other interactive computer services;

"(4) to 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) to ensure vigorous enforcement of Federal 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.—

"(1) TREATMENT OF PUBLISHER OR SPEAKER.—No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.

"(2) CIVIL LIABILITY.—No provider or user of an interactive computer service shall be held liable on account of—

"(A) any action voluntarily taken in good faith to restrict access to or availability of 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

"(B) any action taken to enable or make available to information content providers or others the technical means to restrict access to material described in paragraph (1).

"(d) 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) STATE LAW.—Nothing in this section shall be construed to prevent any State from enforcing any State law that is consistent with this section. No cause of action may be brought and no liability may be imposed under any State or local law that is inconsistent with this section.

"(4) NO EFFECT ON COMMUNICATIONS PRIVACY LAW.—Nothing in this section shall be construed to limit the application of the Electronic Communications Privacy Act of 1986 or any of the amendments made by such Act, or any similar State law.

"(e) 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, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.

"(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 through the Internet or any other interactive computer service.

"(4) ACCESS SOFTWARE PROVIDER.—The term 'access software provider' means a provider of software (including client or server software), or enabling tools that do any one or more of the following:

"(A) filter, screen, allow, or disallow content;

"(B) pick, choose, analyze, or digest content; or

"(C) transmit, receive, display, forward, cache, search, subset, organize, reorganize, or translate content.".

Subtitle B—Violence

SEC. 551. 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 a nonintrusive and narrowly tailored means of achieving that compelling governmental interest.

(b) ESTABLISHMENT OF TELEVISION RATING CODE.—

(1) AMENDMENT.—Section 303 (47 U.S.C. 303) is amended by adding at the end the following:

"(w) Prescribe—

"(1) on the basis of recommendations from an advisory committee established by the Commission in accordance with section 551(b)(2) of the Telecommunications Act of 1996, 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, and in consultation with the television industry, 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.".

(2) ADVISORY COMMITTEE REQUIREMENTS.—In establishing an advisory committee for purposes of the amendment made by paragraph (1) of this subsection, the Commission shall—

(A) ensure that such committee is composed of parents, television broadcasters, television programming producers, cable operators, appropriate public interest groups, and other interested individuals from the private sector and is fairly balanced in terms of political affiliation, the points of view represented, and the functions to be performed by the committee;

(B) provide to the committee such staff and resources as may be necessary to permit it to perform its functions efficiently and promptly; and

(C) require the committee to submit a final report of its recommendations within one year after the date of the appointment of the initial members.

(c) REQUIREMENT FOR MANUFACTURE OF TELEVISIONS THAT BLOCK PROGRAMS.—Section 303 (47 U.S.C. 303), as amended by subsection (a), is further amended by adding at the end the following:

"(x) Require, in the case of an apparatus designed to receive television signals that are shipped in interstate commerce or manufactured in the United States and that have a picture screen 13 inches or greater in size (measured diagonally), that such apparatus be equipped with a feature 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 OF TELEVISIONS THAT BLOCK PROGRAMS.—

(1) REGULATIONS.—Section 330 (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 or manufacture in the United States any apparatus described in section 303(x) 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 in 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(x) 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), as redesignated by subsection (d)(1)(A), is amended by striking "section 303(s), and section 303(u)" and inserting in lieu thereof "and sections 303(s), 303(u), and 303(x)".

(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 two years after the date of enactment of this Act.

SEC. 552. TECHNOLOGY FUND.

It is the policy of the United States to 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—

(1) 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 and to encourage the availability thereof to low income parents;

(2) report to the viewing public on the status of the development of affordable, easy to use blocking technology; and

(3) 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 to encourage the availability thereof to low income parents.

Subtitle C—Judicial Review

SEC. 561. EXPEDITED REVIEW.

(a) THREE-JUDGE DISTRICT COURT HEARING.—Notwithstanding any other provision of law, any civil action challenging the constitutionality, on its face, of this title or any amendment made by this title, or any provision thereof, shall be heard by a district court of 3 judges convened pursuant to the provisions of section 2284 of title 28, United States Code.

(b) APPELLATE REVIEW.—Notwithstanding any other provision of law, an interlocutory or final judgment, decree, or order of the court of 3 judges in an action under subsection (a) holding this title or an amendment made by this title, or any provision thereof, unconstitutional shall be reviewable as a matter of right by direct appeal to the Supreme Court. Any such appeal shall be filed not more than 20 days after entry of such judgment, decree, or order.

TITLE VI—EFFECT ON OTHER LAWS

SEC. 601. APPLICABILITY OF CONSENT DECREES AND OTHER LAW.

(a) APPLICABILITY OF AMENDMENTS TO FUTURE CONDUCT.—

(1) AT&T CONSENT DECREE.—Any conduct or activity that was, before the date of enactment of this Act, subject to any restriction or obligation imposed by the AT&T Consent Decree shall, on and after such date, be subject to the restrictions and obligations imposed by the Communications Act of 1934 as amended by this Act and shall not be subject to the restrictions and the obligations imposed by such Consent Decree.

(2) GTE CONSENT DECREE.—Any conduct or activity that was, before the date of enactment of this Act, subject to any restriction or obligation imposed by the GTE Consent Decree shall, on and after such date, be subject to the restrictions and obligations imposed by the Communications Act of 1934 as amended by this Act and shall not be subject to the restrictions and the obligations imposed by such Consent Decree.

(3) MCCAW CONSENT DECREE.—Any conduct or activity that was, before the date of enactment of this Act, subject to any restriction or obligation imposed by the McCaw Consent Decree shall, on and after such date, be subject to the restrictions and obligations imposed by the Communications Act of 1934 as amended by this Act and subsection (d) of this section and shall not be subject to the restrictions and the obligations imposed by such Consent Decree.

(b) ANTITRUST LAWS.—

(1) SAVINGS CLAUSE.—Except as provided in paragraphs (2) and (3), nothing in this Act or the amendments made by this Act shall be construed to modify, impair, or supersede the applicability of any of the antitrust laws.

(2) REPEAL.—Subsection (a) of section 221 (47 U.S.C. 221(a)) is repealed.

(3) CLAYTON ACT.—Section 7 of the Clayton Act (15 U.S.C. 18) is amended in the last paragraph by striking "Federal Communications Commission,".

(c) FEDERAL, STATE, AND LOCAL LAW.—

(1) NO IMPLIED EFFECT.—This Act and the amendments made by this Act shall not be construed to modify, impair, or supersede Federal, State, or local law unless expressly so provided in such Act or amendments.

(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 622 and 653(c) of the Communications Act of 1934 and section 602 of this Act.

(d) COMMERCIAL MOBILE SERVICE JOINT MARKETING.—Notwithstanding section 22.903 of the Commission's regulations (47 C.F.R. 22.903) or any other Commission regulation, a Bell operating company or any other company may, except as provided in sections 271(e)(1) and 272 of the Communications Act of 1934 as amended by this Act 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.

(e) DEFINITIONS.—As used in this section:

(1) AT&T CONSENT DECREE.—The term "AT&T Consent Decree" 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.

(2) GTE CONSENT DECREE.—The term "GTE Consent Decree" means the order entered December 21, 1984, 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.

(3) MCCAW CONSENT DECREE.—The term "McCaw Consent Decree" means the proposed consent decree filed on July 15, 1994, in the antitrust action styled United States v. AT&T Corp. and McCaw Cellular Communications, Inc., Civil Action No. 94-01555, in the United States District court for the District of Columbia. Such term includes any stipulation that the parties will abide by the terms of such proposed consent decree until it is entered and any order entering such proposed consent decree.

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

SEC. 602. PREEMPTION OF LOCAL TAXATION WITH RESPECT TO DIRECT-TO-HOME SERVICES.

(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 on direct-to-home satellite service.

(b) DEFINITIONS.—For the purposes of this section—

(1) DIRECT-TO-HOME SATELLITE SERVICE.—The term "direct-to-home satellite service" means only programming transmitted or broadcast by satellite 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.

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. PREVENTION OF UNFAIR BILLING PRACTICES FOR INFORMATION OR SERVICES PROVIDED OVER TOLL-FREE TELEPHONE CALLS.

(a) 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";

(B)(i) by striking "or" at the end of subparagraph (C) of such paragraph;

(ii) by striking the period at the end of subparagraph (D) of such paragraph and inserting a semicolon and "or"; and

(iii) 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."; and

(C) 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 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 at least one billing cycle in advance 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 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 PINS TO PREVENT UNAUTHORIZED USE.—A written agreement does not meet the requirements of this paragraph unless it—

"(i) includes a unique personal identification number or other subscriber-specific identifier and requires a subscriber to use this number or identifier to obtain access to the information provided and includes instructions on its use; and

"(ii) assures that any charges for services accessed by use of the subscriber's personal identification number or subscriber-specific identifier be assessed to subscriber's source of payment elected pursuant to subparagraph (A)(vi).

"(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 directory services provided by a common carrier or its affiliate or by a local exchange carrier or its affiliate; 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 BY CREDIT, PREPAID, DEBIT, CHARGE, 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, debit, charge, 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, debit, charge, or calling card;

"(D) asks the caller for the 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) BYPASS OF INTRODUCTORY DISCLOSURE MESSAGE.—The requirements of paragraph (9) shall not apply to calls from repeat callers using a bypass mechanism to avoid listening to the introductory message, provided that information providers shall disable such a bypass mechanism after the institution of any price increase and for a period of time determined to be sufficient by the Federal Trade Commission to give callers adequate and sufficient notice of a price increase.

"(11) 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.".

(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 enactment of this Act.

(3) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date of enactment of this Act.

(b) CLARIFICATION OF "PAY-PER-CALL SERVICES".—

(1) 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(i) of the Communications Act of 1934, except that the Commission by rule may, notwithstanding subparagraphs (B) and (C) of section 228(i)(1) of such Act, 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).".

(2) COMMUNICATIONS ACT.—Section 228(i)(2) (47 U.S.C. 228(i)(2)) is amended by striking "or any service the charge for which is tariffed,".

SEC. 702. PRIVACY OF CUSTOMER INFORMATION.

Title II is amended by inserting after section 221 (47 U.S.C. 221) the following new section:

"SEC. 222. PRIVACY OF CUSTOMER INFORMATION.

"(a) IN GENERAL.—Every telecommunications carrier has a duty to protect the confidentiality of proprietary information of, and relating to, other telecommunication carriers, equipment manufacturers, and customers, including telecommunication carriers reselling telecommunications services provided by a telecommunications carrier.

"(b) CONFIDENTIALITY OF CARRIER INFORMATION.—A telecommunications carrier that receives or obtains proprietary information from another carrier for purposes of providing any telecommunications service shall use such information only for such purpose, and shall not use such information for its own marketing efforts.

"(c) CONFIDENTIALITY OF CUSTOMER PROPRIETARY NETWORK INFORMATION.—

"(1) PRIVACY REQUIREMENTS FOR TELECOMMUNICATIONS CARRIERS.—Except as required by law or with the approval of the customer, a telecommunications carrier that receives or obtains customer proprietary network information by virtue of its provision of a telecommunications service shall only use, disclose, or permit access to individually identifiable customer proprietary network information in its provision of (A) the telecommunications service from which such information is derived, or (B) services necessary to, or used in, the provision of such telecommunications service, including the publishing of directories.

"(2) DISCLOSURE ON REQUEST BY CUSTOMERS.—A telecommunications carrier shall disclose customer proprietary network information, upon affirmative written request by the customer, to any person designated by the customer.

"(3) AGGREGATE CUSTOMER INFORMATION.—A telecommunications carrier that receives or obtains customer proprietary network information by virtue of its provision of a telecommunications service may use, disclose, or permit access to aggregate customer information other than for the purposes described in paragraph (1). A local exchange carrier may use, disclose, or permit access to aggregate customer information other than for purposes described in paragraph (1) only if it provides such aggregate information to other carriers or persons on reasonable and nondiscriminatory terms and conditions upon reasonable request therefor.

"(d) EXCEPTIONS.—Nothing in this section prohibits a telecommunications carrier from using, disclosing, or permitting access to customer proprietary network information obtained from its customers, either directly or indirectly through its agents—

"(1) to initiate, render, bill, and collect for telecommunications services;

"(2) to protect the rights or property of the carrier, or to protect users of those services and other carriers from fraudulent, abusive, or unlawful use of, or subscription to, such services; or

"(3) 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.

"(e) SUBSCRIBER LIST INFORMATION.—Notwithstanding subsections (b), (c), and (d), a telecommunications carrier that provides telephone 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.

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

"(1) CUSTOMER PROPRIETARY NETWORK INFORMATION.—The term 'customer proprietary network information' means—

"(A) information that relates to the quantity, technical configuration, type, destination, and amount of use of a telecommunications service subscribed to by any customer of a telecommunications carrier, and that is made available to the carrier by the customer solely by virtue of the carrier-customer relationship; and

"(B) information contained in the bills pertaining to telephone exchange service or telephone toll service received by a customer of a carrier;

except that such term does not include subscriber list information.

"(2) AGGREGATE INFORMATION.—The term 'aggregate customer 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.

"(3) 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.".

SEC. 703. POLE ATTACHMENTS.

Section 224 (47 U.S.C. 224) is amended—

(1) in subsection (a)(1), by striking the first sentence and inserting the following: "The term 'utility' means any person who is a local exchange carrier or an electric, gas, water, steam, or other public utility, and who owns or controls poles, ducts, conduits, or rights-of-way used, in whole or in part, for any wire communications.";

(2) in subsection (a)(4), by inserting after "system" the following: "or provider of telecommunications service";

(3) by inserting after subsection (a)(4) the following:

"(5) For purposes of this section, the term 'telecommunications carrier' (as defined in section 3 of this Act) does not include any incumbent local exchange carrier as defined in section 251(h).";

(4) 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),";

(5) in subsection (c)(2)(B), by striking "cable television services" and inserting "the services offered via such attachments";

(6) 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 rate for any pole attachment used by a cable system or any telecommunications carrier (to the extent such carrier is not a party to a pole attachment agreement) to provide any telecommunications service."; and

(7) 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 1996, prescribe regulations in accordance with this subsection to govern the charges for pole attachments used by telecommunications carriers to provide telecommunications services, when the parties fail to resolve a dispute over such charges. Such regulations shall ensure that a utility charges just, reasonable, and nondiscriminatory 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 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 attaching entities.

"(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.

"(4) The regulations required under paragraph (1) shall become effective 5 years after the date of enactment of the Telecommunications Act of 1996. 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 any 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 or cable 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 equal amount to the pole attachment rate for which such company would be liable under this section.

"(h) Whenever the owner of a pole, duct, conduit, or right-of-way intends to modify or alter such pole, duct, 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 pole, duct, conduit, or right-of-way accessible.

"(i) An entity that obtains an attachment to a pole, conduit, or right-of-way shall not be required to bear any of the costs of rearranging or replacing its attachment, if such rearrangement or replacement is required as a result of an additional attachment or the modification of an existing attachment sought by any other entity (including the owner of such pole, duct, conduit, or right-of-way).".

SEC. 704. FACILITIES SITING; RADIO FREQUENCY EMISSION STANDARDS.

(a) NATIONAL WIRELESS TELECOMMUNICATIONS SITING POLICY.—Section 332(c) (47 U.S.C. 332(c)) is amended by adding at the end the following new paragraph:

"(7) PRESERVATION OF LOCAL ZONING AUTHORITY.—

"(A) GENERAL AUTHORITY.—Except as provided in this paragraph, nothing in this Act shall limit or affect the authority of a State or local government or instrumentality thereof over decisions regarding the placement, construction, and modification of personal wireless service facilities.

"(B) LIMITATIONS.—

"(i) The regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof—

"(I) shall not unreasonably discriminate among providers of functionally equivalent services; and

"(II) shall not prohibit or have the effect of prohibiting the provision of personal wireless services.

"(ii) A State or local government or instrumentality thereof shall act on any request for authorization to place, construct, or modify personal wireless service facilities within a reasonable period of time after the request is duly filed with such government or instrumentality, taking into account the nature and scope of such request.

"(iii) Any decision by a State or local government or instrumentality thereof to deny a request to place, construct, or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record.

"(iv) No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service 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.

"(v) Any person adversely affected by any final action or failure to act by a State or local government or any instrumentality thereof that is inconsistent with this subparagraph may, within 30 days after such action or failure to act, commence an action in any court of competent jurisdiction. The court shall hear and decide such action on an expedited basis. Any person adversely affected by an act or failure to act by a State or local government or any instrumentality thereof that is inconsistent with clause (iv) may petition the Commission for relief.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) the term 'personal wireless services' means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services;

"(ii) the term 'personal wireless service facilities' means facilities for the provision of personal wireless services; and

"(iii) the term 'unlicensed wireless service' means the offering of telecommunications services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services (as defined in section 303(v)).".

(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 President or his designee 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 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. 705. MOBILE SERVICES DIRECT ACCESS TO LONG DISTANCE CARRIERS.

Section 332(c) (47 U.S.C. 332(c)) is amended by adding at the end the following new paragraph:

"(8) MOBILE SERVICES ACCESS.—A person engaged in the provision of commercial mobile services, insofar as such person is so engaged, shall not be required to provide equal access to common carriers for the provision of telephone toll services. If the Commission determines that subscribers to such services are denied access to the provider of telephone toll services of the subscribers' choice, and that such denial is contrary to the public interest, convenience, and necessity, then the Commission shall prescribe regulations to afford subscribers unblocked access to the provider of telephone toll services of the subscribers' choice through the use of a carrier identification code assigned to such provider or other mechanism. The requirements for unblocking shall not apply to mobile satellite services unless the Commission finds it to be in the public interest to apply such requirements to such services.".

SEC. 706. 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, measures that promote competition in the local telecommunications market, or other regulating methods that remove barriers to infrastructure investment.

(b) INQUIRY.—The Commission shall, within 30 months 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 to accelerate deployment of such capability by removing barriers to infrastructure investment and by promoting competition in the telecommunications market.

(c) DEFINITIONS.—For purposes of this subsection:

(1) ADVANCED TELECOMMUNICATIONS CAPABILITY.—The term "advanced telecommunications capability" is defined, without regard to any transmission media or technology, as high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications using any technology.

(2) ELEMENTARY AND SECONDARY SCHOOLS.—The term "elementary and secondary schools" means elementary 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. 707. TELECOMMUNICATIONS DEVELOPMENT FUND.

(a) DEPOSIT AND USE OF AUCTION ESCROW ACCOUNTS.—Section 309(j)(8) (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 714 of this Act.".

(b) ESTABLISHMENT AND OPERATION OF FUND.—Title VII is amended by inserting after section 713 (as added by section 305) the following new section:

"SEC. 714. 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 advice to eligible small businesses;

"(3) expenses for the administration and management of the Fund (including salaries, expenses, and the rental or purchase of office space for 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 in accordance with the requirements of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.) and any other applicable law to an 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 (d)(2) shall be disbursed upon such terms and conditions (including conditions relating to the time or times of repayment) as are specified in any appropriations Act providing such advances.

"(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, for the purposes of the Fund;

"(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 broadcasting, telecommunications, cable, computer, data transmission, software, programming, advanced messaging, and electronics businesses.".

SEC. 708. NATIONAL EDUCATION TECHNOLOGY FUNDING CORPORATION.

(a) FINDINGS; PURPOSE.—

(1) FINDINGS.—The Congress finds as follows:

(A) 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.

(B) 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—

(i) five members are representative of public agencies representative of schools and public libraries;

(ii) five members are representative of State government, including persons knowledgeable about State finance, technology and education; and

(iii) five members are representative of the private sector, with expertise in network technology, finance and management.

(C) CORPORATE PURPOSES.—The purposes of the Corporation, as set forth in its articles of incorporation, are—

(i) to leverage resources and stimulate private investment in education technology infrastructure;

(ii) to designate State education technology agencies to receive loans, grants or other forms of assistance from the Corporation;

(iii) 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;

(iv) 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;

(v) to leverage resources to provide maximum aid to elementary schools, secondary schools and public libraries; and

(vi) 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.

(2) PURPOSE.—The purpose of this section 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.

(b) DEFINITIONS.—For the purpose of this section—

(1) the term "Corporation" means the National Education Technology Funding Corporation described in subsection (a)(1)(A);

(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.

(c) ASSISTANCE FOR EDUCATION TECHNOLOGY PURPOSES.—

(1) RECEIPT BY CORPORATION.—Notwithstanding any other provision of law, in order to carry out the corporate purposes described in subsection (a)(1)(C), 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.

(2) AGREEMENT.—In order to receive any assistance described in paragraph (1) the Corporation shall enter into an agreement with the Federal department or agency providing such assistance, under which the Corporation agrees—

(A) 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 subsection (a)(1)(C);

(B) 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 subsection (a)(1)(C) are carried out;

(C) 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;

(D) that the Board of Directors of the Corporation will adopt policies and procedures to prevent conflicts of interest;

(E) to maintain a Board of Directors of the Corporation consistent with subsection (a)(1)(B);

(F) that the Corporation, and any entity receiving the assistance from the Corporation, are subject to the appropriate oversight procedures of the Congress; and

(G) to comply with—

(i) the audit requirements described in subsection (d); and

(ii) the reporting and testimony requirements described in subsection (e).

(3) CONSTRUCTION.—Nothing in this section 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.

(d) AUDITS.—

(1) AUDITS BY INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS.—

(A) 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 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.

(B) REPORTING REQUIREMENTS.—The report of each annual audit described in subparagraph (A) shall be included in the annual report required by subsection (e)(1).

(2) RECORDKEEPING REQUIREMENTS; AUDIT AND EXAMINATION OF BOOKS.—

(A) RECORDKEEPING REQUIREMENTS.—The Corporation shall ensure that each recipient of assistance from the Corporation keeps—

(i) separate accounts with respect to such assistance;

(ii) 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

(iii) such other records as will facilitate an effective audit.

(B) 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.

(e) ANNUAL REPORT; TESTIMONY TO THE CONGRESS.—

(1) 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 section and may include such recommendations as the Corporation deems appropriate.

(2) 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 paragraph (1), the report of any audit made by the Comptroller General pursuant to this section, or any other matter which any such committee may determine appropriate.

SEC. 709. REPORT ON THE USE OF ADVANCED TELECOMMUNICATIONS SERVICES FOR MEDICAL PURPOSES.

The Secretary of Commerce, 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 by January 31, 1997.

SEC. 710. 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) (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 the Communications Act of 1934.

(c) FUNDING AVAILABILITY.—Section 309(j)(8)(B) (47 U.S.C. 309(j)(8)(B)) is amended by adding at the end the following new sentence: "Such offsetting collections are authorized to remain available until expended.".

And the House agree to the same.

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

TOM BLILEY,
JACK FIELDS,
MICHAEL G. OXLEY,
RICK WHITE,
JOHN D. DINGELL,
EDWARD J. MARKEY,
RICK BOUCHER,
ANNA G. ESHOO,
BOBBY L. RUSH,

Provided, Mr. Pallone is appointed in lieu of Mr. Boucher solely for consideration of sec. 205 of the Senate bill:

FRANK PALLONE, JR.,

As additional conferees, for consideration of secs. 1–6, 101–04, 106–07, 201, 204–05, 221–25, 301–05, 307–11, 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:

DAN SCHAEFER,
JOE BARTON,
J. DENNIS HASTERT,
BILL PAXON,
SCOTT KLUG,
DAN FRISA,
CLIFF STEARNS,
SHERROD BROWN,
BART GORDON,
BLANCHE LAMBERT LINCOLN,

As additional conferees, for consideration of secs. 102, 202–03, 403, 407–09, and 706 of the Senate bill, and title II of the House amendment, and modifications committed to conference:

DAN SCHAEFER,
J. DENNIS HASTERT,
DAN FRISA,

As additional conferees, for consideration of secs. 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:

CLIFF STEARNS,
BILL PAXON,
SCOTT KLUG,

As additional conferees, for consideration of secs. 7–8, 226, 404, and 704 of the Senate bill, and titles IV–V of the House amendment, and modifications committed to conference:

DAN SCHAEFER,
J. DENNIS HASTERT,
SCOTT KLUG,

As additional conferees, for consideration of title VI of the House amendment, and modifications committed to conference:

DAN SCHAEFER,
JOE BARTON,
SCOTT KLUG,

As additional conferees from the Committee on the Judiciary, for consideration of the Senate bill (except secs. 1–6, 101–04, 106–07, 201, 204–05, 221–25, 301–05, 307–11, 401–02, 405–06, 410, 601–06, 703, and 705), and of the House amendment (except title I), and modifications committed to conference:

HENRY HYDE,
CARLOS J. MOORHEAD,
BOB GOODLATTE,
STEVE BUYER,
MIKE FLANAGAN,

As additional conferees, for consideration of secs. 1–6, 101–04, 106–07, 201, 204–05, 221–25, 301–05, 307–11, 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:

HENRY HYDE,
CARLOS J. MOORHEAD,
BOB GOODLATTE,
STEVE BUYER,
MIKE FLANAGAN,
ELTON GALLEGLY,
BOB BARR,
MARTIN R. HOKE,
HOWARD L. BERMAN,

Managers on the Part of the House.

LARRY PRESSLER,
TED STEVENS,
SLADE GORTON,
TRENT LOTT,
FRITZ HOLLINGS,
DANIEL K. INOUYE,
WENDELL FORD,
J.J. EXON,
JAY ROCKEFELLER,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill S. 652, to provide for a procompetitive, de-regulatory 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, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment that is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

SECTION 1—SHORT TITLE AND SECTION 2—TABLE OF CONTENTS

Senate bill

Section 1 provides that the bill may be cited as the "Telecommunications Competition and Deregulation Act of 1995." Section 2 contains a table of contents for the Senate bill.

House amendment

Section 1 designates the short title as the "Communications Act of 1995." Section 2 contains a table of contents for the House amendment.

Conference agreement

Section 1 designates the title of the bill as the "Telecommunications Act of 1996." Section 2 contains a table of contents for the conference agreement.

SECTION 3—DEFINITIONS

Senate bill

Section 8(a) includes definitions of the Modification of the Final Judgment (MFJ), the GTE Consent Decree, and an "integrated telecommunications service provider." An "integrated telecommunications service provider" means a 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, signaling, or control devices.

Section 8(b) adds several definitions to section 3 of the Communications Act of 1934 (47 U.S.C. 153) ("the Communications Act") including definitions for "local exchange carrier," "telecommunications" "telecommunications service," "telecommunications carrier," "telecommunications number portability." "information service," "rural telephone company," and "service area."

New subsection (kk) defines "local exchange carrier" to mean a provider of telephone exchange service or exchange access service. "Telephone exchange service" is already defined in section 3 of the Communications Act.

"Telecommunications" is defined in new subsection (ll) to mean 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.

The term "telecommunications service" defined in new subsection (mm) of section 3 of the communications Act means the offering of telecommunications for a fee directly to the public or to such classes of users as to be effectively available to the public, regardless of the facilities used to transmit the telecommunications service. This definition is intended to include commercial mobile service ("CMS"), competitive access service, and alternative local telecommunications services to the extent they are offered to the public or to such classes of users as to be effectively available to the public.

Subsection (nn) defines "telecommunications carrier" to mean any provider of telecommunications service, except that the term does not include aggregator of telecommunications services as defined in section 226 of the Communications Act. The definition amends the Communications Act to explicitly provide that a "telecommunications carrier" shall be treated as a common carrier for purposes of the Communications Act, but only to the extent that it is engaged in providing telecommunications services.

New subsection (oo) defines "telecommunications number portability" to mean 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. Number portability allows consumers remaining at the same location to retain their existing telephone number when switching from one telecommunications carrier to another.

New subsection (pp) defines "information service" similar to the Federal Communications Commission's ("the Commission") definition of "enhanced services." The Senate intends that the Commission would have the continued flexibility to modify its definition and rules pertaining to enhanced services as technology changes

Subsection (rr) adds a definition of "rural telephone company" that includes companies that (i) do not serve areas containing any part of an incorporated place of 10,000 or more inhabitants, or any incorporated or unincorporated territory in an urbanized area, or (ii) have fewer than 100,000 access lines in a State.

New subsection (ss) adds to the Communications Act a definition of "service area." "Service area" means a geographic area established by the Commission and the State for the purpose of determining universal service obligations and support mechanisms. The Service are of a rural telephone company means such company's study are until the Commission and State, based on a recommendation of a Federal-State Joint Board, establish a different definition.

House amendment

Subsection (a) of section 501 adds new definitions, including for "information service" "telecommunications." "telecommunications service," "telecommunications equipment," "local exchange carrier," "affiliate," "customer premises equipment," "electronic publishing," "exchange area," and "rural telephone company." "Information service" and "telecommunications" are defined based on the definition used in the Modification of Final Judgment. The definition of "telecommunications" refers to transmission "by means of an electromagnetic transmission medium.

The term "local exchange carrier" does not include a person insofar as such person is engaged in the provision of CMS under section 332(c) of the Communications Act, except to the extent that the Commission finds that such service as provided by such persons in State is a replacement for a substantial portion of the wireless telephone exchange service within such State.

The term "telecommunication service" is defined as those services and facilities offered on a "common carrier" basis, recognizing the distinction between common carrier offerings that are provided to the public or to such classes of users as to be effectively available to a substantial portion of the public, and private services.

This section defines the term "rural telephone company" to means a local exchange carrier (LEC) to the extent that such carrier services an unincorporated area of less than 10,000 residents, or any territory defined by the Bureau of the Census as a rural area; or if such carrier has fewer than 50,000 access lines; or if such carrier provides telephone exchange service to a local study area with fewer than 100,000 access lines; or if such carrier has less than 15 percent of the access lines in communities of more than 50,000 residents.

The definition of a "Bell Operating Company" does not include an entity that owns a former Bell Operating Company's wireless operations that are no longer affiliated with a Bell Operating Company's wireline exchange facilities.

Conference agreement

Section 3(a) of the conference agreement both amends and adds definitions to section 3 of the Communications Act. The Senate recedes to the House with respect to the definitions of "cable system," "customer premises equipment," "dialing parity," "interLATA service," "LATA," "rural telephone company," and "telecommunications equipment," as well as on the House amendment to the existing definition of "telephone exchange service." The Senate recedes to the House with amendments regarding the definitions of "Bell Operating Company," "exchange access," "information service," and "local exchange carrier."

The Senate definition of "Bell Operating Company" was included; however, the conference agreement included the language in the House amendment clarifying that the term the "successor and assign" is limited to those providing wireline telephone exchange service so that Airtouch Communications, a former affiliate of Pacific Telesis that does not provide wireline telephone exchange service, or any other similarly situated former affiliate of a Bell Operating Company ("BOC"), is not included in that definition. The Senate definition of "local exchange carrier" was included to ensure that the Commission could, if future circumstances warrant, include CMS providers which provide telephone exchange service or exchange access in the definition of "local exchange carrier."

The House recedes to the Senate with respect to the definitions of "affiliate" and "cable service." The House recedes to the Senate with amendments with respect to the definitions of "number portability," "telecommunications," "telecommunications carrier," and "telecommunications service."

The conference agreement includes two new definitions to clarify certain provisions in the Senate bill and the House amendment. The term "AT&T Consent Decree" was substituted for "Modification of Final Judgment" in order to characterize more accurately the intent of the Senate bill and House amendment with respect to the supersession issues addressed in title VI. The term "network element" was included to describe the facilities, such as local loops, equipment, such as switching, and the features, functions, and capabilities that a local exchange carrier must provide for certain purposes under other sections of the conference agreement.

The House recedes to the Senate with an amendment with respect to new subsection 3(b) of the conference agreement, which provides that, except where otherwise provided, the terms used in the conference agreement have the same meaning as those terms have in the Communications Act.

The Senate recedes to the House amendment with respect to new subsection 3(c) of the conference agreement, which amends section 3 of the Communications Act to reorder the definitions in that section alphabetically and to make other stylistic changes.

TITLE I—TELECOMMUNICATIONS SERVICES

SUBTITLE A—TELECOMMUNICATIONS SERVICES

SECTION 101—INTERCONNECTION

Senate bill

The Senate bill creates new sections of the Communications Act to create competitive markets.

House amendment

The House amendment creates new sections of the Communications Act to create competitive markets.

Conference agreement

Section 101 of the conference agreement establishes a new "Part II" of title II of the Communications Act. Part II contains new sections 251–261 of the Communications Act to create competitive communications markets.

NEW SECTION 251—INTERCONNECTION

Senate bill

New subsection 251(a) imposes a duty on local exchange carriers possessing market power in the provision of telephone exchange service or exchange access service in a particular local area to negotiate in good faith and to provide interconnection with other telecommunications carriers that have requested interconnection for the purpose of providing telephone exchange service or exchange access service. The obligations and procedures prescribed in this section do not apply to interconnection arrangements between local exchange carriers and telecommunications carriers under section 201 of the Communications Act for the purpose of providing interexchange service, and nothing in this section is intended to affect the Commission's access charge rules. Local exchange carriers with market power are required to provide interconnection at reasonable and nondiscriminatory rates.

The Commission will determine which local exchange carriers have market power for purposes of this section. In determining market power, the relevant market shall include all providers of telephone exchange

service or exchange access service in a local service area, regardless of the technology used to provide such service.

The obligation to negotiate interconnection shall apply to a local exchange carrier or a class of local exchange carriers that are determined by the Commission to have market power in providing exchange services. The references to a "class" of carriers are intended to relieve the Commission of the need to make a separate market power determination for each individual carrier. These references are not intended to require the local exchange carriers to engage in negotiations as a class, although subsection 251(a)(2) provides that multilateral negotiations are permitted. However, a local exchange carrier that chooses to participate in multilateral negotiations will be subject to an individual obligation to negotiate in good faith and will remain subject to the time limitations contained in this and other provisions of section 251.

New section 251 provides two alternative methods for reaching interconnection agreements.

New subsection 251(b) provides a list of minimum standards relating to types of interconnection the local exchange carrier must agree to provide, if sought by the telecommunications carrier requesting interconnection. The minimum standards include unbundled access to the network functions and services of the local exchange carrier's network, and unbundled access to the local exchange carrier's telecommunications facilities and information, including databases and signaling, that are necessary for transmission and routing and the interoperability of both carriers' networks. The negotiation process established by this section is intended to resolve questions of economic reasonableness with respect to the interconnection requirements. That is, either the parties resolve the issue or the State will impose conditions for interconnection consistent with section 251 and the Commission's rules.

The minimum standards also require interconnection to the local exchange carrier's network that is at least equal in type, quality, and price to the interconnection the carrier provides to any other party, including itself or affiliated companies. At a minimum, the Senate intends that any technically feasible point would be any point at which the local exchange carrier provides access to any other party, including itself or any affiliated entry. Access to poles, ducts, conduits, and rights-of-way owned or controlled by the local exchange carrier is also a minimum standard.

Number portability and local dialing parity are included in the minimum standards of subsection 251(b). If requested, a local exchange carrier must take any action under its control to provide interim or final number portability as soon as it is technically feasible. Section 307 of the bill adds new section 261 of the Communications Act which establishes a neutral telecommunications numbering administration and defines interim and final number portability. The Commission will determine when final number portability is technically feasible. A similar requirement applies to local dialing parity.

The minimum standards also cover resale or sharing of the local exchange carrier's unbundled telecommunications services and network functions. The carrier is not permitted to attach unreasonable conditions to the resale or sharing of those services or functions. Subsection 251(b) provides certain circumstances where it would not be unreasonable for a State to limit the resale of services included within the definition of universal service.

Additional minimum standards relate to reciprocal compensation arrangements, including in-kind exchange of traffic or traffic balance measures, reasonable notice of changes in the information necessary for transmission and routing of services over the carrier's network, and schedules of itemized charges and conditions.

Subsection 251(i) requires the Commission to promulgate rules to implement section 251 within 6 months after enactment. If a State fails to carry out its responsibilities under section 251 in accordance with the rules promulgated by the Commission, the Senate intends that the Commission assume the responsibilities of the State in the applicable proceeding or matter.

Subsection 251(i) also requires the Commission or a State to waive or modify the requirements of the minimum standards of subsection 251(b) in the case of a rural telephone company, and allows the Commission or a State to waive or modify those requirements in the case of a local exchange carrier with fewer than two percent of the nation's subscriber lines installed in the aggregate nationwide. In order to waive or modify the requirements of subsection 251(b) for such companies or carriers, the Commission or a State must determine that the application of 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 Senate intends that the Commission or a State shall, consistent with the protection of consumers and allowing for competition, use this authority to provide a level playing field, particularly when a company or carrier to which this subsection applies faces competition from a telecommunications carrier that is a large global or nationwide entity that has financial or technological resources that are significantly greater than the resources of the company or carrier.

New subsection 251(j) provides that nothing in section 251 precludes a State from imposing requirements on telecommunications carriers with respect to intrastate services that the State determines are necessary to further competition in the provision of telephone exchange service or exchange access service, so long as any such requirements are not inconsistent with the Commission's rules to implement section 251.

New subsection 251(k) provides that nothing in section 251 is intended to change or modify the Commission's rules at 47 CFR 69 et seq. regarding the charges that an interexchange carrier pays to local exchange carriers for access to the local exchange carrier's network. The Senate also does not intend that section 251 should affect regulations implemented under section 201 with respect to interconnection between interexchange carriers and local exchange carriers.

Section 307 of the bill adds a new section 261 to the Communications Act. New section 261 requires local exchange carriers to provide for number portability and also requires the neutral administration of a nationwide telephone numbering system.

Subsection 261(a) requires that, as of the date of enactment, interconnection agreements reached under section 251 must, if requested, provide for interim number portability.

Interim number portability may require that calls to or from the subscriber be routed through the local exchange carrier's switch. Some method of call forwarding or similar arrangement could be used to satisfy this requirement. The method of providing interim number portability and the amount of compensation, if any, for providing such service is subject to the negotiated interconnection agreement, pursuant to section 251.

Subsection 261(b) provides that final number portability shall be made available, upon request, when the Commission determines that final telecommunications portability is technically feasible. Subsection 261(d) states that the cost of such number portability shall be borne by all providers on a competitively neutral basis.

Subsection 261(c) of new section 261 requires that all providers of telephone exchange service or exchange access service comply with the guidelines, rules, or plans, of the entity or entities responsible for administering a nationwide neutral number system. This provision is not intended to affect the Commission's ongoing proceeding on numbering administration.

Subsection 261(c)(2) requires that all telecommunications carriers which provide local exchange or exchange access service in the same telephone service area be assigned the same numbering plan area code.

House amendment

Section 241 of section 101 of the House amendment restates the obligation contained in section 201(a) of the Communications Act on all common carriers to interconnect with the facilities and equipment of other providers of telecommunications services and information services.

Section 242(a)(1) sets out the specific requirements of openness and accessibility that apply to LECs as competitors enter the local market and seek access to, and interconnection with, the incumbent's network facilities. Under section 242(a)(2), LECs have the duty to offer unbundled services, elements, features, functions, and capabilities whenever technically feasible. Section 242(a)(3) imposes the duty to offer resale at wholesale rates, which are defined as retail, less the avoided costs. Section 242(a)(4) sets out the duty to provide number portability, to the extent technically feasible. Section 242(a)(5) sets out the duty to provide dialing parity. Section 242(a)(6) sets out the duty to afford access to the poles, ducts, conduits, and rights-of-way of the incumbent carrier, as provided under the pole attachment provisions of the Communications Act. Section 242(a)(7) places the responsibility on local telephone companies not to install network features, functions, and capabilities that violate the requirement of network functionality and accessibility. Section 242(a)(8) places a duty on both parties to negotiate in good faith on all requirements relating to interconnection agreements.

Section 242(b)(1) describes the specific terms and conditions for interconnection, compensation, and equal access, which are integral to a competing provider seeking to offer local telephone services over its own facilities. Under section 242(b)(2), any interconnection agreement entered into must provide for mutual and reciprocal recovery of costs, and may include a range of compensation schemes, such as an in-kind exchange of traffic without cash payment (known as bill-and-keep arrangements). Under section 242(b)(3), the LEC has a responsibility to offer reasonable and nondiscriminatory access on an unbundled basis "that is equal in type and quality" to that which it affords itself or any other person. Section 242(b)(4) directs the Commission to establish regulations requiring actual collocation, or

physicial collocation, of equipment necessary for interconnection at the premises of a LEC, except that virtual collocation is permitted where the LEC demonstrates that actual collocation is not practical for technical reasons or because of space limitations.

This section also directs the Commission to establish regulations requiring full compensation to the LEC for costs of providing services to equal access, interconnection, number portability, and unbundling and requires a carrier, to the extent it provides a telecommunications service or an information service over its own network, to impute to itself the charge for access and interconnection that it charges other persons for providing such services. Subsection 242(c) mandates the manner in which number portability and dialing parity must be provided. This section does not require intraLATA toll dialing parity until a BOC is authorized to offer long distance service.

Section 242(d)(1) prohibits a provider from joint marketing of local and interLATA toll service until the BOC in that State is authorized to provide long distance service pursuant to section 245. Section 242(d)(2) grandfathers joint marketing arrangements in place before the date of enactment. Section 242(e) grants to the Commission the authority to waive or modify, in whole or in part, the requirements of section 242 for any carrier that has, in the aggregate nationwide, fewer than 500,000 access lines installed, to the extent that the Commission determines the effect of the requirements would be economically burdensome, or technologically infeasible. Section 242(f) gives State commissions the authority to waive section 242 requirements with respect to rural telephone companies, and subsection 242(g) sets out the time and manner for compliance if the State determines that the exemption should not apply.

Conference agreement

The conference agreement adopts a new model for interconnection that incorporates provisions from both the Senate bill and House amendment in a new section 251 of the Communications Act. New section 251(a) imposes a general duty to interconnect directly or indirectly between all telecommunications carriers and the duty not to install network features and functions that do not comply with the guidelines and standards established under new sections 255 and 256 of the Communications Act.

New section 251(b) imposes several duties on all local exchange carriers, including the "new entrants" into the local exchange market. These include the duties: (1) not to prohibit resale of their service; (2) to provide number portability; (3) to provide dialing parity; (4) to afford access to poles, ducts, conduits, and rights-of-way consistent with the pole attachment provisions in section 224 of the Communications Act; and (5) to establish reciprocal compensation arrangements for the transport and termination of traffic. The conferees note that the duties imposed under new section 251(b) make sense only in the context of a specific request from another telecommunications carrier or any other person who actually seeks to connect with or provide services using the LEC's network.

New section 251(c) imposes several additional obligations on incumbent LECs. These include the duties: (1) to negotiate in good faith, subject to the provisions of section 252, binding agreements to provide all of the obligations imposed in new sections 251(b) and 251(c); (2) to provide interconnection at any technically feasible point of the same type and quality it provides to itself, on just, reasonable, and nondiscriminatory terms and conditions; (3) to provide access to network elements on an unbundled basis; (4) to offer resale of its telecommunications services at wholesale rates; (5) to provide reasonable public notice of changes to its network; and (6) to provide physical collocation, or virtual collocation if physical collocation is not practical.

New section 251(d) requires the Commission to adopt regulations to implement new section 251 within 6 months, and states that nothing precludes the enforcement of State regulations that are consistent with the requirements of new section 251. New section 251(e) clarifies the Commission's authority for numbering administration. The costs for numbering administration and number portability shall be borne by all providers on a competitively neutral basis.

New section 251(f)(1) provides for the exemption of rural telephone companies from the requirements of new subsection (c) until a bona fide request is received that the State commission determines is not unduly economically burdensome, is technically feasible, and is consistent with the universal service provisions of new section 254, except the specific public interest determinations thereunder. The State commission receiving notice of a bona fide request must rule on it within 120 days and, if no exemption is granted, shall establish a schedule for compliance with the request. The exemption is not available where an incumbent cable operator makes a request to an incumbent telephone company providing video programming in the same service area, except where rural telephone companies offer video programming directly to subscribers on the date of enactment.

New section 251(f)(2) allows a local exchange carrier with less than 2% of the subscribed access lines nationwide to petition for a suspension or modification of the requirements under new sections 251(b) and 251(c) for the telephone exchange service facilities specified in the petition. The State commission shall grant the petition to the extent that it is necessary to avoid significant adverse impacts on consumers, imposing an undue economic burden or a technically infeasible requirement on the incumbent, and provided that the modification or suspension is in the public interest.

The approach of both the Senate bill and the House amendment assumed that Bell Operating Companies ("BOCs") would be required to continue to provide equal access and nondiscrimination to interexchange carriers and information service providers under those parts of the AT&T Consent Decree that would have remained in effect under either approach. Because the new approach completely eliminates the prospective effect of the AT&T Consent Decree, some provision is necessary to keep these requirements in place. By the same token, although not specifically addressed in either the Senate bill or the House amendment, some provision is also needed to ensure that the GTE Operating Companies that provide local exchange services continue to provide equal access and nondiscrimination to interexchange carriers and information service providers.

Accordingly, the conference agreement includes a new section 251(g). This section provides that, on and after the date of enactment, each local exchange carrier, to the extent that it provides wireline services, shall have a statutory duty to provide equal access and nondiscrimination to interexchange carriers and information service providers. In the interim, between the date of enactment and the date the Commission promulgate new regulations under this section, the substance of this new statutory duty shall be the equal access and nondiscrimination restrictions and obligations, including receipt of compensation, that applied to the local exchange carrier immediately prior to the date of enactment, regardless of the source. When the Commission promulgates its new regulations, the conferees expect that the commission will explicitly identify those parts of the interim restrictions and obligations that it is superseding so that there is no confusion as to what restrictions and obligations remain in effect. These interim restrictions and obligations shall be enforceable in the same manner as Commission regulations.

Even though the substance of the interim restrictions and obligations on the BOCs and GTE Operating Companies will be taken from the respective consent decrees, these restrictions and obligations shall not be enforceable under either consent decree because the provisions of section 601(a) of the bill eliminate the prospective effect of both consent decrees. The use of the provisions of the respective consent decrees to provide, on an interim basis, the substance of the new statutory duty in no way revives the consent decrees. In particular, the use of the provisions of the GTE consent decree relating to equal access and nondiscrimination on this interim basis should not be construed in any way as recreating or continuing the GTE Consent Decree's prohibition on GTE's or the GTE Operating Companies' entry into the interexchange market.

The old consent decree obligations no longer exist with respect to post-enactment conduct, and the new obligations flow only from the statute. These new statutory obligations shall be enforceable only through the means provided under law for the enforcement of Commission regulations. Nothing in this section should be construed as providing any authority for the enforcement of these statutory obligations under either of the consent decrees from which their substance will be taken. Nothing in this section should be construed as requiring any parties to renegotiate any agreements currently in existence unless the new Commission regulations under this section require such renegotiation.

New subsection 251(h) provides the definition of "incumbent local telephone carrier."

New subsection 251(i) makes clear the conferees' intent that the provisions of new section 251 are in addition to, and in no way limit or affect, the Commission's existing authority regarding interconnection under section 201 of the Communications Act.

NEW SECTION 252—PROCEDURES FOR NEGOTIATION, ARBITRATION, AND APPROVAL OF AGREEMENTS

Senate bill

Section 251(c) makes clear that a local exchange carrier may meet its section 251 interconnection obligations by negotiating and entering into a binding agreement that does not reflect the minimum standards listed in section 251(b). Each such negotiated interconnection agreement must include a schedule of itemized charges for each service, facility, or function included in the agreement, and must be submitted to a State under section 251(e).

Section 251(d) provides procedures under which any party negotiating an interconnection agreement may ask the State to participate in the negotiations and to arbitrate any differences arising in the negotiations. A

State may be asked to arbitrate at any point in the negotiations.

In addition to the possibility of arbitration by the State, section 251(d) provides a more formal remedy under which any party may petition the State to intervene in the negotiations. If issues remain unresolved more than 135 days after the date the local exchange carrier received the request to negotiate, any party to the negotiations may petition the State to intervene for the purpose of resolving any issues that remain open in the negotiation. Requests to the State to intervene must be made during the 25 day period that begins 135 days after the local exchange carrier received the negotiation request. The State is required to resolve any open issues and conduct its review of the agreement under section 251(e) not later than 10 months after the date the local exchange carrier received the request to negotiate. In resolving any open issues the solution imposed by a State must be consistent with the Commission's rules to implement this section, the minimum standards required under section 251(b) and the provisions of section 351(d)(6) with respect to any charges imposed.

Section 251(e) requires that any interconnection agreement under section 251 must be submitted to the State for approval. The State must approve or reject the agreement and make written findings as to any deficiencies in the agreement. An agreement successfully negotiated under subsection (c) by the parties without regard to the minimum standards set forth in section 251(b) may only be rejected if the State finds the agreement discriminates against a telecommunications carrier that is not a party to the agreement. The State may reject interconnection agreements negotiated under subsection (d) if the State finds the agreement does not meet the minimum standards set forth in subsection 251(b), or if the State finds that implementation of the agreement is not in the public interest.

Section 251(f) requires a State to make a copy of each agreement approved by the State under section 251(e) available for public inspection and copying within 10 days after the agreement is approved.

Section 251(g) requires a local exchange carrier to make available any service, facility, or function provided under an interconnection agreement to which that local exchange carrier is a party to any other telecommunications carrier that requests such service, facility, or function on the same terms and conditions as are provided in that agreement.

Section 251(i) provides that if a State fails to carry out its responsibilities under section 251 in accordance with the rules promulgated by the Commission, the Commission shall assume the responsibilities of the State in the applicable proceeding or matter.

House amendment

Section 244 of the House amendment requires, within eighteen months, an exchange carrier to file with the State commission in that State in which it is offering service, and with the Commission for interstate services, a statement of terms and conditions confirming that it is in compliance with the section 242 requirements.

Section 244(b)(1) provides for State commission review of an exchange carrier's statement and permits a State to impose its own intrastate service standards. Paragraph (2) requires the Commission to conduct a similar review. Under section 244(c), both reviews must be completed within 60 days of the submission of statements to the respective regulatory authorities, or simply be allowed to take effect, as commonly occurs at present with most tariffs. Section 244(c)(2) clarifies that the authority to review the statements does not terminate once they take effect.

Section 244(d) allows an exchange carrier to file an agreement as a statement of services under section 244(a). It also permits exchange carriers to enter into subsequent agreements on different terms and conditions, but with two caveats. First, the subsequent agreement must undergo the same review process, and second, it may not be discriminatory with respect to other agreements it has entered into.

Finally, subsection (e) sunsets the requirement of filing statements of terms and conditions once the local exchange market is deemed competitive.

Conference agreement

In new section 252(a), the House recedes to the Senate with an amendment to provide that any party may ask the State to participate during a voluntary negotiation period in the mediation of agreements. Agreements arrived at voluntarily do not need to meet the requirements of new section 251 (b) and (c).

The House recedes to the Senate on new section 252(b), with an amendment to clarify the role of a State commission in arbitrating and resolving agreements at the request of any of the parties.

New section 252(c) requires a State commission to ensure that any resolution of unresolved issues in a negotiation meets the requirements of new section 251 and any regulations to implement that section. To the extent that a State establishes the rates for specific provisions of an agreement, it must do so according to new section 252(d). In addition, a State must provide a schedule for implementation of the terms of the agreement.

New section 252(d) combines the pricing standards in the Senate bill and the House amendment. Charges for interconnection under new section 251(c)(2) and for network elements under new section 251(c)(3) are to be determined based on cost and may include a reasonable profit. Charges for transport and termination of traffic pursuant to new section 251(b)(5) are to be based on reciprocal compensation. The wholesale rate for resold telecommunications services under new section 251(c)(4) is to be determined by the State commission on the basis of the retail rate charged to subscribers of such telecommunications services, excluding costs that will be avoided by the incumbent carrier.

The House recedes to the Senate on new section 252(e). Agreements arrived at through voluntary negotiation or compulsory arbitration must be approved by the State commission under new section 252(e), which provides a specific timetable for State action, provides Commission authority to act if a State does not, and preserves State authority to enforce State law requirements in agreements approved under this section.

The Senate recedes to the House with an amendment to new section 252(f), which permits a BOC to file a statement of the terms and conditions under which it generally offers interconnection and access to network elements. Any such statement must be approved by the State commission.

New section 252(g) was included by the conferees to permit a State commission, to the extent practical, to consolidate certain proceedings required under the Communications Act to promote administrative efficiency.

New section 252(h) requires that all agreements or statements approved by a State commission be available from such commission for public inspection and copying.

New section 252(i) requires a local exchange carrier to make available on the same terms and conditions to any telecommunications carrier that requests it any interconnection, service, or network element that the local exchange carrier provides to any other party under an approved agreement or statement.

New section 252(j) states that the term "incumbent local exchange carrier" has the same meaning as that term has in new section 251(h).

NEW SECTION 253—REMOVAL OF BARRIERS TO ENTRY

Senate bill

Section 201(a) adds a new section 254 to the Communications Act and is intended to remove all barriers to entry in the provision of telecommunications services.

Subsection (a) of new section 254 preempts any State and local statutes and regulations, or other State and local legal requirements, that may prohibit or have the effect of prohibiting any entity from providing interstate or intrastate telecommunications services.

Subsection (b) of section 254 preserves a State's authority to impose, on a competitively neutral basis and consistent with universal service provisions, 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. States may not exercise this authority in a way that has the effect of imposing entry barriers or other prohibitions preempted by new section 254(a).

Subsection (c) of new section 254 provides that nothing in new section 254 affects the authority of States or local governments to manage the public rights-of-way or to require, on a competitively neutral and nondiscriminatory basis, fair and reasonable compensation for the use of public rights-of-way, on a nondiscriminatory basis, provided any compensation required is publicly disclosed.

Subsection (d) requires the Commission, after notice and an opportunity for public comment, to preempt the enforcement of any State or local statutes, regulations or legal requirements that violate or are inconsistent with the prohibition on entry barriers contained in subsections (a) or (b) of section 254.

Subsection (e) of new section 254 simply clarifies that new section 254 does not affect the application of section 332(c)(3) of the Communications Act to CMS providers.

Section 309 adds a new section 263 to the Communications Act and is intended to permit States to adopt certain statutes or regulations regarding the provision of service by competing telecommunications carriers in rural markets. Such statutes or regulations may be no more restrictive than the criteria set forth in section 309. The Commission is authorized to preempt any State statute or regulation that is inconsistent with the Commission's regulations implementing this section.

House amendment

The House provisions are identical or similar to subsections 254 (a), (b) and (c). The House amendment does not have a similar provision (d) requiring the Commission to preempt State or local barriers to entry, if it makes a determination that they have been erected.

Conference agreement

The conference agreement adopts the Senate provisions.

New section 253(b) clarifies that nothing in this section shall affect the ability of a State to safeguard the rights of consumers. In addition to consumers of telecommunications services, the conferees intend that this includes the consumers of electric, gas, water or steam utilities, to the extent such utilities choose to provide telecommunications services. Existing State laws or regulations that reasonably condition telecommunications activities of a monopoly utility and are designed to protect captive utility ratepayers from the potential harms caused by such activities are not preempted under this section. However, explicit prohibitions on entry by a utility into telecommunications are preempted under this section.

The rural markets provision in section 309 of the Senate bill is simplified and moved to this section. The modification clarifies that, without violating the prohibition on barriers to entry, a State may require a competitor seeking to provide service in a rural market to meet the requirements for designation as an eligible telecommunications carrier. That is, the State may require the competitor to offer service and advertise throughout the service area served by a rural telephone company. The provision would not apply if the rural telephone company has obtained an exemption, suspension, or modification under new section 251(f) that effectively prevents a competitor from meeting the eligible telecommunications carrier requirements. In addition, the provision would not apply to providers of CMS.

NEW SECTION 254—UNIVERSAL SERVICE

Senate bill

Section 103 of the bill establishes a Federal-State Joint Board to review existing universal service support mechanisms and make recommendations regarding steps necessary to preserve and advance this fundamental communications policy goal. Section 103 also adds a new section 253, entitled "Universal Service," to the Communications Act. As new section 253 explicitly provides, the Senate intends that States shall continue to have the primary role in implementing universal service for intrastate services, so long as the level of universal service provided by each State meets the minimum definition of universal service established under new section 253(b) and a State does not take any action inconsistent with the obligation for all telecommunications carriers to contribute to the preservation and advancement of universal service under new section 253(c).

Section 103(a) of the bill requires the Commission to institute a Federal-State Joint Board under section 410(c) of the Communications Act to recommend within 9 months of the date of enactment new rules regarding implementation of universal service.

Section 103(a) also provides that at least once every four years the Commission is required to institute a new Joint Board proceeding to review the implementation of new section 253 regarding universal service, and to make recommendations regarding any changes that are needed.

Section 103(b) of the bill requires the Commission to complete any proceeding to implement the recommendations of the initial Joint Board within one year of the date of enactment of the bill, any other Joint Board on universal service matters within one year of receiving such recommendations.

Section 103(c) of the bill simply clarifies that the amendments to the Communications Act made by the Senate bill do not necessarily affect the Commission's existing separations rules for local exchange or interexchange carriers. However, this subsection does not prohibit or restrict the Commission's ability to change those separations rules through an appropriate proceeding.

Section 103(d) establishes new section 253 in the Communications Act. New section 253(a) establishes seven principles on which the Joint Board and the Commission shall base policies for the preservation and advancement of universal service.

Subsection (b) of new section 253 provides that the Commission shall define universal service, based on recommendations from the public, Congress, and the Joint Board. To ensure that the definition of universal service evolves over time to keep pace with modern life, the subsection requires the Commission to include, at a minimum, any telecommunications service that is subscribed to by a substantial majority of residential customers.

Subsection (c) of new section 253 requires all telecommunications carriers to contribute on an equitable and nondiscriminatory basis to the preservation and advancement of universal service. The Commission or a State may require any other telecommunications provider, such as private telecommunications providers, to contribute to the preservation and advancement of universal service, if the public interest so requires.

Subsection (d) of new section 253 provides that a State may adopt additional definitions, mechanisms, and standards to preserve and advance universal service within such State, provided that they are not inconsistent with the regulations of the Commission. A State must adopt separate support mechanisms for any additional standards or definitions required by the State.

Subsection (e) of new section 253 provides that only telecommunications carriers that are designated as essential telecommunications carriers under new section 214(d) shall be eligible to receive support payments, if any, established by the Commission or a State to preserve and advance universal service. Any such support payment must accurately reflect the amount reasonably necessary to preserve and advance universal service.

Subsection (e) is not intended to prohibit support mechanisms that directly help individuals afford universal service.

Subsection (f) of new section 253 directs the Commission and the States to make universal service support explicit and to ensure that essential telecommunications carriers are able to provide universal service at just, reasonable and affordable rates. Carriers receiving such support must use it to provide service in the area for which the support was received.

Subsection (g) of new section 253 simply incorporates in the Communications Act the existing practice of geographic rate averaging and rate integration for interexchange, or long distance, telecommunications rates to ensure that rural customers continue to receive such service at rates that are comparable to those charged to urban customers. States shall continue to be responsible for enforcing this subsection with respect to intrastate interexchange services, so long as the State rules are not inconsistent with Commission rules and policies on rate averaging.

Subsection (h) of new section 253 prohibits telecommunications carriers from subsidizing competitive services with revenues from non-competitive services. The Commission and the States are required to establish any necessary cost allocation rules, accounting safeguards, and other guidelines to ensure that universal service bears no more than a reasonable share (and may bear less than a reasonable share) of the joint and common costs of facilities used to provide both competitive and noncompetitive services.

Subsection (i) of new section 253 requires the Commission to submit a report to Congress prior to increasing support for universal service or requiring increased participation by telecommunications carriers. Any such increase cannot take effect until 120 days after the report is submitted to Congress.

Subsection (j) of new section 253 states that nothing in new section 253 limits or expands the Commission's authority with respect to universal service.

Subsection (k) of new section 253 states that the subsections that provide that all telecommunications carriers shall contribute to universal service, preserve the States' authority to adopt their own definitions and mechanisms, establish eligibility for universal service support, and control the level of universal service support shall take effect one year after the date of enactment of this bill.

Section 310 of the Senate bill, known as the Snowe-Rockefeller-Exon-Kerrey Amendment, provides for preferential rates to schools, libraries and rural health care facilities.

House amendment

Section 247(a) establishes a Federal-State Joint Board, pursuant to section 410(c) of the Communications Act, for the purpose of recommending actions the Commission and the States should take to preserve universal service.

Section 247(b) sets forth six principles upon which the Board shall base its policies for the preservation of universal service.

Section 247(b)(1) states that any plan adopted should maintain just and reasonable rates. Section 247(b)(2) states that the Joint Board should recommend a definition of the nature and extent of services included within the carriers' obligations to provide universal service. Section 247(b) (3) and (4) state that the plan should provide adequate and sustainable support mechanisms and require equitable and non-discriminatory contributions from all providers to support the plan. The plan should also seek to promote access to advanced telecommunications services and reasonably comparable services between rural and urban areas. Section 247(b)(5) directs that the plan include recommendations to ensure access to advanced telecommunications services for students in elementary and secondary schools.

Section 247(c) requires the Joint Board, in defining carrier obligations with respect to universal service pursuant to subsection (b)(2), to consider several factors: (1) the extent to which a telecommunications service has been subscribed to by customers; (2) whether such service is essential to public health, safety, or the public interest; (3) whether such service is deployed in the public switched network; and (4) whether inclusion of such service is otherwise consistent with the public interest, convenience, and necessity.

Section 247(d) requires that the Joint Board be convened and report its recommendations within 270 days after enactment. The Commission is required to act on the recommendations within one year.

Section 247(e) makes clear that States are free to adopt regulations imposing universal service obligations on intrastate services.

Section 247(f) sunsets the Joint Board created by this section five years after enactment.

Conference agreement

The conference agreement amends the Communications Act to add a new section 254 entitled "Universal Service." The House recedes to the Senate with modifications. New section 254(a) incorporates the provisions of section 103(a) of the Senate bill, with the addition of a State-appointed utility consumer advocate to the Joint Board. The conferees intend that, in making its recommendations to the Commission, the Joint Board will thoroughly review the existing system of Federal universal service support.

To the extent possible, the conferees intend that any support mechanisms continued or created under new section 254 should be explicit, rather than implicit as many support mechanisms are today. In addition, the conferees do not view the existing proceeding under Common Carrier Docket 80–286 (regarding Amendment of Part 36 of the Commission's Rules and appointment of a Joint Board) as an appropriate foundation on which to base the proceeding required by new section 254(a).

New section 254(b) combines the principles found in both the Senate bill and the House amendment, with the addition of "insular areas" (such as the Pacific Island territories) and "low-income consumers" to the list of consumers to whom access to telecommunications and information services should be provided.

New section 254(c) defines universal service as "an evolving level of telecommunications services" established periodically by the Commission. The definition is to take into account advances in telecommunications and information technology, and should be based on a consideration of the four criteria set forth in the subsection. The Commission is given specific authority to alter the definition from time to time, and to provide a different definition for schools, libraries, and health care facilities.

New section 254(d) requires that all telecommunications carriers providing interstate telecommunications services shall contribute to the preservation and advancement of universal service. The Commission is given specific authority to exempt a telecommunications carrier or class of telecommunications carriers from this requirement if their contribution would be "de minimis." The conferees intend that this authority would only be used in cases where the administrative cost of collecting contributions from a carrier or carriers would exceed the contribution that carrier would otherwise have to make under the formula for contributions selected by the Commission. This section preserves the Commission's authority to require all providers of intestate telecommunications to contribute, if the public interest requires it, to preserve and advance universal service.

New section 254(e) provides that only eligible telecommunications carriers designated under new section 214(e) shall be eligible to receive specific Federal universal service support. Any eligible telecommunications carrier that receives such support shall only use that support to provide, maintain, and upgrade facilities and services for universal service in the area for which the support is received. In keeping with the conferees' intent that all universal service support should be clearly identified, this subsection states that such support should be made explicit and should be sufficient to achieve the purposes of new section 254. The conferees intend that only eligible telecommunications carriers should receive support from specific Federal universal service support mechanisms; however, this restriction should not be construed to prohibit any telecommunications carrier from using any particular method to establish rates or charges for its services to other telecommunications carriers, to the extent such rates or charges are otherwise permissible under the Communications Act or other law.

State authority with respect to universal service is specifically preserved under new section 254(f). A State may adopt any measure with respect to universal service that is not inconsistent with the Commission's rules. This subsection also requires all providers of intrastate telecommunications to contribute to universal service within a State in an equitable and non-discriminatory manner, as determined by the State. A State may adopt additional requirements with respect to universal service in that State, so long as those additional requirements do not rely upon or burden Federal universal service support mechanisms.

New section 254(g) is intended to incorporate the policies of geographic rate averaging and rate integration of interexchange services in order to ensure that subscribers in rural and high cost areas throughout the Nation are able to continue to receive both intrastate and interstate interexchange services at rates no higher than those paid by urban subscribers. The conferees intend the Commission's rules to require geographic rate averaging and rate integration, and to incorporate the policies contained in the Commission's proceeding entitled "Integration of Rates and Services for the Provision of Communications by Authorized Common Carriers between the United States Mainland and the Offshore Points of Hawaii, Alaska and Puerto Rico/Virgin Islands (61 FCC2d 380 (1976)). The conferees are aware that the Commission has permitted interexchange providers to offer non-averaged rates for specific services in limited circumstances (such as services offered under Tariff 12 contracts), and intend that the Commission, where appropriate, could continue to authorize limited exceptions to the general geographic rate averaging policy using the authority provided by new section 10 of the Communications Act. Further, the conferees expect that the Commission will continue to require that geographically averaged and rate integrated services, and any services for which an exception is granted, be generally available in the area served by a particular provider. In addition, the conferees do not intend that this subsection would require the renegotiation of existing contracts for the provision of telecommunications services.

New subsection 254(h) incorporates, with modifications, the provisions of section 310 of the Senate bill. New subsection (h) of section 254 is intended to ensure that health care providers for rural areas, elementary and secondary school classrooms, and libraries have affordable access to modern telecommunications services that will enable them to provide medical and educational services to all parts of the Nation.

The ability of K–12 classrooms, libraries and rural health care providers to obtain access to advanced telecommunications services is critical to ensuring that these services are available on a universal basis. The provisions of subsection (h) will help open new worlds of knowledge, learning and education to all Americans—rich and poor, rural and urban. They are intended, for example, to provide the ability to browse library collections, review the collections of museums, or find new information on the treatment of an illness, to Americans everywhere via schools and libraries. This universal access will assure that no one is barred from benefiting from the power of the Information Age.

New subsection (h)(1)(A) provides that any telecommunications carrier shall, upon a bona fide request, provide telecommunications services necessary for the provision of health care services to any health care provider serving persons who reside in rural areas. The rates charged for the service shall be rates that are reasonably comparable to rates charged for similar services in urban areas. It is intended that the rural health care provider receive an affordable rate for the services necessary for the purposes of telemedicine and instruction relating to such services.

New subsection (h)(1)(B) requires that any telecommunications carrier shall, upon a bona fide request, provide services for educational purposes included in the definition of universal service under new subsection (c)(3) for elementary and secondary schools and libraries at rates that are less than the amounts charged for similar services to other parties, and are necessary to ensure affordable access to and use of such telecommunications services.

A telecommunications carrier providing service under new subsection (h)(1)(B) is permitted either to have the amount of the discount treated as an offset to its obligation to contribute to the mechanisms to preserve and advance universal service; or, to receive reimbursement utilizing the support mechanisms to preserve and advance universal service.

Pursuant to new subsection (c)(3), the Commission is authorized to designate a separate definition of universal service applicable only to public institutional telecommunications users. In so doing, the conferees expect the Commission and the Joint Board to take into account the particular needs of hospitals, K–12 schools and libraries.

New subsection (h)(2) requires the Commission to establish rules to enhance the availability of advanced telecommunications and information services to public institutional telecommunications users. For example, the Commission could determine that telecommunications and information services that constitute universal service for classrooms and libraries shall include dedicated data links and the ability to obtain access to educational materials, research information, statistics, information on Government services, reports developed by Federal, State, and local governments, and information services which can be carried over the Internet. The Commission also is required to determine under what circumstances a telecommunications carrier may be required to connect public institutional telecommunications users to its network.

New subsection (h)(3) clarifies that telecommunications services and network capacity provided to health care providers, schools and libraries may not be resold or transferred for monetary gain.

New subsection (h)(4) specifies that the following entities are not eligible to receive discounted rates under this section: for-profit businesses, elementary and secondary schools with endowments of more than $50,000,000, and libraries that are not eligible to participate in Statebased applications for Library Services and Technology Funds.

New subsection (h)(5) defines the terms "elementary and secondary schools,"

"health care provider." and "public institutional telecommunications user" as used throughout this subsection. The conferees intend that consortiums of educational institutions providing distance learning to elementary and secondary schools be considered an educational provider for purposes of this section.

New subsection (i) states that the Commission and the States should ensure that universal service is available at rates that are just, reasonable and affordable.

New subsection 254(j) has been added to clarify that this section is not intended to alter the existing provision of Lifeline Service to needy consumers.

The House recedes to the Senate with minor technical modifications on new subsection 254(k), which prohibits cross-subsidization and permits the Commission and the States to establish cost allocation rules for facilities used in the provision of services supported through Federal universal support mechanisms.

NEW SECTION 255—ACCESS BY PERSONS WITH DISABILITIES

Senate bill

Section 308(a) of the Senate bill adds a new section 262 to the Communications Act to require that manufacturers of telecommunications equipment and customer premises equipment ensure that equipment is designed, developed, and fabricated to be accessible and usable by individuals with disabilities, if readily achievable.

Similarly, providers of telecommunications services must ensure that telecommunications services are accessible to and usable by individuals with disabilities, if readily achievable. In addition, the Commission is required to undertake a study of closed captioning and to promulgate rules to implement section 262. Section 308(b) adds a Commission study of video description.

Section 262(a) defines the terms used in this section.

New section 262(b) requires manufacturers of telecommunications and customer premises equipment to ensure that such equipment is designed, developed, and fabricated to be accessible to and usable by individuals with disabilities, if readily achievable.

New section 262(c) requires providers of telecommunications service to ensure that such service be accessible to and usable by individuals with disabilities, if readily achievable.

New section 262(d) requires that whenever the provisions of subsections (b) and (c) are not readily achievable, the manufacturer of telecommunications and customer premises equipment, or the provider of telecommunications service, shall ensure that such 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.

New section 262(e) requires the Architectural and Transportation Barriers Compliance Board ("Board") to develop guidelines for accessibility of telecommunications and customer premises equipment and telecommunication service, as lead agency in consultation with the National Telecommunications and Information Administration (NTIA) and the National Institute of Standards and Technology (NIST), within 1 year of enactment of this Act. The Board shall periodically review and update such guidelines. The Senate has elsewhere assigned responsibility for promulgating regulations for this new section to the Commission.

House amendment

Section 249(c) of section 101 directs the Commission within one year to establish regulations designed to make network capabilities and services accessible to individuals with disabilities. Section 249(d) prohibits private rights of action, and mandates that all remedies are available only through the Communications Act.

Conference agreement

The conferees adopt the Senate provisions with several modifications as a new section 255 of the Communications Act. Specifically, the conferees adopted the provisions of subsections (a), (b), (c), (d) and (e) of new section 262 of the Communications Act, as added by the Senate bill. The conferees deleted the provision in subsection (e) of the Senate bill creating roles for NTIA and NIST. In addition, the conferees adopted the provisions of section 249(d) of the House amendment, which states that nothing in this section authorizes any private rights of action. The remedies available under the Communications Act, including the provisions of sections 207 and 208, are available to enforce compliance with the provisions of section 255.

NEW SECTION 256—COORDINATION FOR INTERCONNECTIVITY

Senate bill

Section 107 of the Senate bill concerns the coordination for telecommunications network-level interoperability. The provision permits the Commission to participate, in a manner consistent with its authority and practice prior to the date of enactment of this Act in the development of voluntary industry standards-setting organizations to promote interoperability. The purpose of the provision is to promote nondiscriminatory access to telecommunications networks by the broadest number of users and vendors of communications products and services.

House amendment

Section 249(a) reaffirms the duty of all common carriers to ensure network functionality. Section 249(b) directs the Commission to establish procedures for Commission oversight of coordinated network planning by common carriers and other providers of telecommunications services. However, the Commission is not given authority to set standards for interconnection. Instead, voluntary industry standard-setting organizations shall establish any standards. The standard-setting process described in this provision applies to interconnection of the public's switched telecommunications networks. It is not intended to apply to telephone equipment or other customer premises equipment (CPE). Nothing in section 249(b) should be construed as limiting or superseding these interconnectivity requirements or the existing authority and responsibilities of the Commission in enforcing them.

Conference agreement

The conference agreement adopts the Senate provision with minor modifications as a new section 256 of the Communications Act.

NEW SECTION 257—MARKET ENTRY BARRIERS PROCEEDING

Senate bill

No provision.

House amendment

Section 250 requires the Commission to adopt rules that identify and eliminate market entry barriers for entrepreneurs and small businesses in the provision and ownership of telecommunications and information services. The Commission must review these rules and report to Congress every three years on how it might prescribe or eliminate rules to promote the purposes of this section.

Conference agreement

The conference agreement adopts the House provisions with minor modifications as a new section 257 of the Communications Act.

NEW SECTION 258—ILLEGAL CHANGES IN SUBSCRIBER CARRIER SELECTIONS

Senate bill

No provision.

House amendment

Section 251 requires the Commission to adopt rules to prevent illegal changes in subscriber selections, a practice known as "slamming." The Commission has adopted rules to address problems in the long distance industry of unauthorized changes of a consumer's long distance carrier. The House provision is designed to extend the protections of the current rule to local exchange carriers as well.

Conference agreement

The conferees adopt the House provision as a new section 258 of the Communications Act. It is the understanding of the conferees that in addition to requiring that the carrier violating the Commission's procedures must reimburse the original carrier for forgone revenues, the Commission's rules should also provide that consumers are made whole. Specifically, the Commission's rules should require that carriers guilty of "slamming" should be held liable for premiums, including travel bonuses, that would otherwise have been earned by telephone subscribers but were not earned due to the violation of the Commission's rules under this section.

NEW SECTION 259—INFRASTRUCTURE SHARING

Senate bill

Section 106(a) of the Senate bill requires that within one year of the date of enactment, the Commission shall prescribe rules requiring local exchange carriers that were subject to Part 69 of the Commission's rules on the date of enactment to share network facilities, technology, and information with qualifying carriers. The qualifying carrier may request such sharing for the purpose of providing telecommunications services or access to information services in areas where the carrier is designated as an essential telecommunications carrier under new section 214(d). The bill does not grant immunity from the antitrust laws for activities undertaken pursuant to this section.

Section 106(b) establishes the terms and conditions of the Commission's regulations. Such regulations shall:

(1) not require a local exchange carrier to take any action that is economically unreasonable or contrary to public interest;

(2) permit, but not require, joint ownership of facilities among local exchange carriers and qualifying carriers;

(3) ensure that the local exchange carrier not be treated as a common carrier for hire with respect to technology, information or facilities shared with the qualifying carrier under this section;

(4) ensure that qualifying carriers benefit fully from sharing;

(5) establish conditions to promote cooperation;

(6) not require a local exchange carrier to share in areas where the local exchange carrier provides telephone exchange service or exchange access service; and

(7) require the local exchange carrier to file with the Commission or State, any tariffs, contract or other arrangement showing

the rate, terms, and conditions under which such local exchange carrier is complying with the sharing requirements of this section.

Subsection (c) requires that local exchange carriers sharing infrastructure must provide information to sharing parties about deployment of services and equipment, including software.

Subsection (d) defines those carriers eligible to request infrastructure sharing under this section.

House amendment

No provision.

Conference agreement

The conference agreement adopts the Senate provisions as a new section 259 of the Communications Act.

NEW SECTION 260—PROVISION OF TELEMESSAGING SERVICE

Senate bill

Section 311 of the Senate bill adds a new section 265 to the Communications Act, to address certain practices of the BOCs with regard to telemessaging. This section is designed to prohibit cross-subsidization between a BOC's telephone exchange or exchange access services and its telemessaging services.

This section prohibits a BOC from discriminating between affiliated and nonaffiliated telemessaging services, under rules set forth by the Commission. If, however, the Commission finds that these safeguards are insufficient, the Commission may require the BOC's to provide telemessaging services through a separate subsidiary.

New section 265 directs the Commission to complete, within 18 months after the date of enactment of the bill, a rulemaking proceeding to prescribe regulations to carry out this new section. The Commission also is directed to determine whether, in order to enforce the requirements of section 265, it is appropriate to require the BOCs to provide telemessaging services through a separate subsidiary that meets the requirements of new section 252, as added to the Communications Act by section 102 of the bill.

House amendment

Section 273(b) prohibits discrimination by a telephone company in the provision of telemessaging services, either by refusing to provide its competitors with the same network services it provides itself, or by cross-subsidizing from its local telephone service.

Section 273(c) establishes procedures for expedited consideration of complaints of violations of subsection (b), requiring the Commission to make a final determination within 120 days after the receipt of a complaint. If a violation is found, the Commission is required to issue a cease and desist order within 60 days.

Section 601 establishes a new complaint procedure for violations of the Communications Act and Commission rules and regulations for providers of telemessaging service, or other small businesses providing information or telecommunications services. This section defines a small business as any business entity, including any affiliate or subsidiary, with fewer than 300 employees.

Conference agreement

The conference agreement creates a new section 260 in the Communications Act relating specifically to the provision of telemessaging services. This section prohibits local exchange carriers subject to new section 251(c) that are engaged in telemessaging from subsidizing their telemessaging services, either directly or indirectly, from telephone exchange service operations or revenues. It also prohibits such carriers from discriminating against nonaffiliated entities with respect to the terms and conditions of any network services they provide to their own telemessaging operations. This section requires the Commission to establish procedures or regulations thereunder for the expedited receipt and review of complaints alleging discrimination or cross-subsidization that result in material financial harm to providers of telemessaging services. Such procedures shall ensure that the Commission makes a determination regarding any such complaint within 120 days. If the complaint contains an appropriate showing that the alleged violation occurred, the Commission shall, within 60 days of receipt, order such local exchange carrier to cease engaging in such violation.

NEW SECTION 261—EFFECT ON OTHER REQUIREMENTS

Senate bill

The Senate bill contains several savings clauses.

House amendment

The House amendment contains several savings clauses.

Conference agreement

The conferees included new section 261 of the Communications Act to consolidate savings clauses found in both the Senate bill and the House amendment. New section 261(a) makes clear that the Commission may continue to enforce its existing regulations in fulfilling new part II of title II of the Communications Act, provided they are not inconsistent with that part. New sections 261(b) and (c) preserve State authority to enforce existing regulations and to prescribe additional requirements, so long as those regulations and requirements are not inconsistent with the Communications Act.

SECTION 102—ELIGIBLE TELECOMMUNICATIONS CARRIERS

Senate bill

Section 104 of the Senate bill amends section 214(d) of the Communications Act by designating the existing text of section 214(d) as paragraph (1) and by adding seven new paragraphs regarding designation of essential telecommunications carriers. The bill provides that the Commission shall designate essential telecommunications carriers for interstate services and the States shall designate such carriers for intrastate services.

New paragraph (2) of section 214(d) makes explicit the implicit authority of the Commission or a State to require a common carrier to provide service to any community or portion of a community that requests such service. In the event that more than one common carrier provides service in an area, and none of the carrier will provide service to a community or portion thereof in that area which requests service, this paragraph gives the Commission or a State the authority to decide which common carrier is best suited to provide such service. If the Commission or a State orders a carrier to provide service to a community or portion thereof under this paragraph, it shall designate such carrier an essential telecommunications carrier.

Paragraph (3) of section 214(d) provides that the Commission or a State may designate a common carrier as an essential telecommunications carrier for a particular service area, thus making that carrier eligible for support payments to preserve and advance universal service, if any such payments are established under new section 253 of the Communications Act. Any carrier designated as an essential telecommunications carrier must provide universal service and any additional services specified by the Commission or a State throughout the service area for which the designation is made. In addition, these services must be offered throughout that service area at nondiscriminatory rates established by the Commission or a State, and the carrier must advertise those rates using media of general distribution.

New paragraph (4) of section 214(d) allows the Commission to designate more than one common carrier as a communications carrier for a particular service area. In addition, the bill requires a State to make additional findings before designating more than one carrier as an essential telecommunications carrier.

To the extent that more than one common carrier is designated as an essential telecommunications carrier, each additional carrier so designated must meet the same requirements with respect to service throughout the same service area at nondiscriminatory rates established by the Commission or a State, as well as the advertisement of those rates.

New paragraph (5) of section 214(d) requires the Commission and States to establish rules governing the use of resale by a carrier to meet the requirements for designation as an essential telecommunications carrier, as well as rules to permit a carrier that has been designated as an essential telecommunications carrier to relinquish that designation so long as at least one other carrier also has been designated as an essential telecommunications carrier for that area. Paragraph (5) also requires the Commission and the States to provide appropriate rules to govern how quickly an essential telecommunications carrier whose services are to be resold may cease service to an area, in order to provide other essential telecommunications carriers adequate notice to extend facilities or to arrange for the purchase of replacement facilities or services.

New paragraph (6) of section 214(d) sets forth the penalties applicable to an essential telecommunications carrier with respect to a Commission or State order to provide universal service within a reasonable period of time. In determining what constitutes a reasonable period of time, the bill provides that the Commission or a State must consider the nature of the construction required to provide such service, the time interval that normally would attend such construction and the time needed to obtain regulatory or financial approval.

New paragraph (7) of section 214(d) of the Communications Act requires the Commission or a State to designate an essential telecommunications carrier for interexchange services for any unserved community or portion thereof that requests such service. An essential telecommunications carrier designated under this paragraph must provide service at nationwide geographically averaged rates, in the case of interstate services, and geographically averaged rates in the case of intrastate services. The Commission or a State may allow a carrier designated under this paragraph to receive support payments, if any, that may be provided under section 253.

New paragraph (8) of section 214(d) grants the Commission authority to promulgate guidelines for the States to implement this section.

House amendment

No provision.

Conference agreement

The House recedes to the Senate with an amendment. The conference agreement amends section 214 of the Communications Act by adding a new subsection (e) regarding the provision of universal service and the designation of carriers which are eligible to receive support through the specific Federal universal support mechanisms established under new section 254 of the Communications Act.

New section 214(e)(1) states that a common carrier designated as an "eligible telecommunications carrier" shall offer the services included in the definition of universal service throughout the area specified by the State commission, and that such services must be advertised generally throughout that area. Upon designation, a carrier is eligible for any specific support provided under new section 254 for the provision of universal service in the area for which that carrier is designated.

Upon its own motion or upon request, a State commission is required under new section 214(e)(2) to designate a common carrier that meets the requirements of new section 214(e)(1) as an eligible telecommunications carrier. If more than one common carrier that meets the requirements of new section 214(e)(1) requests designation as an eligible telecommunications carrier in a particular area, the State commission shall, in the case of areas not served by a rural telephone company, designate all such carriers as eligible. If the area for which a second carrier requests designation as an eligible telecommunications carrier is served by a rural telephone company, then the State commission may only designate an additional carrier as an eligible telecommunications carrier if the State commission first determines that such additional designation is in the public interest.

If no common carrier will provide universal service to a community or portion of a community that requests such service, new section 214(e)(3) makes explicit the implicit authority of the Commission, with respect to interstate services, and a State, with respect to intrastate services, to order a common carrier to provide such service. If more than one common carrier provides service in an area and none of those carriers will provide service to a community or portion thereof, this provision gives the Commission or a State the authority to decide which common carrier is best suited to provide service. Any carrier required to provide service under this paragraph shall be designated as an eligible telecommunications carrier under new section 214(e)(1) for the community or portion thereof such carrier is required to serve. For purposes of new section 214(e)(1), the conferees intend that the service area for a carrier designated by the Commission or a State under section 214(e)(3) shall be the community or portion thereof that requests service and for which that carrier is ordered to provide service.

New section 214(e)(4) establishes rules for the relinquishment by a carrier of its designation as an eligible telecommunications carrier. A state commission must permit an eligible telecommunications carrier to relinquish that designation if more than one eligible telecommunications carrier serves an area, and must require that the remaining eligible telecommunications carrier or carriers continue to offer universal service to all consumers in that area. The conferees note that a carrier must be permitted to relinquish the designation within one year after the State commission approves the request, and expect that the Commission and the States will adopt appropriate mechanisms to ensure that any additional carrier designated as an eligible telecommunications carrier will be able to acquire or construct any necessary facilities for that area within the time limit set in new section 214(e)(4).

New Section 214(e)(5) provides the definition of "service area," which in general is determined by a State commission.

SECTION 103—EXEMPT TELECOMMUNICATIONS COMPANIES

Senate bill

Sections 102 and 205 contained provisions pertaining to the entry by utility companies into telecommunications and related businesses, and exempting the telecommunications activities of registered holding companies from the Public Utility Holding Company Act (PUHCA).

House amendment

No provision.

Conference agreement

The conference agreement amends PUHCA to allow registered holding companies to divesify into telecommunications, information and related services and products. The Commission must determine that a registered holding company is providing telecommunications services, information services and other related services through a single purpose subsidiary, designated an "exempt telecommunications company" (ETC). Prior State approval is required before any utility that is associated with a registered holding company may sell to an ETC any asset in the retail rates of that utility as of December 19, 1995. State approval is also required for a contract when a public utility company seeks to purchase telecommunications products or services from an ETC that is an associate company or affiliate of such public utility unless the State or State commission waives such requirement.

The financing and other relationships between ETCs and registered holding companies shall not be subject to prior approval or other restriction by the Securities and Exchange Commission (SEC). However, the SEC shall continue to have jurisdiction to find violations of the federal securities laws (including PUHCA) and to bring enforcement actions related to such violations. The section provides reporting requirements concerning investments and activities of registered public utility holding company systems. Public utility companies are prohibited from assuming the liabilities of an ETC and from pledging or mortgaging the assets of a utility for the benefit of an ETC. State commissions may examine the books and records of the ETC and any public utility company, associate company or affiliate in the registered holding company system as they relate to the activities of the ETC. States may also order an audit of a public utility company that is an associate of an ETC. Nothing in this section affects the ability of the FCC or a State commission to regulate the activities of an ETC. Nothing in PUHCA shall preclude the rate review authority of the Federal Energy Regulatory Commission or a State commission with respect to purchases from or sale to an ETC.

The relevant portion of section 102 of the Senate bill is deleted from the conference agreement.

SECTION 104—NONDISCRIMINATION PRINCIPLE

Senate bill

Subsection 103(f) adds new section 253A to the Communications Act concerning exclusion of telecommunications services. New subsection (a) directs the Commission to prohibit any telecommunications carrier from excluding from its services any high-cost area, any rural location or any resident based on the person's income, provided that a carrier may exclude an area if the carrier demonstrates that there will be insufficient demand for the carrier to earn a return over the long term and that 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 service. New subsection (b) would direct the Commission to provide for public comment on the adequacy of the carrier's proposed service area.

House amendment

Section 201 of the House amendment adds new section 653(b)(1) to the Communications Act concerning safeguards on video platforms. Subparagraph (G) of that section prohibits 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 provides for public comments on the adequacy of the proposed service area on the basis of the standards.

Conference agreement

The conference agreement in section 104 amends section 1 of the Communications Act by adding a new provision to make clear that a purpose of the Communications Act is to make available service to all the people of the United States "without discrimination on the basis of race, color, religion, national origin, or sex." This amendment to section 1 applies to all entities covered by the Communications Act.

SUBTITLE B—SPECIAL PROVISIONS CONCERNING BELL OPERATING COMPANIES

SECTION 151—BELL OPERATING COMPANY PROVISIONS

Senate bill

The Senate bill creates new sections of the Communications Act with respect to special provisions applicable to BOCs.

House amendment

The House amendment creates new sections of the Communications Act with respect to special provisions applicable to BOCs.

Conference agreement

Section 151 of the conference agreement establishes a new "Part III" of title II of the Communications Act. Part III contains new sections 271–276 of the Communications Act with respect to special provisions applicable to BOCs.

NEW SECTION 271—BELL OPERATING COMPANY ENTRY INTO INTERLATA SERVICES

Senate bill

Section 221(a) of the Senate bill adds a new section 255 to the Communications Act. Subsection (a) of new section 255 establishes the general requirements for the three different categories of service: in region interLATA; out of region interLATA; and incidental services.

New section 255(b) establishes specific interLATA interconnection requirements that must be fully implemented in order for the Commission to provide authorization for a BOC to provide in region interLATA services. The Commission is specifically prohibited from limiting or extending the terms of the "competitive checklist" contained in subsection (b)(2). The competitive checklist is not intended to be a limitation on the interconnection requirements contained in

section 251, but rather, at a minimum, be provided by a BOC in any interconnection agreement approved under section 251 to which that company is a party (assuming the other party or parties to that agreement have requested the items included in the checklist) before the Commission may authorize the BOC to provide in region interLATA services.

Finally, section 255(b) includes a restriction on the ability of telecommunications carriers that serve greater than five percent of the nation's presubscribed access lines to jointly market local exchange service purchased from a BOC and interLATA service offered by the telecommunications carrier until such time as the BOC is authorized to provide interLATA services in that telephone exchange area or until three years after the date of enactment, whichever is earlier. New subsection 255(c) provides the process for application by a BOC to provide in region interLATA services, as well as the process for approval or rejection of that application by the Commission and for review by the courts. The application by the BOC must state with particularity the nature and scope of the activity and each product market or service market, as well as the geographic market for which in region interLATA authorization is sought. Within 90 days of receiving an application, the Commission must issue a written determination, after notice and opportunity for a hearing on the record, granting or denying the application in whole or in part. The Commission is required to consult with the Attorney General regarding the application during that 90 day period. The Attorney General may analyze a BOC application under any legal standard (including the Clayton Act, Sherman Act, other antitrust laws, section VIII(C) of the MFJ, Robinson-Patman Act or any other standard).

The Commission may only grant an application, or any part of an application, if the Commission finds that the petitioning BOC has fully implemented the competitive checklist in new section 255(b)(2), that the interLATA services will be provided through a separate subsidiary that meets the requirements of new section 252, and that the provision of the requested interLATA services is consistent with the public interest, convenience, and necessity. As noted earlier, the Commission is specifically prohibited from limiting or extending the terms used in the competitive checklist, and the Senate intends that the determination of whether the checklist has been fully implemented should be a straightforward analysis based on ascertainable facts. Likewise, the Senate believes that the Commission should be able to readily determine if the requested services will or will not be provided through a separate subsidiary that meets all of the requirements of section 252. Finally, the Senate notes that the Commission's determination of whether the provision of the requested interLATA services is consistent with the public interest, convenience, and necessity must be based on substantial evidence on the record as a whole.

Subsection (c) also requires a BOC which is authorized to provide interLATA services under this subsection to provide intraLATA toll dialing parity throughout the market in which that company is authorized to provide interLATA service. In the event that the Commission finds that the BOC has not provided the required intraLATA toll dialing parity, or fails to continue to provide that parity (except for inadvertent interruptions that are beyond the control of the BOC), then the Commission shall suspend the authorization to provide interLATA services in that market until that company provides or restores the required intraLATA toll dialing parity. Lastly, subsection (c) provides that a State may not order a BOC to provide intraLATA toll dialing parity before the company is authorized to provide interLATA services in that area or until three years after the date of enactment, whichever is earlier. However, this restriction does not apply to single LATA States or States that have ordered intraLATA toll dialing in that State prior to June 1, 1995.

BOC's (including any subsidiary or affiliate) are permitted under new section 255(d) to provide interLATA telecommunications services immediately upon the date of enactment of the bill if those services originate in any area in which that BOC is not the dominant provider of wireline telephone exchange service or exchange access service.

New subsection 255(e) establishes the rules for the provision by a BOC of in-region interLATA services that are incidental to the provision of specific services listed in paragraph (1) of subsection (e). This list of specific services is intended to be narrowly construed by the Commission. A BOC must first obtain authorization under new section 255(c) before it may provide any in region InterLATA services not listed in subsection (e)(1). In addition, the BOC may only provide the services specified in subparagraphs (C) and (D) of subsection (e)(1), which in general are information storage and retrieval services, through the use of telecommunications facilities that are leased from an unaffiliated provider of those services until the BOC receives authority to provide InterLATA services under subsection (c). Finally, subsection (e) requires that the provision of incidental services by the BOC shall not adversely affect telephone exchange ratepayers or competition in any telecommunications market. The Senate intends that the Commission will ensure that these requirements are met.

New section 255(f) provides that a BOC may provide interLATA service in connection with CMS upon the date of enactment.

The terms "interLATA," "audio programming services," "video programming services," and "other programming services" are defined in new section 255(g).

House amendment

Section 245 provides the method by which a BOC may seek entry to offer interLATA or long distance, service on a State-by-State basis. Section 245(a) provides that a BOC may file a verification of access and interconnection compliance anytime after six months after the date of enactment. The verification must include, under section 245(a)(1), a State certification of "openness" or the so-called "checklist" requirements, and under section 245(a)(2), either of the following pursuant to section 245(a)(2)(A), the presence of a facilities-based competitor; or pursuant to section 245(a)(2)(B), a statement of the terms and conditions the BOC would make available under section 244, if no provider had requested access and interconnection within three (3) months prior to the BOC filing under section 245. For purposes of section 245(a)(2)(B), a BOC shall not be considered to have received a request for access and interconnection if a requesting provider failed to bargain in good faith, as required under section 242(a)(8), or if the provider failed to comply, within a reasonable time period, with the requirements under section 242(a)(1) to implement the schedule contained in its access and interconnection agreement.

Section 245(b) sets out the "checklist" requirements that must be included in the State certification that the BOC files with the Commission as part of its verification. These checklist requirements include the following: (1) interconnection; (2) unbundling of network elements; (3) resale; (4) number portability; (5) dialing parity; (6) access to conduits and rights-of-way; (7) no State or local barriers to entry; (8) network functionality and accessibility; and (9) good faith negotiations by the BOC. Section 245(c)(1) sets out the Commission review process for interLATA authorization on a Statewide, permanent basis. Under section 245(c)(2), the Commission may conduct a *de nova* review only if a State commission lacks, under relevant State law, the jurisdiction or authority to make the required certification, fails to act within ninety (90) days of receiving a BOC request for certification, or has attempted to impose a term or condition that exceeds its authority, as limited in section 243. Under section 245(c)(3), the Commission has ninety (90) days to approve, disapprove, or approve with conditions the BOC request, unless the BOC consents to a longer period of time. Under Section 245(c)(4), the Commission must determine that the BOC has complied with each and every one of the requirements. As mandated in section 245(d), the Commission has continuing authority after approving a BOC's application for entry into long distance to review a BOC's compliance with the certification requirements under this section.

Section 245(f) prohibits a BOC from providing interLATA service, unless authorized by the Commission. Section 245(f) grandfathers any activity authorized by court order or pending before the court prior to the date of enactment. Section 245(g) creates exceptions for the provision of incidental services.

Section 245(g)(1) permits a BOC to engage in interLATA activities related to the provision of cable services. Section 245(g)(2) permits a BOC to offer interLATA services over cable system facilities located outside the BOC's region. Section 245(g)(3) allows a BOC to offer CMS, as defined in section 332(d)(1) of the Communications Act. Section 245(g)(4) allows a BOC to engage in interLATA services relevant to the provision of information services from a central computer. Section 245(g)(5) and (6) allow a BOC to engage in interLATA services related to signaling information integral to the internal operation of the telephone network.

Notwithstanding the dialing parity requirements of section 242(a)(5), as provided in section 245(i), a BOC is not required to provide dialing parity for intraLATA toll service ("short haul" long distance) before the BOC is authorized to provide long distance service in that State. Section 245(j) prohibits the Commission from exercising the general authority to forbear from regulation granted to the Commission under section 230 until five years after the date of enactment. Section 245(k) sunsets this section once the Commission and State commission, in the relevant local exchange market, determine that the BOC has become subject to full and open competition.

Conference agreement

The conference agreement adds a new section 271 to the Communications Act relating to BOC entry into the interLATA market. New section 271(b)(1) requires a BOC to obtain Commission authorization prior to offering interLATA services within its region unless those services are previously authorized, as defined in new section 271(f), or "incidental" to the provision of another service,

as defined in new section 271(g), in which case, the interLATA service may be offered after the date of enactment. New section 271(b)(2) permits a BOC to offer out-of-region services immediately after the date of enactment.

New section 271(c) sets out the requirements for a BOC's provision of interLATA services originating in an in-region State (as defined in new section 271(i)). In addition to complying with the specific interconnection requirements under new section 271(c)(2), a BOC must satisfy the "in-region" test by virtue of the presence of a facilities-based competitor or competitors under new section 271(c)(1)(A), or by the failure of a facilities-based competitor to request access or interconnection (under new section 251) as required under new section 271(c)(1)(B). This test that the conference agreement adopts comes virtually verbatim from the House amendment.

With respect to the facilities-based competitor requirement, the presence of a competitor offering the following services specifically does *not* suffice to meet the requirement: (1) exchange access; (2) telephone exchange service offered exclusively through the resale of the BOC's telephone exchange service; and (3) cellular service. The competitor must offer telephone exchange service either exclusively over its own facilities or predominantly over its own facilities in combination with the resale of another carrier's service.

This conference agreement recognizes that it is unlikely that competitors will have a fully redundant network in place when they initially offer local service, because the investment necessary is so significant. Some facilities and capabilities (*e.g.*, central office switching) will likely need to be obtained from the incumbent local exchange carrier as network elements pursuant to new section 251. Nonetheless, the conference agreement includes the "predominantly over their own telephone exchange service facilities" requirement to ensure a competitor offering service exclusively through the resale of the BOC's telephone exchange service does not qualify, and that an unaffiliated competing provider is present in the market.

The House has specifically considered how to describe the facilities-based competitor in new subsection 271(c)(1)(A). While the definition of facilities-based competition has evolved through the legislative process in the House, the Commerce Committee Report (House Report 104–204 part I) that accompanied H.R. 1555 pointed out that meaningful facilities-based competition is possible, given that cable services are available to more than 95% of United States homes. Some of the initial forays of cable companies into the field of local telephony therefore hold the promise of providing the sort of local residential competition that has consistently been contemplated. For example, large, well established companies such as Time Warner and Jones Intercable are actively pursuing plans to offer local telephone service in significant markets. Similarly, Cablevision has recently entered into an interconnection agreement with New York Telephone with the goal of offering telephony on Long Island to its 650,000 cable subscribers.

For purposes of new section 271(c)(1)(A), the BOC must have entered into one or more binding agreements under which it is providing access and interconnection to one or more competitors providing telephone exchange service to residential and business subscribers. The requirement that the BOC "is providing access and interconnection" means that the competitor has implemented the agreement and the competitor is operational. This requirement is important because it will assist the appropriate State commission in providing its consultation and in the explicit factual determination by the Commission under new section 271(d)(2)(B) that the requesting BOC has fully implemented the interconnection agreement elements set out in the "checklist" under new section 271(c)(2).

New section 271(c)(1)(B) also is adopted from the House amendment, and it is intended to ensure that a BOC is not effectively prevented from seeking entry into the interLATA services market simply because no facilities-based competitor that meets the criteria set out in new section 271(c)(1)(A) has sought to enter the market. The conference agreement stipulates that a BOC may seek entry under new section 271(c)(1)(B) at any time following 10 months after the date of enactment, provided no qualifying facilities-based competitor has requested access and interconnection under new section 251 by the date that is 3 months prior to the date that the BOC seeks interLATA authorization. Consequently, it is important that the Commission rules to implement new section 251 be promulgated within 6 months after the date of enactment, so that potential competitors will have the benefit of being informed of the Commission rules in requesting access and interconnection before the statutory window in new section 271(c)(1)(B) shuts.

New section 271(c)(2) sets out the specific interconnection requirements that comprise the "checklist" that a BOC must satisfy as part of its entry test.

New section 271(d), the conference agreement adopts the basic structure of the Senate bill concerning authorization of BOC entry by the Commission, with a modification to permit the BOC to apply on a State-by-State basis.

New section 271(d) sets forth administrative provisions regarding applications for BOC entry under this section. In making an evaluation, the Attorney General may use any appropriate standard, including: (1) the standard included in the House amendment, whether there is a dangerous probability that the BOC or its affiliates would successfully use market power to substantially impede competition in the market such company seeks to enter; (2) the standard contained in section VIII(C) of the AT&T Consent Decree, whether there is no substantial possibility that the BOC or its affiliates could use monopoly power to impede competition in the market such company seeks to enter; or (3) any other standard the Attorney General deems appropriate.

New section 271(e)(1) prohibits joint marketing of local services obtained from the BOC under new section 251(c)(4) and long distance service within a State by telecommunications carriers with more than five percent of the Nation's presubscribed access lines for three years after the date of enactment, or until a BOC is authorized to offer interLATA services within that State, whichever is earlier.

New section 271(e)(2) requires any BOC authorized to offer interLATA services to provide intraLATA toll dialing parity coincident with its exercise of that interLATA authority. States may not order a BOC to implement toll dialing parity prior to its entry into interLATA service. Any single-LATA State or any State that has issued an order by December 19, 1995, requiring a BOC to implement intraLATA toll dialing parity is grandfathered under this Act. The prohibition against "non-grandfathered" States expires three years after the date of enactment.

The conference agreement in new section 271(f) adopts the House provision grandfathering activities under existing waivers. Both the House and Senate bill included separate grandfather provisions for manufacturing in the manufacturing section. The conference agreement combines these separate provisions into one provision covering both interLATA services and manufacturing, and that provision is included in the interLATA section. Because of the new approach to the supersession of the AT&T Consent Decree described below, this section was modified to clarify that requests for waivers pending with the court on the date of enactment are no longer included within this section. Instead, only those waiver requests that have been acted on before the date of enactment will be included. All conduct occurring after the date of enactment will no longer be subject to the AT&T Consent Decree and will be subject to the Communications Act, as amended by the conference agreement.

New section 271(g) sets out the "incidental" interLATA activities that the BOCs are permitted to provide upon the date of enactment.

NEW SECTION 272—SEPARATE AFFILIATE; SAFEGUARDS

Senate bill

Section 102 of the Senate bill amends the Communications Act to add a new section 252 to impose separate subsidiary and other safeguards on certain activities of the BOCs. Section 102 requires that to the extent a BOC engages in certain businesses, it must do so through an entity that is separate from any entities that provide telephone exchange service. Subsection 252(b) spell out the structural and transactional requirements that apply to the separate subsidiary, section 252(c) details the nondiscrimination safeguards, section 252(d) requires a biennial audit of compliance with the separate subsidiary requirements, sections 252(e) imposes restrictions on joint marketing, and subsection 252(f) sets forth additional requirements with respect to the provision of interLATA services.

The activities that must be separated from the entity providing telephone exchange service include telecommunications equipment manufacturing and interLATA telecommunications services, except out-of-region and incidental services (not including information services) and interLATA services that have been authorized by the MFJ court. A BOC also would have to provide alarm monitoring services and certain information services through a separate subsidiary, including cable services and information services which the company was not permitted to offer before July 24, 1991. In a related provision, section 203 of the bill provides that a BOC need not use a separate affiliate to provide video programming services over a common carrier video platform if it complies with certain obligations.

Under section 252(e) of this section the BOC entity that provides telephone exchange service may not jointly market the services required to be provided through a separate subsidiary with telephone exchange service in an area until that company is authorized to provide interLATA service under new section 255. In addition, a separate subsidiary required under this section may not jointly market its services with the telephone exchange service provided by its affiliated BOC

entity unless such entity allows other unaffiliated entities that offer the same or similar services to those that are offered by the separate subsidiary to also market its telephone exchange services.

Additional requirements for the provision of interLATA services are included in new section 252(f). These provisions are intended to reduce litigation by establishing in advance the standard to which a BOC entity that provides telephone exchange service or exchange access service must comply in providing interconnection to an unaffiliated entity.

Section 252(g) establishes rules to ensure that the BOC protect the confidentiality of proprietary information they receive and to prohibit the sharing of such information in aggregate form with any subsidiary or affiliate unless that information is available to all other persons on the same terms and conditions. In general, a BOC may not share with anyone customer-specific proprietary information without the consent of the person to whom it relates. Exceptions to this general rule permit disclosure in response to a court order or to initiate, render, bill and collect for telecommunications services.

New subsection 252(h) provides that the Commission may grant exceptions to the requirements of section 252 upon a showing that granting of such exception is necessary for the public interest, convenience, and necessity. The Senate intends this exception authority to be used whenever a requirement of this section is not necessary to protect consumers or to prevent anti-competitive behavior. However, the Senate does not intend that the Commission would grant an exception to the basic separate subsidiary requirements of this section for any service prior to authorizing the provision of linterLATA service under section 255 by the BOC seeking the exception to a requirement of this section.

Public utility holding companies that engage in the provision of telecommunications services are required to do so through a separate subsidiary under new section 252(i). In addition, a State may require a public utility company that provides telecommunications services to do so through a separate subsidiary. The separate subsidiary for public utility holding companies is required to meet some, but not all, of the structural separation and nondiscriminatory safeguard provisions that are applicable to BOC subsidiaries. Section 252(i) provides that a public utility holding company shall be treated as a BOC for the purpose of those provisions of section 252 that subsection (i) applies to those holding companies.

Subsection (b) of section 102 requires the Commission to promulgate any regulations necessary to implement new section 252 of the Communications Act within nine months of the date of enactment of this bill. The subsection also provides that any separate subsidiary established or designated by a BOC for purposes of complying with new section 252(a) prior to the issuance of the regulations shall be required to comply with the regulations when they are issued.

Section 102(c) provides that the amendment to the Communications Act made by this section takes effect on the date of enactment of this bill.

House amendment

Section 246(a) creates a separate subsidiary requirement for the BOC provision of interLATA telecommunications or information services. Section 246(b) requires transactions between a BOC and its subsidiary to be on an arm's length basis. Sections 246(c) and (d) mandates fully separate operations and property, including books, records, and accounts between the BOC and its subsidiary. Sections 246(e) and (f) prohibit discrimination and cross-subsidies, respectively. Under section 246(k), this provision sunsets eighteen months after the date of enactment.

Conference agreement

The conference agreement adopts the Senate provisions with several modifications. New section 272 of the Communications Act does not contain the provision in the Senate bill requiring that alarm monitoring services, and the interLATA services that are incidental thereto, be provided through the separate affiliate required by this section. The conferees also accepted the provision in the House amendment that requires a separate affiliate for interLATA information services, other than electronic publishing and alarm monitoring, which permit a customer 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.

The conferees deleted the Senate provision providing for Commission exceptions to the requirements of this section. Instead, the conferees adopted a three year "sunset" of the separate affiliate requirement for interLATA services and manufacturing activities. The three year period commences on the date on which the BOC is authorized to offer interLATA services. In addition, the conference agreement provides that the separate affiliate requirement for interLATA information services "sunsets" four years after the date of enactment of the Telecommunications Act of 1996.

In any case, the Commission is given authority to extend the separate affiliate requirement by rule or order.

New section 272(g)(1) permits the separate affiliate required by this section to jointly market any of its services in conjunction with the telephone exchange services and other services of the BOC so long as the BOC permits other entities offering the same or similar services to sell and market the BOC's telephone exchange services.

New section 272(g)(2) permits a BOC, once it has been authorized to provide interLATA service pursuant to new section 271(d), to jointly market its telephone exchange services in conjunction with the interLATA service being offered by the separate affiliate in that State required by this section.

New section 272(g)(3) provides that the joint marketing authorized by new sections 272(g)(1) and (g)(2) does not violate the nondiscrimination safeguards in new subsection (e).

NEW SECTION 273—MANUFACTURING BY BELL OPERATING COMPANIES

Senate bill

Section 222 of the Senate bill adds a new section 256 to the Communications Act to remove the restrictions on manufacturing imposed by the MFJ on the BOCs under certain conditions, and allows those companies to engage in manufacturing subject to certain safeguards.

New section 256(a) permits a BOC, through a separate subsidiary that meets the requirements of new section 252, to engage in the manufacture and provision of telecommunications equipment and the manufacture of customer premises equipment (CPE) as soon as that company receives authorization to provide in region interLATA services under new section 255(c).

Subsection (b) of new section 256 requires that a BOC engaged in manufacturing may only do so through a separate subsidiary that meets the requirements of new section 252.

New section 256(c) requires that a BOC make available to local exchange carriers telecommunications equipment and any software integral to that equipment that is manufactured by the BOC's affiliate under certain conditions. The manufacturing subsidiary has the obligation to sell telecommunications equipment to an unaffiliated local telephone exchange carrier. This obligation may only be enforced on the manufacturing subsidiary if the local telephone company either does not manufacture equipment (by itself or through an affiliated entity), or it agrees to make available to the BOC any telecommunications equipment (including software integral to such equipment) that the local telephone company manufactures (by itself or through an affiliated entity) without discrimination or self-preference as to price, delivery, germs, or conditions.

In addition, subsection (c) prohibits a BOC from discriminating with respect to bids for services or equipment, establishing standards or certifying equipment, or the sale of telecommunications equipment and software. A BOC and any entity that the company owns or controls also is required to protect any proprietary information submitted to it with contract bids or with respect to establishing standards or certifying equipment, and may not release that information to anyone unless specifically authorized to do so by the owner of the proprietary information.

New section 256(d) permits a BOC or its subsidiaries or affiliates to engage in close collaboration with any manufacturer of customer premises equipment or telecommunications equipment not affiliated with the BOC during the design and development of hardware, software, equipment.

Subsection (e) requires the Commission to prescribe regulations to require each BOC to file information concerning technical requirements concerning its telephone exchange facilities.

Subsection (f) of new section 256 simply authorizes the Commission to prescribe such additional rules and regulations as the Commission determines necessary to carry out the provisions and purposes of section 256.

Administration and enforcement of new section 256 are provided for in subsection (g) of that section. Paragraph (1) of new subsection 256(g) makes clear that the Commission has the same authority, power, and functions with respect to the BOC as it has with respect to enforcement or administration of title II for any other common carrier subject to the Communications Act. Paragraph (2) allows any injured party by an act or omission of the BOC or its manufacturing subsidiary which violates the requirements of new section 256 to bring a civil action in any U.S. District Court to recover the full amount of any damages and to obtain any appropriate court order to remedy the violation. In the alternative, the party may seek relief from the Commission pursuant to sections 206 through 209 of the Communications Act.

New section 256(h) makes clear that nothing in new section 256 is intended to change the status of Bell Communications Research (Bellcore). Subsection (h) specifically states that nothing in this section permits Bellcore or any successor entity that is jointly owned by any of the BOCs to manufacture or provide telecommunications equipment or manufacture CPE.

Subsection (b) of section 222 of the bill permits the BOCs to continue to engage in activities in which they were authorized to engage prior to the date of enactment of the bill.

House amendment

Section 271(a) allows a BOC to engage in equipment manufacturing when the Commission has approved verifications that a parent BOC, and each BOC within the parent company's region, are in compliance with the access and interconnection requirements of section 242. A BOC may engage in manufacturing only through a separate subsidiary for the first eighteen months after it is authorized.

Section 271(b) allows a BOC to engage in close collaboration with manufacturers during the design and development of hardware and software. Notwithstanding subsection (a), a BOC may engage in research and enter royalty agreements.

Section 271(c) requires a BOC to file at the Commission all protocol and technical requirements relating to connection with and proposed changes to the network. The BOCs must provide access to this information on a non-discriminatory basis.

Section 271(d) prohibits Bell Communications Research, or "Bellcore," from engaging in manufacturing so long as Bellcore is owned by one or more BOC or is involved in equipment standard setting or product certification activities.

Section 271(e) requires BOCs to make equipment procurement decisions based on objective commercial criteria, such as price, quality, delivery, and other commercial factors.

Section 271(e)(2) prohibits each BOC from restricting sales to any other local telephone company. Section 271(e)(3) requires that the proprietary information which vendors share with BOCs as their transactions are carried out is protected from release not specifically authorized by the owner of such information.

Section 271(f) provides the Commission with the same enforcement authority with respect to a BOC as with any common carrier.

Section 271(g) grandfathers all previously authorized manufacturing related activities.

Conference agreement

The conference agreement adopts the Senate provisions with modifications as a new section 273 of the Communications Act. The agreement permits a BOC to engage in manufacturing after the Commission authorizes the company to provide interLATA services under new section 271(d) in any in-region State. A BOC and its affiliates may not engage in manufacturing in conjunction with another unaffiliated BOC or any of its affiliates. BOCs may engage in research and enter royalty agreements.

The conference agreement includes provisions governing a standards-setting organization such as Bellcore. Additionally, the overall intent of establishing a dispute resolution provision, as contained in new subsection 273(d)(5), is to enable all interested parties to influence the final resolution of the dispute without significantly impairing the efficiency, timeliness, and technical quality of the activity.

Further, under new section 273, a BOC may not discriminate in favor of equipment produced or supplied by an affiliate for the duration of a requirement for a manufacturing separate subsidiary under this Act. Each BOC shall make procurement decisions on the basis of an objective assessment of price, quality, delivery, and other commercial factors.

NEW SECTION 274—ELECTRONIC PUBLISHING BY BELL OPERATING COMPANIES

Senate bill

The Senate bill included electronic publishing in the provisions applicable to information services under the separate affiliate requirements of section 252 of the Senate bill.

House amendment

Section 272 sets forth regulatory requirements for BOC participation in electronic publishing. Subsection (a) of this section states generally that a BOC or any affiliate may only engage in electronic publishing through a separate affiliate or an electronic publishing joint venture.

Subsection (b)(1) requires the separate affiliate or electronic publishing joint venture to maintain books, records, and accounts separately from those of the BOC. Under subsection (b)(2), the affiliate is prohibited from incurring debt in a manner that would permit a creditor upon default to have recourse to the assets of the BOC. Subsections (b)(3) and (b)(4) govern the manner in which transactions by the affiliate must be carried out, so as to ensure that they are fully auditable. These subsections also govern the valuation of assets transferred to the affiliate to prevent cross subsidies. Subsection (b)(5) prohibits the affiliate and the BOC from having corporate officers or property in common.

Under subsection (b)(6), the affiliate is prohibited from using the name or trademarks of the affiliated BOC except where used in common with the entity that owns or controls the BOC. Subsection (b)(7) prohibits a BOC from performing a number of activities on behalf of the affiliate, including the hiring or training of personnel, the provision of equipment, and research and development (R&D). Subsection (b)(8) and (b)(9) require the separate affiliate to have an annual compliance review performed for five years and to file a report of any exceptions and the corrective action taken. These reviews are to be conducted by an independent entity.

Subsection (c)(1) prohibits a BOC from engaging in joint marketing of any promotion, marketing, sales or advertising with its affiliate, with certain exceptions. Subsection (c)(2) permits three types of joint activities between a BOC and its electronic publishing affiliate, under specified conditions. Subsection (c)(2)(A) permits a BOC to provide inbound telemarketing or referral services related to the provision of electronic publishing, if the BOC provides the same service on the same terms and conditions, and prices to non-affiliates as to its affiliates. The term "inbound telemarketing or referral services" is defined in subsection (i)(7) to mean "the marketing of property, goods, or services by telephone to a customer or potential customer who initiated the call." Subsection (c)(2)(B) permits a BOC to engage in nondiscriminatory teaming or business arrangements. Subsection (c)(2)(C) permits a BOC to participate in electronic publishing joint ventures, provided that the BOC or affiliate has not more than a 50% (or for small publishers, 80%) direct or indirect equity interest in the publishing joint venture.

Subsection (d) provides that a BOC that enters the electronic publishing business through a separated affiliate or joint venture must provide network access and interconnection to electronic publishers at just and reasonable rates that are not higher on a per-unit basis than those charged to any other electronic publisher or any separated affiliate engaged in electronic publishing. Subsection (e) entitles a person claiming a violation of this section to file a complaint with the Commission or to bring a suit as provided in section 207 of the Communications Act. The BOC, affiliate, or separate affiliate is liable for damages for any violation found, unless it is discovered first through the internal compliance review process and corrected within 90 days of such discovery. A person may apply for a cease and desist order, or apply to a district court of the United States for an injunction. Subsection (f) requires separated affiliates to file annual reports with the Commission similar to Form 10-K. Subsection (g)(1) gives the BOC one year from the date of enactment to comply with the requirements of this section. Subsection (g)(2) provides that the provisions of this section cease to apply after June 30, 2000.

Conference agreement

The conference agreement adopts the House provisions with modifications as a new section 274 of the Communications Act. Subsection (b)(6) of the House provisions, relating to use of trademarks, was modified to make it clear that the separate affiliate or electronic publishing joint venture may not use for marketing the name, trademarks, or service marks of an existing BOC except for names, trademarks, or service marks that are owned by the entity that owns or controls the BOC. Subsection (g)(2) was modified so that the sunset date will be four years after the date of enactment rather than June 30, 2000.

NEW SECTION 275—ALARM MONITORING SERVICES

Senate bill

Section 225 of the Senate bill adds a new section 258 to the Communications Act authorizing a BOC to provide alarm monitoring services four years after the date of enactment if the BOC has been authorized by the Commission to provide in-region interLATA service unless the Commission finds that such provision is not in the public interest. It requires the Commission to establish rules governing the provision of alarm services by a BOC. It provides for expedited consideration of complaints and allows the Commission to use title V remedies.

The one exception to this general rule is contained in section 258(f). It provides that the limitations of subsections (a) and (b) do not apply to any alarm monitoring services provided by a BOC that was in that business as of June 1, 1995, as long as certain conditions specified in that subsection are met.

House amendment

Section 273(a) prohibits a BOC from offering alarm service until six (6) years after the date of enactment, unless a BOC was already providing such service on January 1, 1995.

Section 273(b) prohibits discrimination by a telephone company in the provision of alarm services, either by refusing to provide its competitors with the same network services it provides itself, or by cross-subsidizing from its local telephone service.

Section 273(c) establishes procedures for expedited consideration of complaints of violations of subsection (b), requiring the Commission to make a final determination within 120 days after the receipt of a complaint. If a violation is found, the Commission is required to issue a cease and desist order within 60 days.

Conference agreement

The conference agreement adopts the House provisions with modifications as a new section 275 of the Communications Act. The prohibition on BOC entry is shortened to 5 years. The grandfather provision is modified to clarify that new subsection (a) does

not prohibit or limit the provision, directly or through an affiliate, of alarm monitoring services by a BOC that was engaged in providing alarm monitoring services as of November 30, 1995, directly or through an affiliate. However, such a BOC may not acquire an equity interest in or obtain financial control of any unaffiliated alarm monitoring services entities from November 30, 1995, until five years after the date of enactment. This section further provides that nothing in the language prohibiting acquisitions or control should be construed to prevent the exchange of customer accounts and related assets with unaffiliated alarm monitoring services entities.

The House nondiscrimination provisions are adopted with the clarification that they apply to incumbent local exchange carriers rather than all common carriers. The House provisions on expedited consideration of complaints are adopted with the clarification that they apply to incumbent local telephone carriers rather than all common carriers. The Senate provisions on the use of data by local exchange carriers are adopted with the clarification that they apply to all local exchange carriers. The House definition of "alarm monitoring service" is adopted with the clarification that the definition applies to the transmission of signals by means of the facilities of any local exchange carrier rather than just those of a BOC.

NEW SECTION 276—PROVISION OF PAYPHONE SERVICES

Senate bill

Section 311 of the Senate bill adds a new section 265 to the Communications Act, to address certain practices of the BOCs with regard to telemessaging and payphone services. This section is designed to prohibit cross-subsidization between a BOC's telephone exchange or exchange access services and its payphone and telemessaging services. Existing joint-cost rules are not adequate to prevent such activities.

This section prohibits a BOC from discriminating between affiliated and nonaffiliated payphone and telemessaging services, under rules set forth by the Commission. If, however, the Commission finds that these safeguards are insufficient, the Commission may require the BOCs to provide telemessaging services through a separate subsidiary.

New section 265 directs the Commission to complete, within 18 months after the date of enactment of the bill, a rulemaking proceeding to prescribe regulations to carry out this new section. The Commission also is directed to determine whether, in order to enforce the requirements of section 265, it is appropriate to require the BOCs to provide payphone service or telemessaging services through a separate subsidiary that meets the requirements of new section 252.

Payphone services are defined to include the provision of telecommunications service through public or semipublic pay telephones, and includes the provision of inmate phone service in correctional institutions. Semipublic payphones are also included within the definition of payphone services.

New section 265 prohibits the BOCs from cross-subsidizing and from preferring or discriminating in favor of their own payphone operations. The Commission is directed to conduct rulemaking proceedings to implement new section 265.

Nothing in section 265 is intended to limit the authority of the commission to address these structural issues, or other payphone related issues, under the existing provisions of the Communications Act.

House amendment

Section 274 directs the Commission to adopt rules that eliminate all discrimination between BOC and independent payphones and all subsidies or cost recovery for BOC payphones from regulated interstate or intrastate exchange or exchange access revenue. The BOC payphone operations will be transferred, at an appropriate valuation, from the regulated accounts associated with local exchange services to the BOC's unregulated books. The Commission's implementing safeguards must be at least equal to those adopted in the Commission's *Computer III* proceedings. In place of the existing regulatory structure, the Commission is directed to establish a new system whereby all payphone service providers are fairly compensated for every interstate and intrastate call made using their payphones, including, for example, "toll-free" calls to subscribers to 800 and new 888 services and calls dialed by means of carrier access codes. In crafting implementing rules, the commission is not bound to adhere to existing mechanisms or procedures established for general regulatory purposes in other provisions of the Communications Act.

Section 274(b)(1)(D) also makes it possible for independent payphone service providers, as well as BOCs, in all jurisdictions, to select the intraLATA carriers service their payphones. However, existing contracts and agreements between location providers and payphone service providers, interLATA, or intraLATA carriers are grandfathered. Location providers prospectively also have control over the ultimate choice of interLATA and intraLATA carriers in connection with their choice of payphone service providers.

Section 274(b)(2) directs the Commission to determine whether it is necessary to support the maintenance of "public interest payphones." This term refers to payphones at locations where payphone service would not otherwise be available as a result of the operation of the market. Thus, the term does not apply to a payphone located near other payphones, or to a payphone that, even though unprofitable by itself, is provided for a location provider with whom the payphone provider has a contract.

Section 274(c) authorizes the Commission to preempt State regulations that are inconsistent with the commission's regulations under section 274.

Conference agreement

The conference agreement adopts the House provision with some modifications and a clarification as a new section 276 of the Communications Act. The conferees added to subsection (b)(1)(D) the phrase "unless the Commission determines in the rulemaking that it is not in the public interest." This modification would allow the Commission, if it determines that it is in the public interest, *not* to allow the BOCs to have the same rights as independent payphone providers in negotiating with the interLATA carriers for their payphones. In addition, the conferees clarify in subsection (b)(1)(E) that the location provider has the ultimate decision-making authority in determining interLATA services in connection with the choice of payphone providers.

TITLE II—BROADCAST SERVICES

SECTION 201—BROADCASTER SPECTRUM FLEXIBILITY

Senate bill

If the Commission, by rule, permits a licensee to provide advanced television services, subsection (a) of section 207 of the Senate bill requires the Commission to adopt rules to permit broadcasters flexibility to use the advanced television spectrum for ancillary or supplementary services. The broadcaster must provide at least one free, over-the-air advanced television broadcast service on that spectrum. Similar rules for existing broadcast spectrum must also be adopted.

Paragraph (2) requires that if the licensee offers ancillary or supplementary service for which payment of a subscription fee is required, or is compensated for transmitting material furnished by a third party, then the Commission will collect an annual fee from the licensee. The fee shall be based, in part, on the licensee's total amount of spectrum, and the amount of spectrum used and the amount of time the spectrum is used for those ancillary and supplementary services. The fee, however, cannot exceed the amount, on an annualized basis, paid by licensees providing competing services on spectrum subject to auction.

Paragraph (3) states that licensees are not relieved of their public interest requirements. Paragraph (4) defines "advanced television services" as a television service using digital or other advanced technology to enhance audio quality and visual resolution. The paragraph also defines "existing" spectrum as that spectrum used for television broadcast purposes as of the date of enactment.

House amendment

Section 301 of the House amendment directs the Commission, if the Commission issues licenses for advanced television services, to limit the initial eligibility for such licenses to incumbent broadcast licensees and permittees and authorizes the Commission to adopt regulations that would permit broadcasters to use such spectrum for ancillary or supplementary services. Apart from the restrictions contained herein, this section leaves the final determination of the uses of spectrum assigned to the broadcasters. This section restricts any potential use of spectrum apart from the main channel signal to "ancillary and supplementary" uses, provided 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.

Paragraph (b)(2) requires the Commission to prescribe regulations that avoid the derogation of any advanced television services, including high definition television (HDTV) services.

Paragraph (b)(3) clarifies the regulation of ancillary and supplementary services. It requires that Commission regulations that are applicable to such services be applicable to the offering of analogous services by any other person. This section, however, specifically does not confer "must carry" status on any of these ancillary or supplementary services.

Paragraph (b)(4) requires the Commission to adopt any technical or other requirements necessary to assure signal quality for ATV services and provides, inter alia, that the Commission may review and update its requirements concerning minimum broadcast hours for television broadcasters for both NTSC and ATV services.

Subsection (c) provides that if the Commission issues licenses for advanced television services, it shall precondition such issuance on the requirement that one or the other of the licenses be surrendered to the Commission pursuant to its regulations. Subsection (c) also requires that any license surrendered must be reassigned through

competitive bidding. This provision is designed to ensure that licensees' use of 12 megahertz would be for temporary simulcast purposes only, and that, in due course, one of the licensed channels will revert to the Commission for assignment by competitive bidding. Subsection (c) also requires that the Commission must base its decision regarding the surrender of the license on public acceptance of the new technology through obtaining television receivers capable of receiving an ATV signal or on the potential loss of reception for a substantial portion of the public.

Subsection (d) requires the Commission to establish a fee program for any ancillary or supplementary services if subscription fees or any other compensation fees apart from commercial advertisements are required in order to receive such services.

Subsecion (e) requires the Commission to conduct an evaluation within 10 years after the date it issues its licenses for advanced television services.

In subsection (f), the House adopts the Commission's definition of high definition television

Conference agreement

The conference agreement adopts the House amendment with modifications. The conference agreement retains the requirement in the House amendment that the Commission condition the issuance of a new license of the return, after some period, of either the original broadcast license or the new license. However, the conference agreement leaves to the Commission the determination of when such licenses shall be returned and how to reallocate returned spectrum. With respect to paragraph (b)(3), the conferees do not intend this paragraph to confer must carry status on advanced television or other video services offered on designated frequencies. Under the 1992 Cable Act, that issue is to be the subject of a Commission proceeding under section 614(b)(4)(B) of the Communications Act. Further, the conference agreement also adopts the Senate language that the Act's public interest obligations extend to the new licenses and services. The conference agreement modifies the House amendment to provide that if the Commission decides to issue additional licenses for ATV services, it should limit the initial eligibility to broadcast licensees.

SECTION 202—BROADCAST OWNERSHIP

Senate bill

Section 207(b) of the Senate bill requires the Commission to change its rules regarding the amount of national audience a single broadcast licensee may reach. The current cap is 25% of the nation's television households. The Senate bill raises that to 35%. Section 207 directs the Commission to eliminate its rules regarding the number of radio stations one entity may own, either nationally or within a particular market. The Commission may refuse a transfer of a radio license if it would result in an undue concentration of control or would thereby harm competition. Section 207(b)(3) grandfathers existing television local marketing agreements (LMAs). Section 207(b)(4) eliminates the cable-broadcast crossownership ban in section 613(a) of the Communications Act, and the Commission is also required to review its ownership rules biennially, as part of its overall regulatory review required by new section 259 of the Communications Act. This provision is effective upon enactment.

House amendment

Section 302 of the House amendment adds a new section 337 to the Communications Act addressing broadcast ownership. Section 337, subject to specified restrictions and consistent with the cross-ownership restrictions of section 613(a) of the Communications Act, prohibits the Commission from prescribing or enforcing any regulation which prohibits or limits, on a national or local basis, a licensee from holding any form of ownership or other interest in two or more broadcast stations or in a broadcast station and any other medium of mass communication. This section also prohibits the Commission from prescribing or enforcing any regulation which prohibits a person or entity from owning, operating, or controlling two or more networks of broadcast stations or from owning, operating, or controlling a network of broadcast stations and any other medium of mass communications. Section 337(b)(1) eliminates current limits placed on television audience nationwide and places new limits on ownership of television stations by a single entity at a national audience reach exceeding 35 percent for the year following enactment of this section. This section directs the Commission to conduct a study of the operation of these national ownership limitations and to submit a report to Congress on the development of competition in the television marketplace and the need, if any, to revisit these limitations.

Section 337(b)(2) sets forth the circumstances under which one entity may own or operate two television stations in a local market. Subparagraph (B) creates a presumption in favor of UHF/UHF and UHF/VHF combinations. Subparagraph (C) clarifies that the Commission may also permit VHF/VHF combinations where it determines that doing so will not harm competition and diversity.

Subsection (c) permits the Commission, under certain circumstances, to consider concentrations of local media interests in proceedings to grant, renew or authorize the assignment of station licenses. 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 non-broadcast media of mass communication would result in an undue concentration of media voices in the respective local market. The Commission shall not grant applications that would result in two or fewer persons or entities controlling all the media of mass communications in the market. There is no requirement that any existing interests be divested, but the Commission may condition the grant of an application to acquire additional media interests.

Subsection (d) clarifies that any Commission rule prescribed prior to the date of enactment of this legislation that is inconsistent with the requirements of this section is repealed on the date of enactment. Nothing in subsection (d) is to be construed to prohibit the continuation or renewal of any television local marketing agreement in effect on the date of enactment.

Conference agreement

Section 202(a) of the conference agreement directs the Commission to modify its multiple ownership rules to eliminate its limitations on the number of radio stations which may be owned or controlled nationally. New subsection (b) directs the Commission to further modify its rules with respect to the radio stations a party may own, operate or control in a local market. Subsection (b)(2) provides an exception to the local market limits, where the acquisition or interest in a radio station will result in an increase in the number of radio stations.

Subsection 202(c)(1) directs the Commission to modify its multiple ownership rules to eliminate the number of television stations which may be owned or controlled nationally and to increase the national audience reach limitation for television stations to 35 percent. Subsection (c)(2) directs the Commission to conduct a rulemaking proceeding to determine whether its rules restricting ownership of more than one television station in a local market should be retained, modified or eliminated. It is the intention of conferees that, if the Commission revises the multiple ownership rules, it shall permit VHF–VHF combinations only in compelling circumstances.

Section 202(d) directs the Commission to extend its waiver policy with respect to its one to a market ownership rules to any of the top fifty markets. The Commission now generally bans crossownerships of radio and television stations in the same market, but has implemented a waiver policy which recognizes the potential for public interest benefits of such combinations when bedrock diversity interested are not threatened. The conferees in adopting subsection (d), intend to extend the benefits of this policy to the top fifty markets. Also, in the Commission's proceeding to review its television ownership rules generally, the Commission is considering whether generally to allow such local crossownerships, including combinations of a television station and more than one radio station in the same service. The conferees expect that the Commission's future implementation of its current radio-television waiver policy, as well as any changes to its rules it may adopt in its pending review, will take into account the increased competition and the need for diversity in today's radio marketplace that is the rationale for subsection (d).

Subsection (e) directs the Commission to revise its rules at 47 CFR 73.658(g) to permit a television station to affiliate with a person or entity that maintains two or more networks unless such dual or multiple networks are composed of (1) two or more of the four existing networks (ABC, CBS, NBC, FOX) or, (2) any of the four existing networks and one of the two emerging networks, (WBTN, UPN). The conferees do not intend these limitations to apply if such networks are not operated simultaneously, or if there is no substantial overlap in the territory served by the group of stations comprising each such networks.

Subsection (f) directs the Commission to revise its rules to permit crossownership interests between a broadcast network and a cable system. If necessary, the Commission is directed to revise its rules to ensure carriage, channel positioning and nondiscriminatory treatment of non-affiliated broadcast stations by cable systems affiliated with a broadcast network.

Subsection (g) grandfathers LMAs currently in existence upon enactment of this legislation and allows LMAs in the future, consistent with the Commission's rules. The conferees note the positive contributions of television LMAs and this subsection assures that this legislation does not deprive the public of the benefits of existing LMAs that were otherwise in compliance with Commission regulations on the date of enactment.

Subsection (h) directs the Commission to review its rules adopted under section 202 and all of its ownership rules biennially. In its review, the Commission shall determine whether any of its ownership rules, including those adopted pursuant to this section, are necessary in the public interest as the result

of competition. Based on its findings in such a review, the Commission is directed to repeal or modify any regulation it determines is no longer in the public interest. Apart from the biennial review required by subsection (h), the conferees are aware that the Commission already has several broadcast deregulation proceedings underway. It is the intention of the conferees that the Commission continue with these proceedings and conclude them in a timely manner.

Subsection (i) amends section 613(a) of the Communications Act by repealing the restriction on broadcast-cable crossownership. The conferees do not intend that this repeal of the statutory prohibition should prejudge the outcome of any review by the Commission of its rules. Subsection (i) also amends 613(a) by revising the cable-MMDS crossownership restriction so that it does not apply in any franchise area in which a cable operator faces effective competition.

SECTION 203—TERMS OF LICENSES

Senate bill

Section 207 of the Senate bill amends section 307(c) of the Communications Act to increase the term of license renewal for television licenses from five to ten years and for radio licenses from seven to ten years.

House amendment

Section 306 of the House amendment contains a similar provision but amends section 307(c) of the Communications Act to provide for a seven year license term for all broadcast licenses.

Conference agreement

The conference agreement adopts the House provisions but extends the license term for broadcast licensees to eight years for both television and radio.

SECTION 204—BROADCAST LICENSE RENEWAL PROCEDURES

Senate bill

Subsection (d) of section 207 amends the broadcast license renewal procedures. This subsection amends section 309 of the Communications Act by adding a new subsection (k) which gives the incumbent broadcaster the ability to apply for its license renewal without competing applications. A broadcaster would apply for its renewal, and the Commission would grant such a renewal, if, during the preceding term of its license the station has served the public interest, convenience, and necessity, has not made any serious violations of the Communications Act or of the Commission's rules, and has not, through other violations, shown a pattern of abuse.

The Commission may not consider whether the granting of a license to a person other than the renewal applicant might serve the public interest, convenience, and necessity prior to its decision to approve or deny the renewal application. Under this section, the Commission has discretion to consider what is a serious violation of the Communications Act. If a licensee does not meet those criteria, the Commission may either deny the renewal, or impose conditions on the renewal. Once the Commission, after conducting a hearing on the record, denies an application for renewal, it is then able to accept applications for a construction permit for the channel or facilities of the former licensee.

Subparagraph (4) would require broadcast licensees to attach a summary of comments regarding violent programming to its renewal application.

House amendment

Section 305 of the House amendment similarly amends section 309 of the Communications Act by adding a new subsection (k) mandating a change in the manner in which broadcast license renewal applications are processed. Subsection (k) allows for Commission consideration of the renewal application of the incumbent broadcast licensee without the contemporaneous consideration of competing applications. Under this subsection, the Commission would grant a renewal application if it finds that the station, during its term, had served the public interest, convenience, and necessity; there had been no serious violations by the licensee of the Communications Act or Commission rules; and there had been no other violations of the Communications Act or Commission rules which, taken together, indicate a pattern of abuse. If the Commission finds that the licensee has failed to meet these requirements, it could deny the renewal application or grant a conditional approval, including renewal for a lesser term. Only after denying a renewal application could the Commission accept and consider competing applications for the license.

Conference agreement

The conference agreement adopts the House provisions with modifications to include the Senate provision requiring a renewal applicant to attach to its application a summary of comments regarding violent programming. The conference agreement sets the effective date for this section at May 1, 1995.

SECTION 205—DIRECT BROADCAST SATELLITE SERVICE

Senate bill

Section 312(a) of the Senate bill amends section 705(e)(4) of the Communications Act to extend the current legal protection against signal piracy to direct-broadcast services.

Section 312(b) amends section 303 of the Communications Act to clarify that the Commission has exclusive jurisdiction over the regulation of direct broadcast satellite (DBS) service.

House amendment

The House has identical provisions in sections 308 and 311 of the House amendment.

Conference agreement

The conference agreement adopts the Senate provision with a conforming change to the definition of "direct-to-home."

SECTION 206—AUTOMATED SHIP DISTRESS AND SAFETY SYSTEMS

Senate bill

Section 306 of the Senate bill provides that notwithstanding any other provision of the Communications Act, any 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 is not required to be equipped with a radio telegraphy station operated by one or more radio officers or operators.

House amendment

This House provision is identical.

Conference agreement

The conference agreement adopts the Senate provision with a modification placing the provision as an amendment to section 364 of the Communications Act. This provision permits a ship that fully complies with the Global Maritime Distress and Safety System (GMDSS) provisions of the Safety of Life at Sea Convention to be exempted from requirements to carry a radio telegraph station operated by one or more radio operators. Due to the conferees' concern about the proper implementation of the GMDSS, the provision specifies that this exemption shall only take effect upon the United States Coast Guard's determination that the system is fully installed, maintained, and is operating properly on each vessel.

SECTION 207—RESTRICTIONS ON OVER-THE-AIR RECEPTION DEVICES

Senate bill

No provision.

House amendment

Section 308 of the House amendment directs the Commission to promulgate rules prohibiting restrictions which inhibit a viewer's ability to receive video programming from over-the-air broadcast stations or direct broadcast satellite services.

Conference agreement

The conference agreement adopts the House provision with modifications to extend the prohibition to devices that permit reception of multichannel multipoint distribution services.

TITLE III—CABLE SERVICES

SECTION 301—CABLE ACT REFORM

Senate bill

Section 203(a) of the Senate bill amends the definition of "cable system" in section 602 of the Communications Act.

Section 203(b) of section 204 of the bill limits the rate regulations currently imposed by the 1992 Cable Act.

Paragraph (1) amends the rate regulation provisions of section 623 of the Communications Act for the expanded tier. First, it eliminates the ability of a single subscriber to initiate a rate complaint proceeding at the Commission. Franchising authorities are the relevant State and local government entities that still retain the ability to initiate a rate proceeding. Second, rates for cable programming services will only be considered unreasonable, and subject to regulation, if the rates substantially exceed the national average for comparable cable programming services.

Paragraph (2) amends the definition of effective competition in section 623(l)(1) to allow the provision of video services by a local exchange carrier either through a common carrier video platform, or as a cable operator, in an unaffiliated cable operator's franchise area to satisfy the effective competition test.

Section 203(c) eliminates cable rate regulation for small cable operators serving areas of 35,000 or fewer subscribers.

Section 203(d) provides that any programming access rules that apply to a cable operator under section 628 of the Communications Act also apply to a telecommunications carrier or its affiliate that provides video programming directly to subscribers.

Section 203(e) provides for expedited decisions by the Commission regarding market determinations under section 614 of the Communications Act.

Section 203(f) provides that the provisions of this section take effect on the date of enactment.

House amendment

Section 307(a) of the House amendment amends the definition of "cable service" in section 602(6) of the Communications Act by adding "or use" to the definition, reflecting the evolution of video programming toward interactive services.

Subsection (b) prohibits the Commission from requiring the divestiture of, or preventing or restricting the acquisition of, any

cable system based solely on the geographic location of the system.

Subsection (c) amends section 623(a) of the Communications Act to deregulate equipment, installations, and additional connections furnished to subscribers that receive more than basic cable service when a cable system has effective competition pursuant to section 623(l)(1)(b).

Subsection (d) amends section 623(a) of the Communications Act to limit basic tier rate increases by a cable operator to once every six months and permits cable operators to implement such increases after 30 days notice. Subsection (d) limits the franchising authority's scope of review to the incremental change in the basic tier rate effected by a rate increase.

Subsection (e) amends section 623(a) of the Communications Act to promote the development of a broadband, two-way telecommunications infrastructure. Under this paragraph, cable operators are permitted to aggregate equipment costs broadly. However, subsection (e) does not permit averaging for equipment used by consumers that subscribe only to basic service tier. Subsection (e) directs the Commission to complete its revisions to current rules necessary to implement this subsection within 120 days.

Subsection (f) amends section 623(c) of the Communications Act governing review of complaints by inserting a new paragraph (3) requiring that the Commission receive complaints from three percent of a system's subscribers, or 10 subsecribers, whichever is greater, before it initiates a rate case.

Subsection (f) extends from 45 days to 90 days the amount of time after a cable programming service rate increase goes into effect that during which subscribers may file a complaint. Pending rate cases will be subject to the new complaint threshold and complaining parties are granted a 90-day extension to bring complaints into conformance with the new complaint threshold requirement. Subsection (f) clarifies that the Commission's scope of review is limited to the last incremental consumer programming service rate increase consistent with the intent of the 1992 Cable Act.

Subsection (g) clarifies that a cable operator must comply with the uniform rate structure requirement in section 623(d) of the 1992 Cable Act only with respect to regulated services. Subsection (g) also amends section 623(d) of the Communications Act to exempt bulk discounts to multiple dwelling units ("MDUs") from the uniform rate requirement.

Subsection (h) amends section 623(l)(1) of the Communications Act by adding a fourth effective competition test. Under this new test, effective competition for cable programming service tier and subscriber equipment (other than that necessary for receiving the basic service tier) is present: (1) where a common carrier has been authorized to provide video dialtone service in the cable franchise area; (2) where a common carrier has been authorized by the Commission or pursuant to a franchise to provide video programming directly to subscribers in the cable franchise area; or (3) when the Commission completes all actions necessary to prescribe the video platform rules pursuant to section 653(b)(1). When any of these events occurs, the rates for a cable system's cable programming services, as well as equipment, installations, and additional television connections are deregulated.

Subsection (h) does not apply to basic cable service. Basic service, including all equipment, additional television connections, and installations furnished to basic-only subscribers, remains subject to regulation until the cable operator meets one of the effective competition tests contained in section 623(l)(1)(A), (B), and (C) of the Communications Act.

Subsection (i) amends section 623 of the Communications Act to deregulate the rates for the cable programming service tiers of small companies and the rates for the basic service tier of small company systems that offered only a single tier of service as of December 31, 1994. Subsection (i) does not deregulate the basic tier of small cable systems that offer multiple tiers of cable service.

In order to qualify as a "small cable operator," a cable operator must: (1) directly, or through an affiliate, serve in the aggregate fewer than one percent of all cable subscribers nationwide; and (2) not be affiliated with any entity whose annual gross revenues in the aggregate exceed $250,000,000.

Subsection (j) amends section 624(e) of the Communications Act by prohibiting States or franchising authorities from regulating in the areas of technical standards, customer equipment, and transmission technologies.

Subsection (k) amends section 624A(b)(2) of the Communications Act and directs that no Federal agency, State, or franchising authority may prohibit a cable operator's use of any security system, including scrambling, but permits the Commission to prohibit scrambling of video programming on the broadcast-basic service tier unless scrambling is necessary to prevent signal piracy.

Subsection (l) amends section 624A of the Communications Act to direct the Commission to set only minimal standards when implementing regulations to assure compatibility between cable "set-top" boxes, televisions, and video cassette recorders, and to rely on the marketplace for other features, services, and functions to ensure basic compatibility. This subsection clarifies section 624(c)(1)(A) further to ensure that Commission efforts with respect to cable compatibility do not affect unrelated markets, such as computers or home automation communications, or result in a preference for one home automation protocol over another.

Subsection (m) amends section 625(d) of the Communications Act by clarifying that a cable operator may move any service off the basic service tier at its discretion, other than the local broadcast signals and access channels required to be carried on the basic service tier under section 623(b)(7)(A) of the Communications Act.

Subsection (n) amends section 632 of the Communications Act to provide cable operators with flexibility to use "reasonable" written means to convey rate and service changes to consumers. Notice need not be inserted in the subscriber's bill.

Subsection (n) also provides that prior notice is not required for any rate change that is the result of a regulatory fee, franchise fee, or any other fee, tax, assessment or change of any kind imposed by the Government on the transaction between a cable operator and a subscriber.

Subsection (o) amends section 623 of the Communications Act to clarify that losses incurred prior to the enactment of the 1992 Cable Act by a cable system owned and operated by the original franchisee may not be disallowed in determination of rate regulation.

Conference agreement

The conference agreement adopts the House provisions with modifications. It adopts the House provision amending the definition of cable service. The conferees intend the amendment to reflect the evolution of cable to include interactive services such as game channels and information services made available to subscribers by the cable operator, as well as enhanced services. This amendment is not intended to affect Federal or State regulation of telecommunications service offered through cable system facilities, or to cause dial-up access to information services over telephone lines to be classified as a cable service. The conference agreement adopts the Senate provision amending the definition of cable system to clarify that the term does not include a facility that serves subscribers without using any public right-of-way.

The conference agreement sunsets regulation of the cable programming services tier on March 31, 1999. The agreement directs the Commission to review a rate increase for an operator's cable programming services tier within 90 days of a complaint.

The conference agreement amends the Communications Act's requirements for a uniform rate structure to clarify that such requirements do not apply to (1) a cable operator with respect to the provision of cable service over its cable system in any geographic area in which the video programming services offered by the operator in that area are subject to effective competition, or (2) any video programming offered on a per channel or per program basis. Bulk discounts to multiple dwelling units shall not be subject to the uniform rate requirement except that a cable operator may not charge predatory prices to a multiple dwelling unit. Upon a prima facie showing by a complainant that there are reasonable grounds to believe that the discounted price is predatory, the cable system shall have the burden of showing that its discounted price is not predatory.

The conference agreement adopts an amendment to section 623(l) of the Communications Act to expand the effective competition test for deregulating both basic and cable programming service tiers. The test provides that effective competition exists when a telephone company or any multichannel video programming distributor is offering video programming services directly to subscribers by any means in the franchise area of an unaffiliated cable operator. "By any means," includes any medium (other than direct-to-home satellite service) for the delivery of comparable programming, including MMDS, LMDS, an open video system, or a cable system. For purposes of section 623(l)(1)(D) of the Communications Act, "offer" has the same meaning given that term in the Commission's rules as in effect on the date of enactment of the bill. *See* 47 CFR 76.905(e). The conferees intend that "comparable" requires that the video programming services should include access to at least 12 channels of programming, at least some of which are television broadcasting signals. *See* 47 CFR 76.905(g).

The conference agreement adopts the Senate provision with respect to deregulation of small cable systems with the modification that the franchise area served by such system must reach 50,000 or fewer subscribers. The agreement adopts the House provisions on market determinations, technical standards, cable equipment compatibility, and subscriber notices. The agreement amends section 628 of the Communications Act to extend the program access requirements to satellite cable programming vendors in which a common carrier providing video programming by any means has an attributable interest. This provision clarifies that such

common carrier shall not be deemed to have an attributable interest in such programming vendor (or its parent company) solely as a result of the common carrier's holding, or having the right to appoint or elect, two or fewer common officers or directors. The conference agreement amends section 617 of the Communications Act to repeal the anti-trafficking restrictions. The conference agreement adopts the House provisions on equipment aggregation and treatment of prior year losses.

The conference agreement also adopts the House provision on cable equipment compatibility. As used in section 624A of the Communications Act, the term "affect" means to produce a material influence upon, or alteration in, such features, functions, protocols, and other product and service options. The conferees intend that the Commission should promptly complete its pending rulemaking on cable equipment compatibility, but not at the risk that premature or overbroad Government standards may interfere in the market-driven process of standardization in technology intensive markets.

SECTION 302—CABLE SERVICE PROVIDED BY TELEPHONE COMPANIES

Senate bill

The Senate bill creates new sections of the Communications Act to provide for the provision of video programming by telephone companies.

House amendment

The House amendment creates new sections of the Communications Act to provide for the provision of video programming by telephone companies.

Conference agreement

Section 302 of the conference agreement establishes a new "Part V" of title VI of the Communications Act. Part V contains new sections 651–653 to provide for the provision of video programming by telephone companies.

NEW SECTION 651—REGULATORY TREATMENT OF VIDEO PROGRAMMING SERVICES

Senate bill

Section 202 of the Senate bill eliminates the cable/telephone cross ownership restriction and grants telephone companies the option of providing video programming to subscribers over a cable system or over a video platform. It also states that a BOC need not use a separate affiliate if it provides facilities, services or information to all programmers on the same terms and conditions as it provides to its own operations, and if it does not use telecommunications services to subsidize the provision of video programming. In addition, it states that when a BOC provides cable service as a cable operator, it must do so through a separate affiliate, except that if the cable service is provided using the company's own telephone exchange facilities, it is not required to make capacity available on a nondiscriminatory basis to other video service providers because of such use.

House amendment

Section 201 of the House amendment permits a common carrier that provides video programming directly to subscribers in its telephone service area, to do so either over a video platform or over a cable system. In addition, it requires the carrier to provide notice to programming providers and to submit detailed information to the Commission concerning its intention to establish capacity for the provision of video programming. Carriers are required to establish channel capacity sufficient to meet all bona fide demand and to expand capacity in response to demand for additional capacity.

Conference agreement

New section 651 of the Communications Act specifically addresses the regulatory treatment of video programming services provided by telephone companies. Recognizing that there can be different strategies, services and technologies for entering video markets, the conferees agree to multiple entry options to promote competition, to encourage investment in new technologies and to maximize consumer choice of services that best meet their information and entertainment needs.

New section 651(a)(1) states that common carriers, or other persons, that use radio communication to provide video programming will be regulated under title III of the Communications Act, and are subject to the requirements of new section 652 of the Communications Act but are not otherwise subject to the requirements of title VI. This will create parity among providers of services using radio communication.

New section 651(a)(2) states that when common carriers provide only video transmission on a common carrier basis, they are subject only to title II and to new section 652, and are not otherwise subject to the requirements of title VI merely by engaging in common carrier transport of video programming.

New section 651(a)(3) states that common carriers providing video programming to subscribers by any means other than those described in new section 651(a)(1) or (a)(2), are subject to the requirements of title VI, unless such programming is provided by means of an open video system that has been certified by the Commission. New section 651(a)(3) also states that carriers that provide programming using a certified open video system are subject to the requirements of part V, and only those provisions of parts I through IV of title VI as are specifically provided in new section 653(c). Open video systems are not subject to the requirements of title II for the provision of video programming or cable services.

Common carriers that provide video programming using radio communication or using common carriage transmission, or a combination of those services, also may choose to provide an open video system. New section 651(a)(4) provides that such systems are subject to the same requirements as other open video systems.

New section 651(b) states that a local exchange carrier that provides cable service by means of an open video system, or by means of an integrated cable system utilizing its own telephone exchange facilities, is not required by title II to also make transmission capacity and related services available on a nondiscriminatory basis to any other person for the provision of cable service or video programming directly to subscribers. This provision clarifies that the open video system operator's obligation to provide system capacity and facilities to others is limited to, and governed by, part V and the other requirements specifically provided in new section 653(c). Likewise, a local exchange carrier that utilizes its own telephone exchange facilities and services to provide cable services other than through an open video system is required by such use only to make cable and video programming capacity and facilities available to others for the provision of cable service to the extent provided in parts I through IV of title VI, regardless of whether those facilities also are used to provide telephone exchange service under title II. Similarly, under new section 651(c) common carriers that establish video delivery systems, including cable and open video systems, are not required to obtain section 214 authority prior to establishing or operating such systems. This requirement has served as an obstacle to competitive entry and has disproportionately disadvantaged new competitors. Eliminating this barrier to entry will hasten the development of video competition and will provide consumers with increased program choice.

NEW SECTION 652—PROHIBITION ON BUYOUTS

Senate bill

Section 202 of the Senate bill adds to section 613(b) of the Communications Act several provisions restricting the ability of a local exchange carrier to acquire more than a 10 percent financial interest or any management interest in a cable operator in its telephone service area and restricting the ability of a cable operator to acquire similar interests in a local exchange carrier in the cable operator's franchise area. It includes certain exceptions for acquisitions in nonurban areas with less than 50,000 inhabitants, and it authorizes the Commission to grant waivers for economic distress, economic viability of the cable system, or where any anticompetitive effects of the proposed transaction are clearly outweighed by the public interest, and where the local franchising authority approves the waiver. The bill directs the Commission to act on such waiver requests within 180 days of filing. The Senate provisions also permit a local exchange carrier, if certain conditions are met, to use excess capacity of a cable company for that portion of the transmission facilities of the cable operator from the last multi-user terminal to the premises of the end user.

Section 706 of the Senate bill authorizes a local exchange carrier or any of its affiliates to purchase or otherwise acquire more than 10 percent of the financial interest or any management interest in any cable system in its telephone service area so long as (1) the cable system serves no more than 20,000 cable subscribers and (2) no more than 12,000 of those cable subscribers live in an urbanized area

House amendment

Section 655 of the House amendment contains a general prohibition on buy-outs by a common carrier of a cable system within its service territory. Subsection (b) provides exceptions that would permit a common carrier to purchase a cable system or systems under circumstances including the following: (1) the cable system serves a rural area; (2) the total number of subscribers served by such systems adds up to less than ten percent of the households served by the carrier in the telephone service area, and no such system or systems serve a franchise area with more than 35,000 inhabitants for an affiliated system, or more than 50,000 inhabitants for any system that is not affiliated with any system whose franchise area is contiguous; and (3) the exemption would permit a carrier to obtain, by contract with a cable operator, use of the "drop" from the curb to the home that is controlled by the cable company, if such use was reasonably limited in scope and duration as determined by the Commission.

The exception under subparagraph (4) is intended to address a market situation where a dominant cable operator that is a large multiple systems operator (MSO) shares a market with a small independent cable system.

Subsection (c) also contains the waiver process for the buy-out provision under

which the Commission may grant a waiver upon a showing of undue economic distress by the owner of the cable system if a sale to a telephone company is blocked. The Commission is directed to act on a waiver application within 180 days after it is filed.

Conference agreement

The conference agreement adopts the provisions of the Senate bill limiting acquisitions and prohibiting joint ventures between local exchange companies and cable operators that operate in the same market to provide video programming to subscribers or to provide telecommunications services in such market. Such carriers or cable operators may enter into a joint venture or partnership for other purposes, including the construction of facilities for the provision of such programming or services. With respect to exceptions to these general rules contained in new section 652(a), (b), and (c), the conferees agreed, in general, to take the most restrictive provisions of both the Senate bill and the House amendment in order to maximize competition between local exchange carriers and cable operators within local markets.

In new section 652(d)(1) the conference agreement allows a local exchange carrier to obtain a controlling interest in, management interest in, or a joint venture or partnership with a cable system operator for the use of such system located within its telephone service area to the extent that such system or facilities only serve places or territories that have fewer than 35,000 inhabitants and are outside urbanized areas. The agreement further stipulates that such systems in the aggregate serve less than 10 percent of the households in the telephone service area of such local exchange carrier. New section 652(d)(1) also permits a cable operator to obtain a controlling interest in, management interest in, or a joint venture or partnership with a local exchange carrier for the use of such carrier's facilities if such facilities serve places or territories that have fewer than 35,000 inhabitants and are outside of urbanized areas. The agreement contains other very limited exceptions to the general rules contained in new section 652 (a), (b), and (c). In new section 652(d)(3) acquisitions would be permitted in competitive markets where a local exchange carrier seeking to obtain a controlling interest or form a joint venture with a cable system may do so if narrowly drawn requirements are met. New section 652(d)(4) provides that new section 652(a) shall not apply to certain cable systems serving less than 17,000 subscribers outside of the top television markets. New section 652(d)(5) of the conference agreement allows a non-Tier I local exchange carrier to obtain more than a ten percent interest in, or to form a joint venture or partnership with, a small cable system that serves no more than 20,000 cable subscribers within the telephone company's service territory, provided that no more than 12,000 of those subscribers live within an urbanized area.

The conference agreement also allows for limited joint use of certain cable system facilities. In new section 652(d)(2) the agreement adopts language from the Senate bill that will allow a local exchange carrier to obtain, with the concurrence of the cable operator on the rates, terms and conditions, the use of that part of the transmission facilities of a cable system extending from the last multi-user terminal to the premises of the end user. The agreement stipulates that such joint use is permitted if such use is reasonably limited in scope and duration as determined by the Commission.

The conferees also provided for the establishment of a waiver process of the statutory rules. In new section 652(d)(6), the conferees give specific guidance to the Commission with respect to granting waivers. In that regard, the conferees allow the Commission to waive the various restrictions in this section if: the cable company or telephone company would be subjected to undue economic stress, the cable system of local exchange facilities would not be economically viable, the anticompetitive effects of the proposed transaction are clearly outweighed by the public interest, and the local franchising authority approves of such waiver.

Finally, new section 652(e) contains a definition of telephone service area for the purposes of this section.

NEW SECTION 653—ESTABLISHMENT OF OPEN VIDEO SYSTEMS

Senate bill

Section 202 of the Senate bill amends section 613(b) of the Communications Act to state that nothing precludes a telecommunications carrier from carrying video programming provided by others directly to subscribers over a common carrier video platform. It also states that nothing precludes a video program provider that makes 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, U.S.C.

It also requires providers of common carrier video platform services to provide local broadcast stations, and public, educational and governmental entities, access to platforms for the purpose of transmission of television broadcast programming at rates no higher than the incremental-cost-based rates of providing such access.

It states that video program providers may be required to pay fees in lieu of franchise fees, if the fees are competitively neutral and are separately identified in consumer billing. It also states that common carriers are not required to obtain certificates under section 214 in order to construct facilities to provide video programming services. Within 1 year after enactment, the Commission must prescribe regulations that set forth a number of safeguards. Finally, it specifies that the amendment made by subsection (a) takes effect on the date enactment, while the amendment made by subsection (b) (which states that no section 214 is required to build platform facilities) takes effect 1 year after enactment.

House amendment

Section 201 of the House amendment adds new section 653 to the Communications Act. Section 653 permits common carriers to establish video platforms but requires them to notify the Commission of their intent to do so; it also specifies the information that must be included in such notification. Carriers establishing platforms are required to establish channel capacity for the provision of video programming in response to bona fide requests for capacity and must notify the Commission if there is a delay in or denial of capacity and are required to construct additional capacity to meet excess demand. The Commission is required to resolve disputes arising from requests for capacity within 180 days of notice of such a dispute.

The Commission is given 6 months from the date of enactment to complete all actions necessary (including any reconsideration) to prescribe regulations that—prohibit carriers from discriminating among video programming providers with regard to carriage on the platform; determine what constitutes a bona fide request for capacity; permit channel sharing; extend regulations concerning sports exclusivity, network nonduplication and syndicated exclusivity to video platforms; require platforms to provide service, transmission and interconnection to unaffiliated programmers that is equivalent to that provided to the common carrier's video affiliate; prohibit unreasonable discrimination in favor of the common carrier's video affiliate concerning material or information needed to select programming; and, prohibit a common carrier from excluding areas from its video platform service area on the basis of ethnicity, race or income.

Section 656, as added by the House amendment, set forth the applicability of parts I through IV of title VI to any video programming affiliate established by a common carrier in accordance with the requirements of part V. Subsection (a) states that, in general, any provision that applies to a cable operator under the following sections also applies to such affiliate—section 613 (other than subsection (a)(2)), 616, 617, 628, 631, 632 and 643 of title VI. Sections 611, 612, 614 and 615 of title VI and section 325 of title III also apply to such affiliates in accordance with the regulations prescribed under subsection (b). Parts III and IV (other than sections 628, 631, 632 and 634) of title VI to apply to such affiliates.

Subsection (b) addresses implementation. The Commission is required to prescribe regulations to ensure that common carriers that operate video platforms provide: capacity, services, facilities and equipment for public, educational and governmental use; capacity for commercial use; capacity for broadcast television stations; and, an opportunity for commercial broadcast stations to choose between mandatory carriage and reimbursement for retransmission. It also directs the Commission to impose obligations that are no greater or lesser than the corresponding cable operator obligations referenced in subsection (a)(2) of section 656.

Finally, this subsection also states that video programming affiliates of common carriers that establish platforms, and multichannel video programming distributors that use such platforms to offer competing service, are subject to the payment of local franchise fees. It adds that such fees are in lieu of fees imposed under section 622 and that the rate of such fees may not exceed the rate at which franchise fees are imposed on cable operators in the same franchise area.

Conference agreement

The conference agreement adds a new section 653 to the Communications Act. The conferees recognize that telephone companies need to be able to choose from among multiple video entry options to encourage entry, and so systems under this section allowed to tailor services to meet the unique competitive and consumer needs of individual markets. New section 653(a) focuses on the establishment of open video systems by local exchange carriers and provides for reduced regulatory burdens subject to compliance with the provisions of new section 653(b) and Commission certification of a carrier's intent to comply. New section 653(a) also gives the Commission authority to resolve disputes (and award damages), but requires such resolution to occur within 180 days after notice of the dispute is submitted to the Commission.

New section 653(b) gives the Commission six months from the date of enactment to complete all actions necessary, including any reconsideration, to prescribe regulations to accomplish the following—

except as required by section 611, 614 or 615, to prohibit open video system operators from

discriminating among video programmers with regard to carriage, and ensure that the rates, terms and conditions for carriage are just and reasonable and are not unjustly or unreasonably discriminatory;

if demand exceeds channel capacity, to prohibit an open video system operator and its affiliates from selecting the video programming services that occupy more than one-third of the activated channel capacity of the system; but this limitation does not in any way limit the number of channels a carrier and its affiliates may offer to provide directly to subscribers;

to permit an open video system operator to require channel sharing; that is, to carry only one channel of any video programming service that is offered by more than one video programming provider (including the local exchange carrier's video programming affiliate), provided that subscribers have ready and immediate access to any such video programming service;

to extend the Commission's regulations concerning sports exclusivity, network nonduplication and syndicated exclusivity to the distribution of video programming over open video systems, must carry for commercial and noncommercial broadcast stations, and retransmission content; and,

to prohibit an open video system operator from unreasonably discriminating in favor of itself and its affiliates with regard to material or information provided for the purpose of selecting programming or presenting information to subscribers; to require an open video system operator to ensure that video programming providers or copyright holders are able to identify their programming services to subscribers; to require the operator to transmit such identification without change or alteration; and to prohibit an open video system operator from omitting television broadcasters or other unaffiliated video programming services from carriage on any navigational device, guide, or menu.

New section 653(c) sets forth the reduced regulatory burdens imposed on open video systems. There are several reasons for streamlining the regulatory obligations of such systems. First, the conferees hope that this approach will encourage common carriers to deploy open video systems and introduce vigorous competition in entertainment and information markets. Second, the conferees recognize that common carriers that deploy open systems will be "new" entrants in established markets and deserve lighter regulatory burdens to level the playing field. Third, the development of competition and the operation of market forces mean that government oversight and regulation can and should be reduced.

New section 653(c)(1)(A) states that the following provisions that apply to cable operators also apply to certified operators of open video systems—sections 613 (other than subsection (a)(2) thereof), 616, 623(f), 628, 631, and 634; new section 653(c)(1)(B) states that the following sections—611, 612, 614, and 615, and section 325 of title III—apply in accordance with regulations prescribed under paragraph (2); and, new section 653(c)(1)(C) states that sections 612 and 617, and parts III and IV (other than sections 623(f), 628, 631, and 634), of this title do not apply.

With respect to the rulemaking proceeding required by new section 653(b)(1), new section 653(c)(2)(A) requires that the Commission shall, to the extent possible, impose obligations that are no greater or lesser than the obligations contained in the provisions described in new section 653(c)(1)(B).

New section 653(c)(2)(B) states that open video system operators may be subject to fees imposed by local franchising authorities, but that such fees are in lieu of fees required under section 622. A State governmental authority could also impose taxes, fees or other assessments in lieu of franchise or franchise-like fees imposed by municipalities. In another effort to ensure parity among video providers, the conferees state that such fees may only be assessed on revenues derived from comparable cable services and the rate at which such fees are imposed on operators of open video systems may not exceed the rate at which franchise fees are imposed on any cable operator in the corresponding franchise area. Open system operators would have the same flexibility as their cable operator competitors to state separately these fees on their customer bills.

The conferees intend that an operator of an open video system under this part shall be subject, to the extent permissible under State and local law, to the authority of a local government to manage its public rights-of-way in a nondiscriminatory and competitively neutral manner.

New section 653(c)(3) is a further attempt to ensure that operators of open video systems are not burdened with unreasonable regulatory obligations. It states that the requirements of new section 653 are intended to operate in lieu of, and not in addition to, the requirements of title II. The conferees do not intend that the Commission impose title II-like regulation under the authority of this section.

Rules and regulations adopted by the Commission pursuant to its jurisdiction under title II should not be merged with or added to the rules and regulations governing open video systems, which will be subject to new section 653, not title II. Section 302(b)(3) of the conference agreement specifically repeals the Commission's video dialtone rules. Those rules implemented a rigid common carrier regime, including the Commission's customer premises equipment and *Computer III* rules, and thereby created substantial obstacles to the actual operation of open video systems.

New section 653(c)(4) provides that nothing in the Communications Act precludes a video programming provider making use of an open video system from being treated as an operator of a cable system for purposes of section 111 of title 17, United States Code.

New section 653(d) contains the definition of the term "telephone service area" to be used in conjunction with the provisions of new section 653.

Section 302(b) of the conference agreement contains technical and conforming amendments. Paragraph (1) repeals subsection (b) of section 613 of the Communications Act (47 U.S.C. 533(b)). Paragraph (2) amends paragraph (7) of section 602 of the Communications Act to clarify that the provision solely of interactive on-demand services over a common carrier facility or the provision of an open video system does not render the facility a cable system and redesignates paragraphs (12) through (19) as (13) through (20) and, inserts paragraph (12), defining "interactive on-demand services." Paragraph (3), as noted previously, provides that the Commission's video dialtone regulations, adopted in CC Docket No. 87-266, are repealed on the date of enactment and shall not apply to the operation of an open video system. Repeal of the Commission's video dialtone regulations is not intended to alter the status of any video dialtone service offered before the regulations required by this section become effective.

SECTION 303—PREEMPTION OF FRANCHISING AUTHORITY REGULATION OF TELECOMMUNICATIONS SERVICES

Senate bill

Subsection 201(b) of the Senate bill establishes the principles applicable to the provision of telecommunications by a cable operator. Paragraph (1) of this subsection adds a news paragraph 3(A) to section 62 1(b) of the Communications Act, which sets forth the jurisdiction of and limitations on franchising authorities over cable operators engaged in the provision of telecommunications services. Specifically, a cable operator or affiliate engaged in the provision of telecommunications services is not required to obtain a franchise under title VI of the Communications Act, nor do the provisions of title VI apply to a cable operator or affiliate to the extent they are engaged in the provision of telecommunications services. Franchising authorities are prohibited from ordering a cable operator or affiliate to discontinue the provision of telecommunications service, requiring cable operators to obtain a franchise to provide telecommunications services, or requiring a cable operator to provide telecommunications services or facilities as a condition of initial grant of franchise, franchise renewal, or transfer of a franchise. However, the Senate intends that telecommunications services provided by a cable company shall be subject to the authority of a local government to manage its public rights of way in a non-discriminatory and competitively neutral manner and to charge fair and reasonable fees for its use. These changes do not affect existing Federal or State authority with respect to telecommunications services.

House amendment

Section 106 of the House amendment creates a new section 621(b)(3)(A) of the Communications Act that provides that, to the extent a cable operator is engaged in providing a telecommunications service other than cable service, it shall not be required to obtain a franchise, and the provisions of title VI of the Communications Act shall not apply. Subparagraph (B) provides that a franchising authority may not impose any requirement that has the effect of prohibiting or limiting the provision of telecommunications service by a cable operator.

Subparagraph (C) provides that a franchising authority may not terminate an operator's offering of a telecommunications service or cable service because of the failure of the operator to obtain a franchise for the provision of telecommunications services. Subparagraph (D) establishes that franchising authorities may not require a cable operator to provide any telecommunications service or facilities, other than intergovernmental services, as a condition of the initial grant of a franchise or renewal.

Subsection (b) amends section 622(b) of the Communications Act by inserting the phrase "to provide cable services." This amendment makes clear that the franchise fee provision is not intended to reach revenues that a cable operator derives for providing new telecommunications services over its system, but only the operators cable-related revenues.

Conference agreement

The conference agreement adopts the House provision with some minor, technical modifications. The conferees intend that, to the extent permissible under State and local law, telecommunications services, including those provided by a cable company, shall be subject to the authority of a local government to, in a nondiscriminatory and competitively neutral way, manage its public

rights-of-way and charge fair and reasonable fees.

SECTION 304—COMPETITIVE AVAILABILITY OF NAVIGATION DEVICES

Senate bill

No provision.

House amendment

Section 203 of the House amendment directs the Commission to adopt regulations to assure the competitive availability to consumers of converter boxes, interactive communications devices, and other customer premises equipment from manufacturers, retailers, and other vendors not affiliated with a telecommunications operator. Section 203 does not prohibit telecommunications system operators from also offering navigation devices and other customer premise equipment to customers provided that the system operators' charges for navigation devices and equipment are separately stated, and are not subsidized by the charges for the network service.

Section 203 specifically recognizes that cable and other telecommunications system operators have a valid interest, which the Commission should continue to protect, in system or signal security and in preventing theft of service and, therefore, the Commission may not prescribe regulations which would jeopardize signal security or impede the legal rights of a provision to preempt theft of service.

Section 203 directs the Commission to waive a regulation for a limited time where the telecommunications system operator has shown that the waiver is necessary to the introduction of a new telecommunications subscription service.

Section 203(f) sunsets the regulations adopted pursuant to this section when the Commission determines that the market for customer premises equipment, including navigation devises, has become competitive.

Conference agreement

The conference agreement adopts the House provision with modifications as a new section 629 of the Communications Act. The scope of the regulations are narrowed to include only equipment used to access services provided by multichannel video programming distributors. In prescribing regulations to ensure the commercial availability of such equipment to consumers, the Commission is directed to consult with private standard-setting organizations, such as IEEE, DAVIC (Digital Audio Video Council), MPEG, ANSI and other appropriate bodies. The conferees intend that the Commission avoid actions which could have the effect of freezing or chilling the development of new technologies and services. One purpose of this section is to help ensure that consumers are not forced to purchase or lease a specific, proprietary converter box, interactive device or other equipment from the cable system or network operator. Thus, in implementing this section, the Commission should take cognizance of the current state of the marketplace and consider the results of private standards setting activities.

The conference agreement also directs the Commission to act on waiver requests within 90 days. The agreement sunsets the regulations when the Commission determines the following: the market for the multichannel video programming distributors is competitive, the market for equipment used in conjunction with the services is competitive; and elimination of the regulations are in the public interest and would promote competition. The agreement makes clear that nothing in this section expands or limits current Commission authority.

SECTION 305—VIDEO PROGRAMMING ACCESSIBILITY

Senate bill

Section 308 of the Senate bill adds a new section 262 to the Communications Act in part to require the Commission to ensure that video programming is accessible through closed captions and that video programming providers or owners maximize the accessibility of video programming previously published or exhibited through the provision of closed captions. New section 262(f) further provides the Commission with authority to exempt various program and providers of video programs from this requirement. In addition, a provider of video programming or program owner may petition the Commission for an exemption from the requirements of this subsection.

Section 252(f) also requires the Commission to undertake a study of the current extent of closed captioning of video programming and of previously published video programming; providers of video programming; the cost and market for closed captioning; strategies to improve competition and innovation in the provision of closed captioning; and such other matters as the Commission considers relevant.

New section 262(g) requires the Commission to prescribe regulations to implement all provisions of this new section, not later than eighteen (18) months after the date of enactment of this Act. As noted above, such regulations shall be consistent with the standards developed by the Board in accordance with section 262(e) of this new section.

New section 262(h) authorizes the Commission to enforce this new section. The Commission shall resolve, by final order, a complaint alleging a violation of this section within 180 days after the date such complaint is filed.

Subsection (b) section 308 requires that the Commission undertake within 6 months of enactment of this Act 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.

House amendment

Section 204 of the House amendment is designed to ensure that video services are accessible to hearing impaired and visually impaired individuals. Subsection (a) requires the Commission to complete an inquiry within 180 days of enactment of this section to ascertain the level at which video programming is closed captioned. In its inquiry, the Commission should examine the level of closed captioning for live and prerecorded programming, the extent to which existing or previously published programming is closed captioned, the type and size of the provider or owner providing the closed captioning, the size of the markets served, the relative audience shares achieved, and any other relevant factors. The Commission also should examine the quality of closed captioning and the style and standards which are appropriate for the particular type of programming. Finally, the Commission should examine the costs of closed captioning to programs and program providers.

Subsection (b) provides that, consistent with the results of its inquiry, the Commission is instructed to establish an appropriate schedule of deadlines and technical requirements regarding closed captioning of programming. Accordingly, the Commission shall establish reasonable timetables and exceptions for implementing this section. Such schedules should not be economically burdensome on program providers, distributors or the owners of such programs.

Section 204(d) allows the Commission to exempt specific programs, or classes of programs, or entire services from captioning requirements. Any exemption should be granted using the information collected during the inquiry, and should be based on a finding that the provision of closed captioning would be economically burdensome to the provider or owner of such programs.

The term "provider" contained throughout section 204(d) refers to the specific television station, cable operator, cable network or other service that provides programming to the public. When considering such exemptions, the Commission should focus on the individual outlet and not on the financial conditions of that outlet's corporate parent, nor on the resources of other business units within the parent's corporate structure.

When considering exemptions under paragraph (d)(1), the Commission shall consider several factors, including but not limited to: (1) the nature and cost of providing closed captions; (2) the impact on the operations of the program provider, distributor, or owner; (3) the financial resources of the program provider, distributor, or owner and the financial impact of the program; (4) the cost of the captioning, considering the relative size of the market served or the audience share; (5) the cost of the captioning, considering whether the program is locally or regionally produced and distributed; (6) the non-profit status of the provider; and (7) the existence of alternative means of providing access to the hearing impaired, such as signing.

Paragraph (d)(2) recognizes that closed captioning should not be required where it would be inconsistent with programming contracts between program owners, distributors, or providers, already in effect as of the date of enactment of this section, or inconsistent in effect as of the date of enactment of this section, or inconsistent with copyright law. In addition, cable operators and common carriers establishing video platforms may not refuse to carry programming or services which are required to be carried under the carriage provisions of title VI of the Communications Act or pursuant to retransmission consent obligations due to closed captioning requirements.

Paragraph (d)(3) authorizes the Commission to grant additional exemptions, on a case-by-case basis, where providing closed captions would constitute an undue burden. In making such determinations, the Commission shall balance the need for closed captioned programming against the potential for hindering the production and distribution of programming.

Subsection (f) directs the Commission to initiate an inquiry within six months of the date of enactment, regarding the use of video descriptions on video programming in order to ensure the accessibility of video programming to persons with visual impairments. The Commission shall report to Congress on its findings. The report shall assess appropriate methods 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. Following the completion of this inquiry the Commission may adopt regulations it deems necessary to promote the accessibility of video programming to persons with visual impairments. It is the goal of the House to ensure that all Americans ultimately have access to video services and programs, particularly as video programming becomes an increasingly important part of the home, school and workplace.

Subparagraph (h) makes clear that the Commission has exclusive jurisdiction over complaints arising under this section.

Conference agreement

The conference agreement adopts the House provision with modifications which are incorporated as new section 713 of the Communications Act. The agreement deletes the House provision referencing a Commission rulemaking with respect to video description. The remedies available under the Communications Act, including the provisions of sections 207 and 208, are available to enforce compliance with the provisions of section 713.

TITLE IV—REGULATORY REFORM

SECTION 401—REGULATORY FORBEARANCE

Senate bill

Section 303 of the Senate bill adds a new section 260 of the Communications Act, under which the Commission must forbear from regulation of a carrier or a service if it determines that enforcement is not necessary to ensure that charges are just and reasonable and not unjustly or unreasonably discriminatory or to protect consumers, and that forbearance is consistent with the public interest. In making the determination to forbear, the Commission shall consider whether forbearance would promote competition. This section allows a carrier to petition the Commission to request that the Commission exercise the authority granted by this section, and such petition shall be deemed granted if the Commission does not deny the petition within 90 days (unless extended for an additional 60 day period). The Commission may grant the petition in whole or in part, and must justify its decision in writing.

House amendment

Section 103 of the House amendment adds new section 230 to the Communications Act. Section 230 requires that the Commission forbear from applying regulation from part I or part II of title II (except for sections 201, 202, 208, 243, and 248) to a common carrier or service unless it determines that enforcement is necessary to ensure that the charges are reasonable and not unjustly or unreasonably discriminatory or to protect consumers, or that forbearance is inconsistent with the public interest. In making the determination to forbear, the Commission shall consider whether forbearance would promote competition.

Section 230 allows joint marketing of mobile services in connection with telephone exchange service, exchange access, intra- and interLATA telecommunication service and information services.

Conference agreement

The conferees agree to create a new section 10 in title I of the Communications Act. New subsection (a) of section 10 requires the Commission to forbear from applying any provision of the Communications Act or from applying any of its regulations to a telecommunications carrier or telecommunications service, if the Commission determines that enforcement is not necessary to:

ensure that charges, practices, classifications or regulations for such carrier or service are just and reasonable, and not unjustly or unreasonably discriminatory;

protect consumers; and

protect the public interest.

In making its public interest determinations, the Commission under new subsection (b) of section 10 shall consider whether or not forbearance will promote competition.

New subsection (c) permits carriers to petition for forbearance and these petitions shall be deemed granted if the Commission does not deny such petition within one year of the Commission's receipt of the petition. The Commission may only extend this one-year time period for 90 days. The Commission can also approve or deny the petition in whole or in part.

New subsection (d) provides that the Commission may not forbear from applying the requirements of new sections 251(c) or 271 until the Commission determines that those requirements have been fully implemented.

New subsection (e) provides that a State may not continue to apply or enforce any provision of the Communications Act that the Commission has determined to forbear from applying under new subsection (a). This new subsection is not intended to limit or preempt State enforcement of State statutes or regulations.

SECTION 402—BIENNIAL REVIEW OF REGULATIONS; REGULATORY RELIEF

Senate bill

Section 302 of the Senate bill adds a new section 259 of the Communications Act, under which every two years the Commission and a Federal-State Joint Board must review all regulations issued under the Communications Act or any State legislation to determine whether they are still necessary in the public interest as a result of meaningful competition. The Commission is required to repeal any of its regulations found to be no longer necessary.

House amendment

No provision.

Conference agreement

The conferees agree to create a new section 11 in title I of the Communications Act. New subsection (a) of section 11 requires the Commission, beginning in 1998 and in every even numbered year thereafter, to review all of its regulations that apply to the operations and activities of providers of telecommunications services and determine whether any of these regulations are no longer in the public interest because competition between providers renders the regulation no longer meaningful.

New subsection (b) of section 11 requires the Commission to eliminate the regulations that it determines are no longer in the public interest.

New subsection (b) of section 402 of the conference agreement addresses regulatory relief that streamlines the procedures for revision by local exchange carriers of charges, classifications and practices under section 204 of the Communications Act. New subsection (b) of section 402 also eliminates the section 214 approval requirement for extension of lines and permits carriers to file ARMIS reports annually.

New subsection (c) of section 402 of the conference agreement requires the Commission 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, to adjust revenue requirements to account for inflation as of the date the Commission's Report and Order on Docket No. CC 91-141 was released, and annually thereafter.

SECTION 403—ELIMINATION OF UNNECESSARY COMMISSION REGULATIONS AND FUNCTIONS

Senate bill

Section 302(b) of the Senate bill is intended to eliminate unnecessary Commission regulations and functions. Subsection (b)(1) repeals the current requirement that the Commission set depreciation rates for common carriers, thus allowing the Commission flexibility to assess whether doing so would serve the public interest.

Subsection (b)(2) authorizes the Commission to hire outside, independent licensed CPA's to audit telecommunications carriers and vests those outsiders with the same authority as Commission staff auditors.

Subsection (b)(3) streamlines the Federal-State coordination process by allowing states and the Commission to select the least formal method appropriate in revolving specific regulatory issues.

Subsection (b)(4) allows for inspection of ship radio stations by private entities and provides the Commission with authority to waive the current mandatory annual inspection while providing greater flexibility in scheduling ship inspections.

Subsection (b)(5) would give the Commission flexibility in determining whether broadcast construction permits are required where the likelihood of interference is minimal or does not exist.

Subsection (b)(6) allows automatic cancellation of a broadcaster's license if the station does not transmit for 12 consecutive months.

Subsection (b)(7) provides Commission staff with authority to process routine comparative ITFS applications.

Subsection (b)(8) permits the Commission to delegate, subject to established Commission standards, testing and certification of telecommunications devices and home electronics equipment to private laboratories.

Subsection (b)(9) eliminates the requirement that a public hearing be held for a station to make routine changes in frequency, hours of operation, and authorized power.

Section (b)(10) also eliminates the individual licensing requirement currently imposed on domestic ships and aircraft, citizens band radio and personal radio services, if the Commission determines it is in the public interest.

Subsection (b)(11) expedites the licensing of fixed microwave service by eliminating the requirement that 30 days public notice be given prior to granting these licenses.

Subsection (b)(12) also ends redundant Commission jurisdiction over ship radios owned by other government agencies.

Subsection (b)(13) broadens the number of individuals authorized to administer amateur radio examinations and reduces the amount of paperwork that must be kept.

Subsection (b)(14) authorizes the Commission to streamline and reduce its renewal procedures for non-broadcast radio license renewal applicants such as cellular licensees.

House amendment

The House has no comparable provisions, except for the provision delegating equipment testing authority.

Conference agreement

The conference agreement adopts the Senate provisions, except for subsection (b)(3), with modifications. Specifically, subsections (b)(4), (b)(7), (b)(10) and (b)(11) of the Senate bill have been modified to incorporate provisions as passed in the House budget reconciliation legislation (House Report 104-280).

The conference agreement also amends section 310(b) of the Communications Act to remove the restrictions on corporations having foreign officers or directors.

TITLE V—OBSCENITY AND VIOLENCE

SUBTITLE A—OBSCENE, HARASSING, AND WRONGFUL UTILIZATION OF TELECOMMUNICATIONS FACILITIES

SECTION 502—OBSCENE OR HARASSING USE OF TELECOMMUNICATIONS FACILITIES UNDER THE COMMUNICATIONS ACT OF 1934

Senate bill

Section 401 of the Senate bill updates section 223(a) of the Communications Act by using the term "telecommunications service" as a replacement for or in addition to "telephone" references in the present law. The term "communication" is added to current law references to "conversation." An intent requirement is added to section 223(a)(1)(A) that liability is incurred for "obscene, lewd, lascivious, filthy, or indecent" communications with the intent to "annoy, abuse, threaten, or harass another person."

Current law "Dial-a-Porn" provisions (sections 223 (b) and (c)) are untouched by the Senate bill.

A new section 223(e) is added to prohibit the use of a telecommunications device to make or make available an obscene communication.

A new section 223(e) is added to prohibit the use of a telecommunications device to make or make available an indecent communication to minors.

New defenses are provided to assure that the mere provision of access to an interactive computer service does not create liability. The access providers provision is not available to one who provides access to a system with which they conspire or own or control. Employers are provided a defense for actions by employees unless the employee's conduct is within the scope of employment and is known, authorized, or ratified by the employer. A good faith defense is provided for "reasonable, effective, and appropriate" measures to restrict access to prohibited communications. The word "effective" is given its common meaning and does not require an absolute 100 percent restriction of access to be judged "effective."

Nothing in the defenses to section 223 are intended to narrow or effect the application of the existing dial-a-porn law or other Federal criminal law or to provide a defense for the person who created and sent a prohibited communication.

The use of the good faith defenses which are otherwise legal shall not expose an individual to liability and the States may not impose obligations for commercial activities which are inconsistent with the treatment of activities or actions described in this section.

House amendment

No provision.

Conference agreement

The conference agreement adopts the Senate provisions with modifications. New subsection 223(d)(1) applies to content providers who send prohibited material to a specific person or persons under 18 years of age. Its "display" prohibition applies to content providers who post indecent material for online display without taking precautions that shield that material from minors.

New section 223(d)(1) codifies the definition of indecency from *FCC* v. *Pacifica Foundation*, 438 U.S. 726 (1978). Defenses to violations of the new sections assure that attention is focused on bad actors and not those who lack knowledge of a violation or whose actions are equivalent to those of common carriers.

The conferees intend that the term indecency (and the rendition of the definition of that term in new section 502) has the same meaning as established in *FCC* v. *Pacifica Foundation*, 438 U.S. 726 (1978), and *Sable Communications of California, Inc.* v. *FCC*, 492 U.S. 115 (1989). These cases clearly establish the principle that the federal government has a compelling interest in shielding minors from indecency. Moreover, these cases firmly establish the principle that the indecency standard is fully consistent with the Constitution and specifically limited in its reach so that the term is not unconstitutionally vague. See also *Action for Children's Television* v. *FCC*, 58 F. 3d 654, 662-63 (en banc) (D.C. Cir. 1995), cert. denied, 64 U.S.L.W. 3465 (1996); *Alliance For Community Media* v. *FCC*, 56 F. 3d 105, 1124-25 (D.C. Cir. 1995) cert. granted sub. nom., *Denver Area Education Telecommunications Consortium* v. *FCC*, 116 S.CT. 471 (1995), *Dial Information Services Corp. of New York* v. *Thornburgh*, 938 F.2d 1535, 1540-41 (2d Cir. 1991) cert. denied sub. nom., *Dial Information Services Corp. of New York* v. *Barr*, 502 U.S. 1072 (1992); *Action for Children's Television* v. *FCC*, 932 F. 2d 1504, 1508 (D.C. Cir. 1991).

The precise contours of the definition of indecency have varied slightly depending on the communications medium to which it has been applied. The essence of the phrase—patently offensive descriptions of sexual and excretory activities—has remained constant, however. At the time of this writing, the Supreme Court will consider at least one constitutional challenge to federal indecency statutes. Importantly, the question whether indecency is overly broad or unconstitutionally vague is not seriously at issue in that challenge. See Alliance for Community Media, supra, (whether State action exists as to private decisions by cable operators). There is little doubt that indecency can be applied to computer-mediated communications consistent with constitutional strictures, insofar as it has already been applied without rejection in other media contexts, including telephone, cable, and broadcast radio.

The conferees considered, but rejected, the so-called "harmful to minors" standard. See *Ginsberg* v. *New York*, 390 U.S. 629, 641-43 (1968). The proponents of the "harmful to minors" standard contended that that standard contains an exemption for material with "serious literary, artistic, political, and scientific value," and therefore was the better of the two alternative standards. ("Harmful to minors" laws use the "variable obscenity" test and prohibit the sale, and sometimes the display, of certain sexually explicit material to minors.) This assertion misapprehends the indecency standard itself, and disregards the Supreme Court's various rulings on this issue. See Pacifica, 438 U.S. at 743, n. 18, and its progeny.

The gravamen of the indecency concept is "patent offensiveness." Such a determination cannot be made without a consideration of the context of the description or depiction at issue. It is the understanding of the conferees that, as applied, the patent offensiveness inquiry involves two distinct elements: the intention to be patently offensive, and a patently offensive result. In the Matter of Sagittarius Broadcasting Corp. et al, 7 FCC Rcd. 6873, 6875, (1992); In the Matter of Audio Enterprises, Inc., 3 FCC Rcd. 930, 932 (1987). Material with serious redeeming value is quite obviously intended to edify and educate, not to offend. Therefore, it will be imperative to consider the context and the nature of the material in question when determining its "patent offensiveness."

In view of the solid constitutional pedigree of the indecency standard (see Pacifica), 438 U.S. at 743 (describing indecency as low value and marginally protected by the First Amendment)), use of the indecency standard poses no significant risk to the free-wheeling and vibrant nature of discourse or to serious, literary, and artistic works that currently can be found on the Internet, and which is expected to continue and grow. As the Supreme Court itself noted when upholding the constitutionality of indecency prohibitions, prohibiting indecency merely focuses speakers to re-cast their message into less offensive terms, but does not prohibit or disfavor the essential meaning of the communication. Pacifica, 438 U.S. at 743, n. 18. Likewise, requiring that access restrictions be imposed to protect minors from exposure to indecent material does not prohibit or disfavor the essential meaning of the indecent communication, it merely puts it in its appropriate place: away from children.

Violators of this section shall be fined under title 18, U.S. Code, or imprisoned not more than two years, or both.

Each intentional act of posting indecent content for display shall be considered a separate violation of this subsection, rather than each occasion upon which indecent material is accessed or downloaded from an interactive computer service or posted without the content provider's knowledge on such a service. New subsection 223(d)(2) sets forth the standard of liability for facilities providers who intentionally permit their facilities to be used for an activity prohibited by new subsection 223(d)(1).

New subsection 223(e) includes statutory defenses for violations of new sections 223 (a) and (d) that supplement other defenses available at law, such as common law defenses. New subsections 223(e)(1), (e)(2) and (e)(3) set forth the "access provider" defense. The defense protects entities from liability for providing access or connection to or from a facility, network or system not under their control. The defense covers provision of related capabilities incidental to providing access, such as server and software functions, that do not involve the creation of content.

The defense does not apply to entities that conspire with entities actively involved in the creation of content prohibited by this section, or who advertise that they offer access to prohibited content. Nor does it apply to provision of access or connection to a facility, system or network that engages in violations of this section and that is owned or controlled by the access provider. In the absence of these conditions, commercial and non-profit Internet operators who provide access to the Internet and other interactive computer services shall not be liable for indecent material accessed by means of their services. This provision is designed to target the criminal penalties of new sections 223(a) and (d) at content providers who violate this section and persons who conspire with such content providers, rather than entities that simply offer general access to the Internet and other online content. The conferees intend that this defense be construed broadly to avoid impairing the growth of online communications through a regime of vicarious liability.

New subsection 223(e)(4) provides a defense to employers whose employees or agents make unauthorized use of office communications systems. This defense is intended to limit vicarious or imputed liability of employers for actions of their employees or agents. To be outside the defense, the prohibited action must be within the scope of the employee's or agent's employment. In addition, the employer must either have knowledge of the prohibited action and affirmately

act to authorize or ratify it, or recklessly disregard the action. Both conditions must be met in order for employers to be held liable for the actions of an employee or agent.

The good faith defenses set forth in new subsection 223(e)(5) are provided for "reasonable, effective, and appropriate" measures to restrict access to prohibited communications. The word "effective" is given its common meaning and does not require an absolute 100% restriction of access to be judged effective. The managers acknowledge that content selection standards, and other technologies that enable restriction of minors from prohibited communications, which are currently under development, might qualify as reasonable, effective, and appropriate access restriction devices if they are effective at protecting minors from exposure to indecent material via the Internet.

New subsection 223(e)(6) permits the Commission to describe its view of what constitute "reasonable, effective and appropriate" measures and provides that use of such measures shall be admissible as evidence that the defendant qualifies for the good faith defense. This new subsection grants no further authority to the Commission over interactive computer services and should be narrowly construed.

New subsection 223(f)(1) supplements, without in any way limiting, the "Good Samaritan" liability protections of new section 230.

New subsection 223(f)(2) preempts inconsistent State and local regulations of activities and actions described in new subsections 223(a)(2) and (d). This provision is intended to establish a uniform national standard of content regulation for a national, and indeed a global, medium, in which content is transmitted instantaneously in point-to-point, and point-to-multipoint communications. As originally passed by the Senate, this subsection excluded non-commercial content providers. The conferees have expanded this section to provide for consistent national and State and local content regulation of both commercial and non-commercial providers. The conferees recognize and wish to protect the important work of nonprofit libraries and higher educational institutions in providing the public with both access to electronic communications networks like the Internet, and valuable content which they are uniquely well-positioned to provide. Accordingly, nonprofit libraries and educational institutions, like commercial entities, are assured by this provision that they will not be subjected to liability at the State or local level in a manner inconsistent with the treatment of their activities or actions under this legislation.

The conferees also recognize the critical importance of access software in making the Internet and other interactive computer services accessible to Americans who are not computer experts. Accordingly, provisions of "access software" is included within the access provider defense. As defined in new subsection 223(h)(3), in term includes software that enables a user to do any of an enumerated list of functions that are set forth in technical language. It includes client and server software, such as proxy server software that downloads and caches popular web pages to reduce the load of traffic on the Internet and to permit faster retrieval. The definition distinguishes between software that actually creates or includes prohibited content and software that allows the user to access content provided by others.

SECTION 503—OBSCENE PROGRAMMING ON CABLE TELEVISION

Senate bill

Section 403 of the Senate bill amends section 639 of the Communications Act to increase the maximum fine for transmitting obscene programming on cable television from $10,000 to $100,000.

House amendment

No provision.

Conference agreement

The conference agreement adopts the Senate provision with modifications, $10,000 is struck from the current law and "under title 18, United States Code" is inserted.

SECTION 504—SCRAMBLING OF CABLE CHANNELS FOR NONSUBSCRIBERS

Senate bill

Section 407 of the Senate bill adds a new section 640 to the Communications Act requiring cable television operators to fully scramble or otherwise block upon subscriber request and at no charge to the subscriber, the audio and video portions of programming not specifically subscribed to by a household and unsuitable for children in the judgment of the subscriber.

House amendment

No provision.

Conference agreement.

The conference agreement adopts the Senate provision with modifications as a new section 640 of the Communications Act. The "unsuitable for children" standard is dropped. Programming not subscribed to by a household shall be blocked on request without charge.

SECTION 505—SCRAMBLING OF SEXUALLY EXPLICIT ADULT VIDEO SERVICE PROGRAMMING

Senate bill

Section 408 of the Senate bill requires that cable operators offering sexually explicit adult programming or other programming that is indecent on any channel of its service primarily dedicated to sexually-oriented programming fully scramble or block the video and audio portions of such channel or channels so that one not a subscriber does not receive it.

House amendment

No provision.

Conference agreement

The conference agreement adopts the Senate provision with modifications as a new section 641 of the Communications Act.

SECTION 506—CABLE OPERATOR REFUSAL TO CARRY CERTAIN PROGRAMS

Senate bill

Section 408 of the Senate bill amends title VI of the Communications Act to allow cable operators to refuse to transmit any public access or leased access program or portion of a program which contains obscenity, indecency, or nudity.

House amendment

No provision.

Conference agreement

The conference agreement adopts the Senate provision.

SECTION 507—PROTECTION OF MINORS AND CLARIFICATION OF CURRENT LAWS REGARDING COMMUNICATION OF OBSCENE MATERIALS THROUGH THE USE OF COMPUTERS.

Senate bill

No provision.

House amendment

Section 403(a)(2) of the House amendment made conforming and clarifying amendments to sections 1462, 1467, and 1469 of title 18, United States Code. Those statutes currently prohibit the interstate transportation of obscenity for the purpose of sale or distribution, whether commercial or non-commercial in nature. These statutes outlaw the importation of obscenity, by whatever means. These provisions were intended to simply clarify sections 1462, 1465, and 1467 of title 18, U.S. Code.

Confernce agreement

The Senate recedes to the House with modifications. Section 507 simply clarifies that the current obscenity statutes, in fact, do prohibit using a computer to import and receive an importation of, and transport to sell or distribute, "obscene" material.

The amendments made by this section are clarifying and shall not be interpreted to limit or repeal any prohibition contained in sections 1462 or 1465 of title 18, United States Code, before such amendment, sunder the rule established in *United States v. Alpers*, 338 U.S. 680 (1950).

SECTION 508—COERCION AND ENTICEMENT OF MINORS

Senate bill

Several provisions of the Senate bill protect children from harassing, indecent or obscene communications.

House amendment

Several provisions of the House amendment protect children from obscene or indecent communications.

Confernce agreement

Section 508 would amend section 2422 of title 18 to prohibit the use of a facility of interstate commerce which includes telecommunications devices and other forms of communication for the purpose of luring, enticing, or coercing a minor into prostitution or a sexual crime for which a person could be held criminally liable, or attempt to do so. On July 24, 1995, the Senate Judiciary Committee held a hearing on online indecency, obscenity, and child endangerment. The record of this hearing supports the need for Congress to take effective action to protect children and families from online harm.

SECTION 509—ONLINE FAMILY EMPOWERMENT

Senate bill

No provision.

House amendment

Section 104 of the House amendment protects from civil liability those providers and users of interactive computer services for actions to restrict or to enable restriction of access to objectionable online material.

Conference agreement

The conference agreement adopts the House provision with minor modifications as a new section 230 of the Communications Act. This section provides "Good Samaritan" protections from civil liability for providers or users of an interactive computer service for actions to restrict or to enable restriction of access to objectionable online material. One of the specific purposes of this section is to overrule *Stratton-Oakmont* v. *Prodigy* and any other similar decisions which have treated such providers and users as publishers or speakers of content that is not their own because they have restricted access to objectionable material. The conferees believe that such decisions create serious obstacles to the important federal policy of empowering parents to determine the content of communications their children receive through interactive computer services.

These protections apply to all interactive computer services, as defined in new subsection 230(e)(2), including non-subscriber

systems such as those operated by many businesses for employee use. They also apply to all access software providers, as defined in new section 230(e)(5), including providers of proxy server software.

The conferees do not intend, however, that these protections from civil liability apply to so-called "cancelbotting," in which recipients of a message respond by deleting the message from the computer systems of others without the consent of the originator or without having the right to do so.

SUBTITLE B—VIOLENCE

SECTION 551—PARENTAL CHOICE IN TELEVISION PROGRAMMING

Senate bill

Sections 501-505 of Senate bill gives the industry one year to voluntarily develop a ratings system for TV programs. If the industry fails to do so, a Federal TV Ratings Commission would set the ratings. The Commission would be appointed by the President, subject to confirmation by the Senate and would establish rules for rating the level of violence and other objectionable content in programs. The Board would also establish rules for TV broadcasters and cable systems to transmit the ratings to viewers. The Commission would be authorized funds necessary to carry out its duties. The Senate bill requires TV manufacturers to equip all 13 inch or greater TV sets with circuitry to block rated shows.

House amendment

Section 305 of the House amendment gives the cable and broadcast industries one year to develop voluntary ratings for video programming containing violence, sex and other indecent materials and to agree voluntarily to broadcast signals containing such ratings. If the industry fails to come up with an acceptance plan, the Commission must develop guidelines for rating programs based on recommendations from an advisory committee that is fairly balanced politically. If a program is rated, the broadcasters must transmit the signal of the rating. The House amendment requires TV manufacturers to equip 13 inch or greater sets with circuitry that will enable the set to block out all programs with a common rating.

Conference agreement

The conference agreement adopts the House provisions with modifications. In subsection (a), Congress makes findings concerning the adverse impact of violent and indecent video programming on children, the compelling interest of the government in addressing this problem, and the promise of technological tools that allow parents to protect their children by blocking harmful programming on their television sets.

In subsection (b), Congress provides the Commission the authority to set up an advisory committee to recommend a system for rating video programming that contains sexual, violent or other indecent material about which parents should be informed before it is displayed to children. It also provides the Commission with authority to prescribe rules requiring a distributor to transmit a rating if the distributor has decided to rate a video program. However, in subsection (e), Congress delays the Commission's exercise of this authority to no sooner than one year after the date of enactment, and only if it determines that distributors of video programming have not established an acceptable voluntary system for rating programming nor agreed voluntarily to broadcast signals that contain ratings of such programming.

In subsection (b)(1), the Commission is authorized to prescribe guidelines and recommended procedures for a rating system based on the recommendations from the advisory committee. Nothing in this language is intended to preclude publishing the rating in print advertisements or on the air, but under this subsection the distributor must include the electronic transmission of the rating as an additional method of empowering parents to block programming carrying the rating.

The rules prescribed for transmitting a rating are requirements. In contrast, the guidelines and recommended procedures for a rating system are not rules and do not include requirements. They are intended to provide industry with a carefully considered and practical system for rating programs if industry does not develop such a system itself. However, nothing in subsection (b)(1) authorizes, and the conferees do not intend that, the Commission require the adoption of the recommended rating system nor that any particular program be rated.

In subsection (b)(2), Congress directs the Commission to ensure that the advisory committee is composed of representatives from the private sector and be fairly balanced in terms of political affiliation, the points of view represented, and the functions to be performed by the committee. It also direct the Commission to provide to the committee such staff and resources as may be necessary and require the committee to submit a final report no later than one year after the appointment of its members.

In new subsections (c) and (d), the conferees have removed language from the House amendment concerning the importation of televisions, and clarified that the requirements of these subsections apply to all televisions above a certain size shipped in interstate commerce (regardless of where they were manufactured) or televisions manufactured in the United States. Such sets are required by these two subsections to include a feature designed to enable viewers to block display of programs carrying a common rating in compliance with rules prescribed by the Commission. Under subsection (c)(4), the Commission is authorized to amend these rules as appropriate to allow set manufacturers to comply with this subsection using alternative technology that meets certain standards of cost, effectiveness and ease of use.

Under subsection (e)(1), the effective date for subsection (b) (regarding the appointment of an advisory committee to recommend a rating system and the rules for transmitting a rating) is no less than one year after the date of enactment. The actual effective date has also been made contingent on a determination by the Commission that distributors of video programming have not, by such date, established a voluntary system for rating video programming and such programming is acceptable to the Commission and have also agreed to include ratings in the transmission of signals to television sets for blocking.

Under subsection (e)(2), the effective date for subsection (c) (regarding the rules for the manufacture of television sets capable of blocking) is no less than two years after the date of enactment. The conferees intend that the actual effective date be specified by the Commission after consultation with the television manufacturing industry.

SECTION 552—TECHNOLOGY FUND

Senate bill

No provision.

House amendment

Section 304 of the House amendment encourages broadcast, cable, satellite, syndication, and other video programming distributors to establish a technology fund to encourage TV and electronics equipment manufacturers to facilitate the development of blocking technology that would empower parents to block TV programming they deem inappropriate for their children.

Conference agreement

The conference agreement adopts the House provision with modifications to encourage the availability of blocking technology to low income families.

SUBTITLE C—JUDICIAL REVIEW

SECTION 561—EXPEDITED REVIEW

Conference agreement

The conference agreement adds new language to provide for expedited judicial review of the indecency, obscenity and violence provisions of this title. In any civil action in which a party makes a facial challenge to these provisions, the challenge shall be heard by a three-judge district court convened under 28 U.S.C. §2284. Any decision of the three-judge district court holding a provision unconstitutional shall be directly appealable to the Supreme Court as a matter of right. However, the direct right of appeal provided in subsection (b) in this limited circumstance does not limit any appeal rights applicable to other circumstances under general statutes.

The conferees emphasize that these provisions are limited in several ways. They apply only in civil actions. If a party makes a facial challenge in a criminal context, that party would not be able to use the procedures provided in this section. These provisions apply only to facial challenges. These provisions do not apply to actions in which the party only challenges the provision as applied to the particular party involved. However, the three-judge district court could hear both a facial challenge and an "as applied" challenge if they were combined in the same action, and facial validity had not yet been determined. Thus, the conferees intend that these provisions should be invoked in only the limited number of cases necessary to determine the facial validity of these provisions. If that facial validity is upheld by the courts, these provisions may not be used in every "as applied" challenge brought thereafter.

TITLE VI—EFFECT ON OTHER LAWS

SECTION 601—APPLICABILITY OF CONSENT DECREES AND OTHER LAW

Senate bill

Section 7(a) of the Senate bill provides that except for the supersession of the Modification of Final Judgment, nothing in the Communications Act shall be construed to modify, impair, or supersede the applicability of any antitrust law. Section 7(b) provides that the Communications Act shall supersede the Modification of Final Judgment to the extent that it is inconsistent with the Communications Act. Section 7(c) of the bill transfers jurisdiction of any parts of the Modification of Final Judgment which are not superseded to the Commission. Section 7(d) supersedes the GTE consent decree.

Section 201(c) of the Senate bill provides that except as provided in section 202, nothing in the Communications Act shall be construed to modify, impair, or supersede any State or local tax law.

Section 226 of the Senate bill provides that notwithstanding any other provision of law or any judicial order, no person shall be subject to the provisions of the Modification of Final Judgment solely by reason by having acquired CMS or private mobile service assets or operations previously owned by a BOC or an affiliate of a BOC.

House amendment

Section 401(a) of the House amendment provides that certain specified sections of the Modification of Final Judgment are superseded. Section 401(b) provides that nothing in the Communications Act or the amendments made by the conference agreement shall be construed to modify, impair, or supersede any of the antitrust laws. Section 401(c)(1) provides that parts II and III of title II of the Communications Act shall not be construed to modify, impair, or supersede Federal, State, or local law unless expressly so provided in such part. Section 401(c)(2) provides that notwithstanding section 401(c)(1), nothing in the Communications Act or the amendments made by the conference agreement shall be construed to modify, impair, or supersede any State or local tax law except as provided in sections 243(e) and 622 of the Communications Act and section 402 of this Act.

Section 401(d) of the House amendment provides that the GTE consent decree is superseded. Section 401(e) provides that no person shall be considered an affiliate, successor, or an assign of a BOC under section III of the Modification of Final Judgment by reason of having acquired wireless exchange assets or operations previously owned by a BOC or an affiliate of a BOC. Section 401(f) defines the term "antitrust laws" as used in section 401. Section 401(g) provides that for the purposes of 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.

Conference agreement

The conference agreement adopts a new approach to the supersession of the Modification of Final Judgment (now called the AT&T Consent Decree in the conference agreement) and the GTE consent decree, and it adds language superseding the AT&T-McCaw Consent Decree ("McCaw Consent Decree"). The conferees sought to avoid any possibility that the language in the conference agreement might be interpreted as impinging on the judicial power. Congress may not by legislation retroactively overturn a final judgment. *Plaut* v. *Spendthrift Farm, Inc.*, 115 S.Ct. 1447 (1995). On the other hand, Congress may by legislation modify or eliminate the prospective effect of a continuing injunction. *Robertson* v. *Seattle Audubon Society*, 503 U.S. 429 (1992); *Plaut*, 115 S.Ct. 1447; *Pennsylvania* v. *Wheeling & Belmont Bridge Co.*, 59 U.S. 421 (1856).

The conferees believe that the AT&T Consent Decree, the GTE Consent Decree, and the McCaw Consent Decree are continuing injunctions rather than final judgments. The Committee has chosen to use the term "AT&T Consent Decree" rather than "Modification of Final Judgment" to emphasize that point.

To avoid any possible constitutional problem, the conferees adopted the following new approach. Rather than "superseding" all or part of these continuing injunctions, the conference agreement simply provides that all conduct or activities that are currently subject to these consent decrees shall, on and after the date of enactment, become subject to the requirements and obligations of the Communications Act and shall no longer be subject to the restrictions and obligations of the respective consent decrees.

The conferees intend that the court shall retain jurisdiction over the three consent decrees for the limited purpose of dealing with any conduct or activity occurring before the date of enactment. Nothing in the language eliminating the prospective effect of the three consent decrees should be construed as eliminating the jurisdiction of the Court to deal with preenactment conduct or activities under the consent decrees.

At the time of the divestiture of AT&T under the AT&T Consent Decree, AT&T and the BOCs entered into a number of long-term contracts that dealt with pensions, contingent liabilities, and the like. These contracts are not incorporated by reference in the AT&T Consent Decree, and nothing in the language eliminating the prospective effect of the AT&T Consent Decree should be construed as affecting these contracts.

By eliminating the prospective effect of the GTE Consent Decree, this language removes entirely the GTE Consent Decree's prohibition on GTE's and the GTE Operating Companies' entry into the interexchange market. No provision in the Communications Act should be construed as creating or continuing in any way the GTE Consent Decree's prohibition on GTE or its operating companies' entry into the interexchange market.

Language explicitly overturning the McCaw Consent Decree was not included in either bill. However, the new approach to the AT&T and GTE Consent Decrees, as well as intervening events, justify the overturning of the McCaw Consent Decree in the conference agreement.

The McCaw Consent Decree includes three major elements: (1) equal access and interconnection requirements for AT&T's cellular business, (2) restrictions on AT&T's manufacturing business, and (3) a separate subsidiary requirement for AT&T's cellular business. Both bills contained language that would have overturned the equal access and interconnection requirements for all cellular businesses, and that language is included in the conference agreement. Since the passage of the original bills in both the House and Senate, AT&T has announced that it will spin off its manufacturing business, and so the manufacturing aspects of the decrees will soon become moot. Finally, a recent decision of the Sixth Circuit, *Cincinnati Bell Tel. Co.*, v. *FCC*, 69 F.3d 752 (6th Cir. 1995), may lead to the removal of the separate subsidiary requirement for other cellular businesses. Accordingly, there is little reason to keep the McCaw Consent Decree in place.

The McCaw Consent Decree presents a slightly different problem than the other two consent decrees because it has not yet been formally entered by the court. The parties agreed to the McCaw Consent Decree and filed it with the court on July 15, 1994. AT&T entered into a stipulation to abide by the proposed consent decree until the court completed its review under the Tunney Act. That review is still continuing. Nonetheless, the conferees believe that the same basic principles of law set forth above relating to modifying the prospective effect of injunctions apply to the McCaw Consent Decree, which is defined to include the stipulation.

The new approach adopted in the Committee required that several new provisions be added to the conference agreement. Two of these provisions are described below. Two other provisions, relating to equal access and nondiscrimination for interexchange carriers and existing activities under consent decree waivers, are also related to this change and they are described in the appropriate sections of this Joint Statement.

Both the Senate bill and the House amendment specifically provided that a company would not be considered a successor to a BOC or otherwise subject to restrictions imposed on BOCs solely because the company acquired (by spinoff, transfer, or any other manner) wireless exchange assets or operations from a BOC. The language of these provisions provided this protection under the AT&T Consent Decree. Because of the new approach to the AT&T Consent Decree, the language in the bills no longer worked to provide the protection that was intended. For that reason, those specific provisions in both bills are omitted from the conference agreement.

In lieu of those provisions, the conference agreement modifies the definition of BOC so that successors or assigns of the listed BOC's fall within the definition only if they provide wireline telephone exchange service. This change of definition is intended to provide the same protection that the provisions in the two bills provided—that a successor to a BOC's wireless assets shall not be treated as a BOC simply because of the acquisition of those assets.

The conference agreement adopts the House antitrust savings clause with modifications. The antitrust savings clause provides that except as provided in paragraphs two and three, nothing in this Act or the amendments made by the conference agreement shall be construed to modify, impair, or supersede the applicability of any of the antitrust laws. The clause was modified to include the repeal of section 221(a) of the Communications Act (47 U.S.C. §221(a)). Congress enacted section 221(a) in the days when local telephone service was viewed as a natural monopoly. Its purpose was to allow competing local telephone companies to merge without facing antitrust scrutiny. Thus, the statute provides that when any two telephone companies merge, the Commission should determine whether the merger will be "of advantage to the persons to whom service is to be rendered and in the public interest." If so, the Commission can render the transaction immune from "any Act or Acts of Congress making the proposed transaction unlawful." In a world of regulated monopolies, this idea made sense.

However, section 221(a) could inadvertently undercut several of the provisions of the Telecommunciations Act of 1996. The problem arises for at least two reasons. First, the critical term "telephone company" is not defined. In the old world of regulated monopolies, a definition probably was not necessary. However, in the new world of competition, many companies will be able to argue plausibly that they are telephone companies.

Second, section 221(a) allows the Commission to confer immunity from any Act of Congress (including the Telecommunications Act of 1996) after performing a public interest review. Section 221(a) could be used to avoid the cable-telco buyout provisions of the Telecommunications Act of 1996. Any cable company that owned any telephone assets could become a telephone company and be bought out by a BOC by applying for immunity under this section.

In addition, if immunity were conferred under section 221(a), it would allow mergers between telecommunications giants to go forward without any antitrust or securities review. In the old world, the statute was usually used to confer immunity on mergers between non-competing Bell operating subsidiaries or mergers between Bells and small independents within their territories. Neither of these situations involved competitive considerations.

However, in the future, the conferees anticipate that cable companies will be providing local telephone service and the BOCs will

be providing cable service. Mergers between these kinds of companies should not be allowed to go through without a thorough antitrust review under the normal Hart-Scott-Rodino process. The new language contains a conforming change to clarify that these mergers will now be subject to Hart-Scott-Rodino review. By returning review of mergers in a competitive industry to the DOJ, this repeal would be consistent with one of the underlying themes of the bill—to get both agencies back to their proper roles and to end government by consent decree. The Commission should be carrying out the policies of the Communications Act, and the DOJ should be carrying out the policies of the antitrust laws. The repeal would not affect the Commission's ability to conduct any review of a merger for Communications Act purposes, e.g. transfer of licenses. Rather, it would simply end the Commission's ability to confer antitrust immunity.

The conference agreement adopts the House provision stating that the bill does not have any effect on any other Federal, State, or local law unless the bill expressly so provides. This provision prevents affected parties from asserting that the bill impliedly preempts other laws.

The conference agreement adopts the House version of the State tax savings clause with a modification to clarify that fees for open video systems are excluded from the savings clause.

SECTION 602—PREEMPTION OF LOCAL TAXATION WITH RESPECT TO DIRECT-TO-HOME SERVICES

Senate bill

No provision.

House amendment

Section 402 of the House amendment preempts local taxation on the provision of direct-to-home (DTH) satellite services. This section exempts DTH satellite service providers and their sales and distribution agents and representatives from collecting and remitting local taxes on satellite-delivered programming services. Section 402 does not preempt local taxes on the sale of the equipment needed to receive these services.

Conference agreement

The conference agreement adopts the House provisions with modifications. This section exempts DTH satellite service providers from collecting and remitting local taxes and fees on DTH satellite services. DTH satellite service is programming delivered via satellite directly to subscribers equipped with satellite receivers at their premises; it does not require the use of public rights-of-way or the physical facilities or services of a community.

The conferees adopt the House language, but narrow the language to ensure that the exemption is only provided for the actual sale of the programming delivered by the direct-to-home satellite service. The conference agreement amends the House provisions to clarify that the exemption applies to taxes "on" direct-to-home satellite service rather than "with respect to the provision of" such service. The conference agreement deletes the language specifying that the sale of equipment was not within the exemption. The conference agreement amends the definition of "direct-to-home satellite service" so that it includes only programming transmitted or broadcast by satellite.

The intent of these amendments is to clarify that the exemption applies only to the programming provided by the direct-to-home satellite service. To give two illustrative examples, the exemption does not apply to the sale of equipment; that language was deleted only because it could have created a negative implication that the exemption was broader than intended. In addition, the exemption does not apply to real estate taxes that are otherwise applicable when the provider owns or leases real estate in a jurisdiction. Also, States are free to tax the sale of the service and they may rebate some or all of those monies to localities if they so desire.

TITLE VII—MISCELLANEOUS PROVISIONS

SECTION 701—PREVENTION OF UNFAIR BILLING PRACTICES FOR INFORMATION OR SERVICES PROVIDED OVER TOLL-FREE TELEPHONE CALLS

Senate bill

Section 406 of the Senate bill amends section 228(c) of the Communications Act to add protection against the use of toll free telephone numbers to connect an individual to a "pay-per-call" service. Published reports have indicated that toll free numbers have been used to defeat the blocking of "pay-per-call" numbers by connecting a caller to a "pay-per-call" service after a toll free connection has been made. Households, businesses and other institutions have been billed for "pay-per-call" charges even though "pay-per-call" blocking techniques were used. This provision is intended to stop that practice.

Section 703 of the Senate bill also amends section 228(c) of the Communications Act to clarify that subscribers who call an 800 number or other toll-free numbers shall not be charged for the calls unless the calling party agrees to be charged under a written subscription agreement or other appropriate means. Section 703(a) enumerates findings made by Congress concerning the prevention of unfair billing practices for information or services provided over toll-free telephone calls.

House amendment

Section 110 protects unsuspecting caller from being charged for 800 calls that they expect to be toll-free—thereby preserving the toll-free status and integrity of the 800 number exchange and $8 billion industry—by requiring strict cost disclosure requirements to ensure that consumers clearly know when there is a charge for a call, how much the charge will be, and how they will be billed.

Pursuant to the provisions of this section, information providers must obtain legal, informed consent from a caller through either a written pre-authorized contract between the information providers and the caller, or through the use of an instructive preamble at the start of all non-free 800 calls. Both of these options ensure that consumers know there is a charge for the information service and that they are giving their consent to be charged.

Conference agreement

The conference agreement adopts the Senate provisions with modifications. The conferees agreed to close a loophole in current law, which permits information providers to evade the restrictions of section 228 by filing tariffs for the provision of information services. Many information providers have taken advantage of this exemption by filing tariffs—especially for 1-500, 1-700 and 10XXX numbers—and charging customers high prices for the services. This exemption has proven to be a problem because consumers have none of the protections that were enacted as part of the Telephone Disclosure and Dispute Resolution Act (P.L. 102-556). Section 701(b) of the conference agreement closes that loophole.

SECTION 702—PRIVACY OF CUSTOMER INFORMATION

Senate bill

Section 102 of the Senate bill amends the Communications Act to add a new section 252 to impose separate affiliate and other safeguards on certain activities of the BOCs. Subsection (g) of new section 252 establishes rules to ensure that the BOCs protect the confidentiality of proprietary information they receive and to prohibit the sharing of such information in aggregate form with any subsidiary or affiliate unless that information is a vaialble to all other persons on the same terms and conditions. In general, a BOC may not share with anyone customer-specific proprietary information without the consent of the person to whom it relates. Exceptions to this general rule permit disclosure in response to a court order or to initiate, render, bill and collect for telecommunications services. For purposes of this subsection the term "customer proprietary information" does not include subscriber list information.

Subsection 301(c) of the Senate bill defines the term "subscriber list information" and requires local exchange carriers to provide subscriber list information on a timely and unbundled basis and at nondiscriminatory and reasonable rates, terms and conditions to anyone upon request for the purpose of publishing directories in any format.

Subsection 301(d) provides that telecommunications carriers have a duty to protect the confidentiality of proprietary information of other common carriers and customers, including resellers. A telecommunications carrier that receives such from another carrier may not use such information for its own marketing efforts.

House amendment

Section 105 of the House amendment adds a new section 222 to the Communications Act. Section 222 establishes privacy protections for customer proprietary network information (CPNI). Section 222(a) imposes on carriers a statutory duty to provide subscriber list information on a timely basis, under nondiscriminatory and reasonable rates, terms and conditions, to any publisher of directories upon request.

Section 222(b)(1)(B) prohibits the use of CPNI "in the identifications or solicitation of potential customers for any service other than the service from which such information is derived."

With respect to section 222(b)(2), the House recognizes that carriers are likely to incur some costs in complying with the customer-requested disclosures contemplated by this section. This section does not preclude a carrier from being reimbursed by the customers of third parties for the costs associated with making such disclosures. In addition, the disclosures described in this section include only the information provided to the carrier by the customer. A carrier is not required to disclose any of its work product based on such information.

In section 222(b)(3), the term "aggregate information" should not be construed as a mechanism whereby carriers are forced to disclose sensitive information to their competitors. Indeed, the key component of "aggregate information" is that such information would have to be able to be disclosed only to those persons who have the approval of the customer. Thus, the House intends that the use of "aggregate information" would be rather limited or restricted

Section 222(c) states that this section shall not prevent the use of CPNI to combat toll

fraud or to bill and collect for services requested by the customers.

Section 222(d) allows the Commission to exempt from its requirements of subsection (b) carriers with fewer than 500,000 access lines, if the Commission determines either that such an exemption is in the public interest or that compliance would impose an undue burden.

Section 222(e) defines terms used in this section.

Section 104(b) directs the Commission to review the impact of converging communications technologies on customer privacy. This section requires the Commission to commence a proceeding within one year after the date of enactment to examine the impact of converging technologies and globalization of communications networks has on the privacy rights of consumers and possible remedies to protect them. This section also directs changes in the Commission's regulations to ensure that customer privacy rights are considered in the introduction of new telecommunications service and directs the Commission to correct any defects in its privacy regulations that are identified pursuant to this section. The Commission is also directed to make any recommendations to Congress for any legislative changes required to correct such defects within 18 months after the date of enactment of this Act.

This section defines three fundamental principles to protect all consumers. These principles are: (1) the right of consumers to know the specific information that is being collected about them; (2) the right of consumers to have proper notice that such information is being used for other purposes; and (3) the right of consumers to stop the reuse or sale of that information.

Conference agreement

The conference agreement adopts the Senate provisions with modifications. Section 702 of the conference agreement amends title II of the Communications Act by adding a new section 222.

In general, the new section 222 strives to balance both competitive and consumer privacy interests with respect to CPNI. New subsection 222(a) stipulates that it is the duty of every telecommunications carrier to protect the confidentiality of proprietary information of and relating to other carriers, equipment manufacturers and customers, including carriers reselling telecommunications services provided by a telecommunications carrier.

New subsection 222(b) provides that a telecommunications carrier that receives or obtains proprietary information from another carrier for purposes of providing any telecommunications service shall use such information only for such purpose and shall not use such information for its own marketing efforts.

In new subsection 222(c) use of CPNI by telecommunications carriers is limited, except as provided by law or with the approval of the customer. New subsection (c) specifies that telecommunications carriers shall only use, disclose, or permit access to individually identifiable CPNI in its provision of the telecommunications service for which such information is derived or in its provision of services necessary to or used in the provision of such telecommunications service, including directory services. The conferees also agreed upon a provision that will require disclosure of CPNI by a telecommunications carrier upon affirmative written request by the customer, to any person designated by the customer.

The conference agreement also asserts carriers' rights in new subsection 222(d) to use CPNI to initiate, render, bill, and collect for telecommunications service. New subsection (d) also allows use of CPNI to protect the rights or property of the carrier. The conferees intend new subsection 222(d)(2) to allow carriers to use CPNI in limited fashion for credit evaluation to protect themselves from fraudulent operators who subscribe to telecommunications services, run up large bills, and then change carriers without payment.

New subsection 222(e) stipulates that subscriber list information shall be made available by telecommunications carriers that provide telephone exchange service on a timely and unbundled basis to any person upon request for the purpose of publishing directories in any format. The subscriber list information provision guarantees independent publishers access to subscriber list information at reasonable and nondiscriminatory rates, terms and conditions from any provider of local telephone service.

New subsection 222(f) contains definitions of CPNI, aggregate information and subscriber list information.

SECTON 703—POLE ATTACHMENTS

Senate bill

Section 204 of the Senate bill amends section 224 of the Communications Act. Section 204 requires that poles, ducts, conduits and rights-of-way controlled by utilities are made available to cable television systems at the rates, terms and conditions that are just and reasonable regardless of whether the cable system is providing cable television services or telecommunications services. Section 204 further requires the Commission to prescribe additional regulations to establish rates for attachments by telecommunications carriers. Such rates will take effect five years from date of enactment and be phased in over a five year period.

House amendment

Section 105 of the House amendment is intended to remedy the inequity of charges for pole attachments among providers of telecommunications services. First, it expands the scope of the coverage of section 224 of the Communications Act. Under current law, section 224(a)(4) currently defines "pole attachment" to mean any attachment by a cable television system to a pole, conduit, or right of way owned or controlled by a utility. This section expands the definition of "pole attachment" to include attachments by all providers of telecommunications services.

Second, it amends section 224 to direct the Commission, no later than one year after the date of enactment of the Communications Act of 1995, to prescribe regulations for ensuring that utilities charge just and reasonable and nondiscriminatory rates for pole attachments to all providers of telecommunications services, including such attachments used by cable television systems to provide telecommunications services.

The new provision directs the Commission to regulate pole attachment rates based on a "fully allocated cost" formula. In prescribing pole attachment rates, the Commission shall: (1) 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 attachments; (2) 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; and (3) allow for reasonable terms and conditions relating to health, safety, and the provision of reliable utility service.

This new provision further provides that, to the extent that a company seeks pole attachment for a wire used solely to provide cable television services (as defined by section 602(6) of the Communications Act), that cable company will continue to pay the rate authorized under current law (as set forth in subparagraph (d)(1) of the 1978 Act). If, however, a cable television system also provides telecommunications services, then that company shall instead pay the pole attachment rate prescribed by the Commission pursuant to the fully allocated cost formula.

Finally, the new provision requires that whenever the owner of a conduit or right-of-way intends to modify or to alter such conduit or right-of-way, the owner shall provide written notification of such action to any entity that has obtained an attachment 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.

Conference agreement

The conference agreement adopts the Senate provision with modifications. The conference agreement section 224 of the Communications Act by adding new subsection (e)(1) to allow parties to negotiate the rates, terms, and conditions for attaching to poles, ducts, conduits, and rights-of-way owned or controlled by utilities. New subsection 224(e)(2) establishes a new rate formula charged to telecommunications carriers for the non-useable space of each pole. Such rate shall be based upon the number of attaching entities. The conferees also agree to three additional provisions from the House amendment. First, subsection (g) requires utilities that engage in the provision of telecommunications services or cable services to impute to its costs of providing such service an equal amount to the pole attachment rate for which such company would be liable under section 224. Second, new subsection 224(h) requires utilities to provide written notification to attaching entities of any plans to modify or alter its poles, ducts, conduit, or rights-of-way. New subsection 224(h) also requires any attaching entity that takes advantage of such opportunity to modify its own attachments shall bear a proportionate share of the costs of such alterations. Third, new subsection 224(i) prevents a utility from imposing the cost of rearrangements to other attaching entities if done solely for the benefit of the utility.

SECTION 704—FACILITIES SITING; RADIO FREQUENCY EMISSION STANDARDS

Senate bill

No provision.

House amendment

Section 108 of the House amendment required the Commission to issue regulations within 180 days of enactment for siting of CMS. A negotiated rulemaking committee comprised of State and local governments, public safety agencies and the affected industries were to have attempted to develop a uniform policy to propose to the Commission for the siting of wireless tower sites.

The House amendment also required the Commission to complete its pending Radio Frequency (RF) emission exposure standards within 180 days of enactment. The siting of

facilities could not be denied on the basis of RF emission levels for facilities that were in compliance with the Commission standard.

The House amendment also required that to the greatest extent possible the Federal government make available the use of Federal property, rights-of-way, easements and any other physical instruments in the siting of wireless telecommunications facilities.

Conference agreement

The conference agreement creates a new section 704 which prevents Commission preemption of local and State land use decisions and preserves the authority of State and local governments over zoning and land use matters except in the limited circumstances set forth in the conference agreement. The conference agreement also provides a mechanism for judicial relief from zoning decisions that fail to comply with the provisions of this section. It is the intent of the conferees that other than under section 332(c)(7)(B)(iv) of the Communications Act of 1934 as amended by this Act and section 704 of the Telecommunications Act of 1996 the courts shall have exclusive jurisdiction over all other disputes arising under this section. Any pending Commission rulemaking concerning the preemption of local zoning authority over the placement, construction or modification of CMS facilities should be terminated.

When utilizing the term "functionally equivalent services" the conferees are referring only to personal wireless services as defined in this section that directly compete against one another. The intent of the conferees is to ensure that a State or local government does not in making a decision regarding the placement, construction and modification of facilities of personal wireless services described in this section unreasonably favor one competitor over another. The conferees also intend that the phrase "unreasonably discriminate among providers of functionally equivalent services" will provide localities with the flexibility to treat facilities that create different visual, aesthetic, or safety concerns differently to the extent permitted under generally applicable zoning requirements even if those facilities provide functionally equivalent services. For example, the conferees do not intend that if a State or local government grants a permit in a commercial district, it must also grant a permit for a competitor's 50-foot tower in a residential district.

Actions taken by State or local governments shall not prohibit or have the effect of prohibiting the placement, construction or modification of personal wireless services. It is the intent of this section that bans or policies that have the effect of banning personal wireless services or facilities not be allowed and that decisions be made on a case-by-case basis.

Under subsection (c)(7)(B)(ii), decisions are to be rendered in a reasonable period of time, taking into account the nature and scope of each request. If a request for placement of a personal wireless service facility involves a zoning variance or a public hearing or comment process, the time period for rendering a decision will be the usual period under such circumstances. It is not the intent of this provision to give preferential treatment to the personal wireless service industry in the processing of requests, or to subject their requests to any but the generally applicable time frames for zoning decision.

The phrase "substantial evidence contained in a written record" is the traditional standard used for judicial review of agency actions.

The conferees intend section 332(c)(7)(B)(iv) to prevent a State or local government or its instrumentalities from basing the regulation of the placement, construction or modification of CMS facilities directly or indirectly on the environmental effects of radio frequency emissions if those facilities comply with the Commission's regulations adopted pursuant to section 704(b) concerning such emissions.

The limitations on the role and powers of the Commission under this subparagraph relate to local land use regulations and are not intended to limit or affect the Commission's general authority over radio telecommunications, including the authority to regulate the construction, modification and operation of radio facilities.

The conferees intend that the court to which a party appeals a decision under section 332(c)(7)(B)(v) may be the Federal district court in which the facilities are located or a State court of competent jurisdiction, at the option of the party making the appeal, and that the courts act expeditiously in deciding such cases. The term "final action" of that new subparagraph means final administrative action at the State or local government level so that a party can commence action under the subparagraph rather than waiting for the exhaustion of any independent State court remedy otherwise required.

With respect to the availability of Federal property for the use of wireless telecommunications infrastructure sites under section 704(c), the conferees generally adopt the House provisions, but substitute the President or his designee for the Commission.

It should be noted that the provisions relating to telecommunications facilities are not limited to commercial mobile radio licensees, but also will include other Commission licensed wireless common carriers such as point to point microwave in the extremely high frequency portion of the electromagnetic spectrum which rely on line of sight for transmitting communication services.

SECTION 705—MOBILE SERVICE DIRECT ACCESS TO LONG DISTANCE CARRIERS

Senate bill

Subsection (b) of section 221 of the Senate bill, as passed, states that notwithstanding the MFJ or any other consent decree, no CMS provider will be required by court order or otherwise to provide long distance equal access. The Commission may only order equal access if a CMS provider is subject to the interconnection obligations of section 251 and if the Commission finds that such a requirement is in the public interest. CMS providers shall ensure that its subscribers can obtain unblocked access to the interexchange carrier of their choice through the use of interexchange carrier identification codes, except that the unblocking requirement shall not apply to mobile satellite services unless the Commission finds it is in the public interest.

House amendment

Under section 109 of the House amendment, the Commission shall require providers of two-way switched voice CMS to allow their subscribers to access the telephone toll services provider of their choice through the use of carrier identification codes. The Commission rules will supersede the equal access, balloting and prescription requirements imposed by the MFJ and the AT&T-McCaw consent decree. The Commission may exempt carriers or classes of carriers from the requirements of this section if it is consistent with the public interest, convenience, and necessity, and the provision of mobile services by satellite is specifically exempt from this section.

Conference agreement

The conference agreement adopts the House provision with modifications as a new paragraph (8) of section 332 of the Communications Act. Specifically, no CMS provider is required to provide equal access to common carriers providing telephone toll services. However, the Commission may impose rules to require unblocked access through the use of mechanisms such as carrier identification codes or toll-free numbers, if it determines that customers are being denied access to the telephone toll service provider of their choice, and such denial is contrary to the public interest, convenience, and necessity. The requirements for unblocked access to providers of telephone toll service shall not apply to mobile satellite services unless the Commission finds it to be in the public interest.

SECTION 706—ADVANCED TELECOMMUNICATIONS INCENTIVES

Senate bill

Section 304 of the Senate bill ensures that advanced telecommunications capability is promptly deployed by requiring the Commission to initiate and complete regular inquiries to determine whether advanced telecommunications capability, particularly to schools and classrooms, is being deployed in a "reasonable and timely fashion." Such determinations shall include an assessment by the Commission of the availability, at reasonable cost, of equipment needed to deliver advanced broadband capability. If the Commission makes a negative determination, it is required to take immediate action to accelerate deployment. Measures to be used include: price cap regulation, regulatory forbearance, and other methods that remove barriers and provide the proper incentives for infrastructure investment. The Commission may preempt State commissions if they fail to act to ensure reasonable and timely access.

House amendment

No provision.

Conference agreement

The conference agreement adopts the Senate provision with a modification.

SECTION 707—TELECOMMUNICATIONS DEVELOPMENT FUND

Senate bill

No provision.

House amendment

Section 112 creates the Telecommunications Development Fund (TDF). The TDF is an organization to provide funds for small businesses involved in telecommunications application. The TDF is formulated to serve as a quasi-governmental entity that will provide low interest loans as well as financial guarantees. The capital for the Fund will be derived from the deposit of up-front payments for spectrum auctions into an interest bearing account.

Businesses with gross assets of less that $50 million will be eligible to receive loans, based upon an assessment of their loan application. The fund will be administered as a not-for-profit organization, and funds will be disbursed on a race and gender neutral basis. The board of directors will consist of seven members: four from the private sector, and one from three Federal agencies (the Commission, Department of Treasury, and the Small Business Administration).

The fund will provide for reinvestment, create jobs, and promote technological innovation in the telecommunications industry.

A unique aspect of the Fund is that it will promote public/private sector partnerships to enhance fund assets, and promote technology development and transfer.

Conference agreement

The conference agreement adopts the House provision as a new section 714 of the Communications Act.

SECTION 708—NATIONAL EDUCATION TECHNOLOGY FUNDING CORPORATION

Senate bill

Title VI of the Senate bill adds the National Education Technology Funding Corporation Act of 1995. The provisions of this title authorize a corporation, established in the District of Columbia as a private, nonprofit corporation which is not an agency or independent establishment of the Federal Government, to receive financial assistance from Federal departments and agencies. The Corporation will receive such assistance to leverage resources and stimulate private investment in education technology infrastructure, to encourage States to create and upgrade interactive high capacity networks for elementary schools, secondary schools and public libraries, to provide loans, grants and other forms of assistance to State education technology agencies, and other educational purposes. The Corporation's financial statements shall be audited annually, and the Corporation shall publish an annual report to the President and the Congress.

House amendment

No provision.

Conference agreement

The conference agreement adopts the Senate provision.

SECTION 709—REPORT ON THE USE OF ADVANCED TELECOMMUNICATIONS SERVICES FOR MEDICAL PURPOSES

Senate bill

No provision.

House amendment

The House amendment directs the Assistant Secretary of Commerce for Communications and Information, in consultation with the Secretary of Health and Human Services, to submit a report on telemedicine grant programs conducted by the government.

Conference agreement

The conference agreement adopts the House provision.

SECTION 710—AUTHORIZATION OF APPROPRIATIONS

Senate bill

No provision.

House amendment

This section authorizes appropriations for the Commission of such sums as may be necessary to carry out this Act, and provides that additional amounts appropriated to carry out this Act shall be construed to be changes in the amounts appropriated for the performance of the activities described in section 9(a) of the Communications Act.

Conference agreement

The conference agreement adopts the House provision with a technical modification to section 309(j)(8)(B) of the Communications Act.

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

TOM BLILEY,
JACK FIELDS,
MICHAEL G. OXLEY,
RICK WHITE,
JOHN D. DINGELL,
EDWARD J. MARKEY,
RICK BOUCHER,
ANNA G. ESHOO,
BOBBY L. RUSH,

Provided, Mr. Pallone is appointed in lieu of Mr. Boucher solely for consideration of sec. 205 of the Senate bill:

FRANK PALLONE, JR.,

As additional conferees, for consideration of secs. 1–6, 101–04, 106–07, 201, 204–05, 221–25, 301–05, 307–11, 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:

DAN SCHAEFER,
JOE BARTON,
J. DENNIS HASTERT,
BILL PAXON,
SCOTT KLUG,
DAN FRISA,
CLIFF STEARNS,
SHERROD BROWN,
BART GORDON,
BLANCHE LAMBERT LINCOLN,

As additional conferees, for consideration of secs. 102, 202–03, 403, 407–09, and 706 of the Senate bill, and title II of the House amendment, and modifications committed to conference:

DAN SCHAEFER,
J. DENNIS HASTERT,
DAN FRISA,

As additional conferees, for consideration of secs. 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:

CLIFF STEARNS,
BILL PAXON,
SCOTT KLUG,

As additional conferees, for consideration of secs. 7–8, 226, 404, and 704 of the Senate bill, and titles IV–V of the House amendment, and modifications committed to conference:

DAN SCHAEFER,
J. DENNIS HASTERT,
SCOTT KLUG,

As additional conferees, for consideration of title IV of the House amendment, and modifications committed to conference:

DAN SCHAEFER,
JOE BARTON,
SCOTT KLUG,

As additional conferees from the Committee on the Judiciary, for consideration of the Senate bill (except secs. 1–6, 101–04, 106–07, 201, 204–05, 221–25, 301–05, 307–11, 401–02, 405–06, 410, 601–06, 703, and 705), and of the House amendment (except title I), and modifications committed to conference:

HENRY HYDE,
CARLOS J. MOORHEAD,
BOB GOODLATTE,
STEVE BUYER,
MIKE FLANAGAN,

As additional conferees, for consideration of secs. 1–6, 101–04, 106–07, 201, 204–05, 221–25, 301–05, 307–11, 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:

HENRY HYDE,
CARLOS J. MOORHEAD,
BOB GOODLATTE,
STEVE BUYER,
MIKE FLANAGAN,
ELTON GALLEGLY,
BOB BARR,
MARTIN R. HOKE,
HOWARD L. BERMAN,

Managers on the Part of the House.

LARRY PRESSLER,
TED STEVENS,
SLADE GORTON,
TRENT LOTT,
FRITZ HOLLINGS,
DANIEL K. INOUYE,
WENDELL FORD,
J.J. EXON,
JAY ROCKEFELLER,

Managers on the Part of the Senate.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 9 o'clock and 14 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 2202

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. GOSS] at 10 o'clock and 2 minutes p.m.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 652, TELECOMMUNICATIONS ACT OF 1996

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 104–459) on the resolution (H. Res. 353) waiving points of order against the conference report to accompany the Senate bill (S. 652) to provide for a pro-competitive, 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, which was referred to the House Calendar and ordered to be printed.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. DELAY (at the request of Mr. ARMEY) for today, on account of illness.

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. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. TOWNS, for 5 minutes, today.

Mr. UNDERWOOD, for 5 minutes, today.

Mr. CARDIN, for 5 minutes, today.

Mr. HOYER, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.
Mr. WYNN, for 5 minutes, today.
Mr. FIELDS of Louisiana, for 5 minutes, today.
Mr. FLAKE, for 5 minutes, today.
Miss COLLINS of Michigan, for 5 minutes, today.
Mr. CONYERS, for 5 minutes, today.
Ms. JACKSON-LEE of Texas, for 5 minutes, today.
(The following Members (at the request of Mrs. MORELLA) to revise and extend their remarks and include extraneous material:)
Mrs. SEASTRAND, for 5 minutes, today.
Mr. MCCOLLUM, for 5 minutes, today.
Mrs. MORELLA, for 5 minutes, today.
Mr. MICA, for 5 minutes, today.
(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)
Mr. BROWN of Ohio, for 5 minutes, today.
(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)
Mrs. SCHROEDER, for 5 minutes, today.
Mr. ROHRABACHER, for 5 minutes, today.
(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)
Mr. GILMAN, for 5 minutes, today.
Mrs. LOWEY, for 5 minutes, today.
Mr. DINGELL, for 5 minutes, today.
(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)
Mr. MILLER of California.
(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)
Mr. BOEHNER.
(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)
Mr. SMITH of Michigan, for 5 minutes, today.
Mr. HOKE, for 5 minutes, today.
Mr. DOGGETT, for 5 minutes, today.
(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)
Mr. VOLKMER, for 5 minutes, today.
(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)
Mr. PALLONE, for 5 minutes, today.
(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)
Mr. JONES, for 5 minutes, today.
(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)
Mr. SCHUMER, for 5 minutes, today.
(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)
Mrs. MEEK of Florida, for 5 minutes, today.
Mr. FRAZER, for 5 minutes, today.
(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)
Mrs. MEEK of Florida, for 5 minutes, today.
Mr. PAYNE of New Jersey, for 5 minutes, today.
Mr. FRAZER, for 5 minutes, today.
(The following Member (at his own request) to revise and extend their remarks and include extraneous material:)
Mr. ABERCROMBIE, for 5 minutes, today.
(The following Members (at the request of Mr. HAYWORTH) to revise and extend their remarks and include extraneous material:)
Mrs. MORELLA, for 5 minutes, on February 1.
Mr. HUNTER, for 5 minutes, today.
Mr. HORN, for 5 minutes, on February 1.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:
(The following Members (at the request of Ms. NORTON) and to include extraneous matter:)
Mr. LANTOS.
Mr. DELLUMS.
Ms. WOOLSEY.
Mr. ACKERMAN.
Mr. HAMILTON in five instances.
Mr. SCHUMER.
Mr. WILSON in two instances.
Mr. KLECZKA.
Mr. KILDEE in two instances.
Mr. FROST.
Mr. HOYER.
Mr. POSHARD.
Mr. GEPHARDT in two instances.
Mr. UNDERWOOD.
Mr. MANTON.
Mr. MORAN.
Mr. RUSH.
Mr. MCDERMOTT.
Mr. KENNEDY of Rhode Island.
Mrs. MEEK of Florida in two instances.
Mr. SABO.
Mr. MENENDEZ.
Ms. NORTON.
Mr. HASTINGS of Florida.
Mr. LAFALCE.
Mr. MARTINEZ.
Mr. STUPAK.
Mr. ENGEL.
Mr. VENTO.
Mr. REED.
Mr. RICHARDSON.
Mr. DEFAZIO.
(The following Members (at the request of Mr. HAYWORTH) and to include extraneous matter:)
Mr. BAKER of California in two instances.
Mr. WALSH.
Mr. PACKARD.
Mr. RADANOVICH.
Mr. NORWOOD in two instances.
Mr. GREENWOOD.
Mr. QUINN.
Mr. LAZIO.
Mr. BURTON.
Mr. CRANE in two instances.
Mrs. SEASTRAND.
Mr. GILMAN.
Mr. DUNCAN in two instances.
Mr. FRELINGHUYSEN.
Mr. FRANKS of New Jersey.
(The following Members (at the request of Mr. LINDER) and to include extraneous matter:)
Mr. SOLOMON.
Mr. POSHARD.

ENROLLED BILL SIGNED

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

H.R. 2353. An act to amend title 38, United States Code, to extend the authority of the Secretary of Veterans Affairs to carry out certain programs and activities, to require certain reports from the Secretary of Veterans Affairs, and for other purposes.

ADJOURNMENT

Mr. LINDER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 3 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, February 1, 1996, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1988. A letter from the Director of Defense Research and Engineering, Department of Defense, transmitting the annual report to Congress describing the activities of the Defense Production Act fund, pursuant to 50 U.S.C. app. 2094; to the Committee on Banking and Financial Services.

1989. A communication from the President of the United States, transmitting a copy of Presidential Determination No. 95-45: Exempting the U.S. Air Force's operating location near Groom Lake, NV, from any Federal State, interstate, or local hazardous or solid waste laws that might require the disclosure of classified information concerning that operating location to unauthorized persons, pursuant to 42 U.S.C. 6961(a); to the Committee on Commerce.

1990. A letter from the Secretary of Energy, transmitting the Department's annual report on Federal Government energy management and conservation programs during fiscal year 1994, pursuant to 42 U.S.C. 6361(c); to the Committee on Commerce.

1991. A letter from the Chairman, United States Merit Systems Merit Protection Board, transmitting the 1995 annual report in compliance with the Inspector General Act Amendments of 1988, pursuant to Public Law 100–504, section 104(a) (102 Stat. 2525); to the Committee on Government Reform and Oversight.

1992. A letter from the Secretary of Energy, transmitting the Department's report entitled "Coal Research, Development, Demonstration, and Commercial Application Programs," pursuant to Public Law 102–486, section 1301(d) (106 Stat. 2972); to the Committee on Science.

1993. A letter from the Secretary of Defense, transmitting a report on proposed obligations of $5 million of unobligated funds remaining from fiscal year 1994 cooperative threat reduction [CTR] funds to complete defense conversion/housing activities in Ukraine and to obligate $5 million of unobligated funds remaining from fiscal year 1995 CTR defense military contracts funds to support strategic offensive arms elimination [SOAE] in Belarus, pursuant to 22 U.S.C. 5955; jointly, to the Committees on National Security and International Relations.

1994. A letter from the Secretary of Health and Human Services, transmitting the Department's first annual report to the Congress on tribal program services and expenditures for the child care and development block grant [CCDBG], pursuant to Public Law 101–508, section 5082 (104 Stat. 1388–244); jointly, to the Committees on Economic and Educational Opportunities and Resources.

1995. A letter from the Director, Audit Oversight and Liaison, General Accounting Office, transmitting a report entitled "Financial Audit: Expenditures by Six Independent Counsels for the Six Months Ended March 31, 1995" (GOA/AIMD–95–233), pursuant to 28 U.S.C. 591 note; jointly, to the Committees on the Judiciary and Government Reform and Oversight.

1996. A letter from the Secretaries of the Army and Agriculture, transmitting notification of the intention of the Departments of the Army and Agriculture to interchange jurisdiction of civil works and national forest lands at the Sam Rayburn Dam and reservoir project and Angelina and Sabine National Forest, TX, pursuant to 16 U.S.C. 505a; jointly, to the Committees on Transportation and Infrastructure and Agriculture.

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. WALSH: Committee of Conference. Conference report on H.R. 2546. A bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1996, and for other purposes (Rept. 104–455). Ordered to be printed.

Mr. LINDER: Committee on Rules. House Resolution 351. Resolution waiving points of order against the conference report to accompany the bill (H.R. 2546) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1996, and for other purposes (Rept. 104–456). Referred to the House Calendar.

Mrs. WALDHOLTZ: Committee on Rules. House Resolution 352. Resolution authorizing the Speaker to declare recesses subject to the call of the Chair from February 2, 1996, through February 26, 1996 (Rept. 104–457). Referred to the House Calendar.

Mr. BLILEY: Committee of Conference. Conference report on S. 652. An act to provide for a pro-competitive, 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 (Rept. 104–458). Ordered to be printed.

Mr. LINDER: Committee on Rules. House Resolution 353. Resolution waiving points of order against the conference report to accompany the bill (S. 652) to provide for a pro-competitive, 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 (Rept. 104–459). Referred to the House Calendar.

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. HASTINGS of Washington:

H.R. 2908. A bill to promote international trade and interstate commerce in the broodstock and seedstock of domesticated salmonid by authorizing the Secretary of Agriculture to provide diagnostic and certification services to reduce the risk of transmission of diseases associated with domesticated salmonid; to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BASS:

H.R. 2909. A bill to amend the Silvio O. Conte National Fish and Wildlife Refuge Act to provide that the Secretary of the Interior may acquire lands for purposes of that act only by donation or exchange, or otherwise with the consent of the owner of the lands; to the Committee on Resources.

By Mr. CRANE (for himself and Mr. RANGEL):

H.R. 2910. A bill to amend the Internal Revenue Code of 1986 to clarify the restrictions on the lobbying and campaign activities of churches; to the Committee on Ways and Means.

By Mr. CRANE:

H.R. 2911. A bill to amend the Internal Revenue Code of 1986 to limit the tax rate for certain small businesses, and for other purposes; to the Committee on Ways and Means.

By Mr. DEUTSCH (for himself, Mr. GONZALEZ, Mr. HEINEMAN, Mr. LIPINSKI, and Mr. FROST):

H.R. 2912. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to require a 33 percent reduction in certain assistance to a State under such title unless public safety officers who retire as a result of injuries sustained in the line of duty continue to receive health insurance benefits; to the Committee on the Judiciary.

By Mr. ENGLISH of Pennsylvania (for himself, Mr. CLINGER, Mr. WATTS of Oklahoma, and Mr. TAYLOR of North Carolina):

H.R. 2913. A bill to amend title 38, United States Code, to provide that amounts collected with respect to the provision of health care at a Department of Veterans Affairs medical center may be retained by that medical center; to the Committee on Veterans' Affairs.

By Mr. FRANK of Massachusetts:

H.R. 2914. A bill to amend the Higher Education Act of 1965 to clarify the authority of the Secretary of Education with respect to eligibility standards for short term educational programs; to the Committee on Economic and Educational Opportunities.

By Mr. HAYES:

H.R. 2915. A bill to enhance support and work opportunities for families with children, reduce welfare dependence, and control welfare spending; to the Committee on Ways and Means, and in addition to the Committees on Agriculture, Economic and Educational Opportunities, Banking and Financial Services, Government Reform and Oversight, Commerce, the Judiciary, and International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KENNEDY of Rhode Island (for himself and Mr. REED):

H.R. 2916. A bill to amend title 46, United States Code, to ensure the safety of towing vessels; to the Committee on Transportation and Infrastructure.

By Ms. NORTON:

H.R. 2917. A bill to authorize the Chief of Engineers of the Army Corps of Engineers to make capital improvements for the Washington Aqueduct, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. OWENS:

H.R. 2918. A bill to deny funds to educational programs that allow corporal punishment; to the Committee on Economic and Educational Opportunities.

By Mr. QUINN (for himself, Mr. MCHALE, Mr. FRANKS of New Jersey, Mr. MEEHAN, and Mr. BLUTE):

H.R. 2919. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to provide for the development and use of brownfields, and for other purposes; to the Committee on Commerce, and in addition to the Committees on Transportation and Infrastructure, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SMITH of Michigan (for himself, Mr. SOLOMON, and Mr. SHAYS):

H.R. 2920. A bill to limit the issuance of public debt obligations after December 31, 2001, and to impose maximum limits on the amount of the public debt limit; to the Committee on Ways and Means.

By Mrs. THURMAN (for herself, Mr. FOLEY, Mr. CANADY, Ms. BROWN of Florida, Mr. DIAZ-BALART, Mr. DEUTSCH, Mrs. FOWLER, Mr. GOSS, Mr. JOHNSTON of Florida, Mrs. MEEK of Florida, Mr. MICA, Mr. PETERSON of Florida, Ms. ROS-LEHTINEN, Mr. SHAW, Mr. STEARNS, and Mr. WELDON of Florida):

H.R. 2921. A bill to amend the Agricultural Adjustment Act to provide that imported tomatoes are subject to packing standards contained in marketing orders issued by the Secretary of Agriculture, and for other purposes; to the Committee on Agriculture, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TRAFICANT:

H.R. 2922. A bill to amend part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 to ensure that Federal funds made available to hire or rehire law enforcement officers are used in a manner that produces a net gain of the number of law enforcement officers who perform nonadministrative public safety services; to the Committee on the Judiciary.

By Ms. WATERS:

H.R. 2923. A bill to extend for 4 additional years the waiver granted to the Watts Health Foundation from the membership mix requirement for health maintenance organizations participating in the Medicare Program; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FARR (for himself, Mr. HALL of Ohio, Mr. WARD, Mr. WALSH, Mr. PETRI, and Mr. SHAYS):

H.J. Res. 158. Joint resolution to recognize the Peace Corps on the occasion of its 35th anniversary and the Americans who have served as Peace Corps volunteers; to the Committee on International Relations.

By Mr. MINGE (for himself, Mr. BLUTE, Mr. BROWDER, Mr. CRAMER, Mr. KLUG, Mr. LIPINSKI, Ms. MCKINNEY, and Mr. QUINN):

H. Con. Res. 137. Concurrent resolution expressing the sense of Congress that mediators should be used in discussions between Congress and the President to produce a balanced budget; to the Committee on Government Reform and Oversight.

By Mr. SOLOMON (for himself, Mr. GILMAN, Mr. LANTOS, Mr. ROYCE, Mr. ROHRABACHER, Mr. COX, and Mr. ACKERMAN):

H. Con. Res. 138. Concurrent resolution expressing the sense of the Congress regarding the movement toward democracy by the 21 million people of the Republic of China (Taiwan), and addressing the increasingly dangerous behavior of the People's Republic of China; to the Committee on International Relations.

By Mr. STEARNS:

H. Con. Res. 139. Concurrent resolution expressing the sense of the Congress that the George Washington University is important to the Nation and urging that the importance of the university be recognized and celebrated through regular ceremonies; to the Committee on Economic and Educational Opportunities.

By Mr. TORRICELLI (for himself, Mr. DEUTSCH, Mr. LANTOS, Mr. ACKERMAN, Mr. ANDREWS, and Mr. BROWN of Ohio):

H. Con. Res. 140. Concurrent resolution expressing the sense of the Congress with respect to the peace and security of Taiwan; to the Committee on International Relations.

By Ms. JACKSON-LEE (for herself, Mr. BONIOR, Mrs. CLAYTON, Mrs. COLLINS of Illinois, Ms. PELOSI, Mr. JACKSON, Mr. WISE, Mr. RICHARDSON, Mr. FAZIO of California, Mr. STUDDS, Mrs. MINK of Hawaii, Ms. MCKINNEY, Mr. LEWIS of Georgia, Mr. EDWARDS, Mr. GENE GREEN of Texas, Mr. MCNULTY, Mr. DURBIN, Mr. GEJDENSON, Mr. MILLER of California, Mr. REED, Mr. STUPAK, Mrs. LINCOLN, Ms. DELAURO, Mr. HEFNER, Mr. HASTINGS of Florida, Mr. GIBBONS, Mr. DELLUMS, Ms. LOFGREN, Mrs. SCHROEDER, Ms. MCCARTHY, Ms. BROWN of Florida, Mrs. MEEK of Florida, Mr. PAYNE of New Jersey, Mr. OWENS, Mr. ENGEL, Mr. BARRETT of Wisconsin, Mr. WYNN, Ms. WATERS, Mr. BERMAN, Ms. WOOLSEY, Mr. DOGGETT, and Mr. LUTHER):

H. Res. 354. Resolution relating to a question of the privileges of the House; to the Committee on Rules.

ADDITIONAL SPONSORS

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

H.R. 240: Mr. PARKER and Mr. SAXTON.

H.R. 447: Mr. FRAZER, Mr. FOGLIETTA, Mr. ACKERMAN, Mr. BEREUTER, and Mr. LEWIS of Georgia.

H.R. 598: Mr. SHADEGG.

H.R. 619: Mr. FOGLIETTA, Mr. OLVER, and Mr. MEEHAN.

H.R. 620: Mr. FOGLIETTA.

H.R. 784: Mrs. MYRICK, Mr. SCARBOROUGH, and Mr. BUNNING of Kentucky.

H.R. 820: Mr. LARGENT and Mr. BAESLER.

H.R. 995: Mr. GUNDERSON.

H.R. 1023: Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 1078: Mr. JOHNSTON of Florida.

H.R. 1202: Ms. LOFGREN and Mr. MCNULTY.

H.R. 1325: Mr. GENE GREEN of Texas, Mr. JOHNSTON of Florida, and Ms. NORTON.

H.R. 1400: Mr. HASTINGS of Florida and Mr. LIPINSKI.

H.R. 1402: Mr. FATTAH.

H.R. 1484: Mr. MENENDEZ.

H.R. 1610: Mr. POMEROY.

H.R. 1625: Mr. BARCIA of Michigan, Mr. SOUDER, and Mr. FORBES.

H.R. 1627: Mr. BARCIA of Michigan.

H.R. 1776: Mr. HEFNER.

H.R. 1856: Mr. CAMPBELL, Mr. HUNTER, Mr. HEFNER, Mr. BACHUS, Mr. WELDON of Florida, and Mr. BEVILL.

H.R. 1900: Mr. CRAPO.

H.R. 1955: Ms. JACKSON-LEE.

H.R. 1963: Mrs. MINK of Hawaii.

H.R. 2003: Mr. STARK and Mr. VOLKMER.

H.R. 2009: Mr. BROWN of Ohio.

H.R. 2019: Mr. ANDREWS and Mr. DUNCAN.

H.R. 2181: Mr. PORTER.

H.R. 2190: Mr. ORTON and Mr. ISTOOK.

H.R. 2200: Mr. HAMILTON, Mr. SHADEGG, and Mr. HALL of Texas.

H.R. 2246: Mr. HASTINGS of Florida, Mr. OWENS, and Mr. BISHOP.

H.R. 2260: Mr. LEACH.

H.R. 2270: Mr. HEFLEY.

H.R. 2310: Mr. MARTINI.

H.R. 2342: Mr. BISHOP.

H.R. 2400: Mr. BISHOP and Mrs. MALONEY.

H.R. 2406: Mr. SHAYS.

H.R. 2416: Mr. SHAW and Mr. WAMP.

H.R. 2450: Mr. COX.

H.R. 2506: Mr. CONDIT.

H.R. 2508: Mr. FRISA, Mr. SMITH of Michigan, Mr. CASTLE, and Mr. FORBES.

H.R. 2534: Ms. MCKINNEY, Mr. OLVER, and Mr. MEEHAN.

H.R. 2579: Mr. WELLER, Mr. BARRETT of Nebraska, Ms. JACKSON-LEE, Mr. BROWDER, Mr. BROWN of Ohio, Mr. PARKER, Mr. RAMSTAD, Mrs. JOHNSON of Connecticut, Mr. FRISA, and Mr. LEWIS of Kentucky.

H.R. 2597: Mr. DIAZ-BALART and Mr. JOHNSTON of Florida.

H.R. 2651: Mr. GALLEGLY, Mr. BLUTE, Mr. KLECZKA, Mr. DOYLE, and Mrs. MEEK of Florida.

H.R. 2664: Mr. ROBERTS, Mrs. ROUKEMA, and Mr. STARK.

H.R. 2699: Mr. MEEHAN, Mr. LATOURETTE, Mr. SAWYER, Mr. GENE GREEN of Texas, Mr. LIPINSKI, Mr. BROWN of Ohio, Ms. KAPTUR, Mr. LAFALCE, and Mr. GIBBONS.

H.R. 2713: Mr. MARTINI, Mr. BILBRAY, Mr. LATOURETTE, and Mr. GENE GREEN of Texas.

H.R. 2714: Mr. TORRES.

H.R. 2764: Mr. BLILEY, Mrs. MEEK of Florida, Mr. ACKERMAN, Mr. STEARNS, and Mr. LEVIN.

H.R. 2779: Mr. BENTSEN, Mr. HANSEN, Mr. HAYES, and Mr. LARGENT.

H.R. 2798: Mr. NETHERCUTT and Mr. MINGE.

H.R. 2848: Mr. QUINN and Mr. GENE GREEN of Texas.

H.R. 2856: Mr. FARR.

H.R. 2894: Mr. BARTLETT of Maryland, Mr. BURTON of Indiana, Mr. SCARBOROUGH, and Mr. WELDON of Pennsylvania.

H. Con. Res. 134: Mr. BAKER of California, Mr. MICA, Mr. WELDON of Florida, Mr. METCALF, and Mr. NEY.

H. Res. 263: Mr. BUNN of Oregon and Mr. MINGE.

H. Res. 346: Mr. WALSH.

H. Res. 348: Mr. HAYWORTH, Mr. SKELTON, Mr. NETHERCUTT, Mr. HERGER, Mr. BACHUS, Mr. FOLEY, Mr. WELDON OF PENNSYLVANIA, MR. SHAYS, Mr. MCCRERY, Mr. BUNNING of Kentucky, and Mr. CALVERT.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2854

OFFERED BY: MR. SANDERS

AMENDMENT NO. 1: At the end of title II, add the following new subtitle:

Subtitle C—Northeast Interstate Dairy Compact

SEC. 231. CONGRESSIONAL CONSENT FOR NORTHEAST INTERSTATE DAIRY COMPACT.

Congress consents to the Northeast Interstate Dairy Compact entered into among the States of Vermont, New Hampshire, Maine, Connecticut, Rhode Island, and Massachusetts, subject to the following conditions:

(1) COMPENSATION OF CCC.—Before the end of each fiscal year that a Compact price regulation is in effect, the Compact Commission shall compensate the Commodity Credit Corporation for the cost of any purchases of milk and milk products by the Corporation that result from any projected increase in fluid milk production for the fiscal year within the Compact region in excess of the national average rate of production.

(2) MILK MARKET ORDER ADMINISTRATOR.—By agreement among the States and the Secretary of Agriculture, the Administrator shall provide technical assistance to the Compact Commission, and be reimbursed for assistance, with respect to the applicable milk marketing order issued under section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

(3) TERMINATION AND RENEWAL.—The consent for the Compact—

(A) shall terminate on the date that is 5 years after the date of establishment of a Compact over-order price, subject to subparagraph (B); and

(B) may be renewed by Congress, without prior re-ratification by the States' legislatures.