HOUSE OF REPRESENTATIVES—*Tuesday, August 4, 1998*

The House met at 9:00 a.m.

MORNING HOUR DEBATES

The SPEAKER. Pursuant to the order of the House of January 21, 1997 the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 25 minutes, and each Member except the majority leader, the minority leader or the minority whip limited to not to exceed 5 minutes, but in no event shall debate continue beyond 9:50 a.m.

The Chair recognizes the gentleman from Oregon (Mr. BLUMENAUER) for 5 minutes.

LOSING PERSPECTIVE ON TELECOMMUNICATION ISSUES

Mr. BLUMENAUER. Mr. Speaker, at times I fear we are losing our perspective on the telecommunication issues. Yet again this week, we see that the e-rate is in the cross hairs.

I want to be very clear that I am a strong supporter of the e-rate. I believe that this Congress made a commitment to assist schools and libraries across the country in their efforts to provide America's school children with access to the Information Highway. Thousands have taken us at our word and we must honor that commitment, a commitment that is grounded in the Telecommunications Act of 1996, where we extended a part of the universal service program, in place administratively for the past 60 years, that provides telephone services to high-cost rural areas to extend that service to be clear that the e-rate is a part of that fundamental responsibility.

In 1997, the FCC issued its first notice of proposed rulemaking to make this expenditure a reality, capping at 2-and-a-quarter billion dollars per year, resources for eligible schools and libraries who would receive discounts ranging from 20 to 90 percent, depending on whether that school or library is disadvantaged or located in a high-cost area. Unfortunately, due to a variety of controversies, we found that this program has been dramatically reduced, and yet there are some who feel that it should be eliminated altogether.

What were the controversies that initiated this problem? Well, it was first and foremost I think brought about by those pesky surcharges that appeared on items of the bills. Those surcharges appeared to be for the e-rate only, but in fact, those were phone charges that would be responsible for the entire range of universal service activities.

For example, only 19 cents of AT&T's 93 cent surcharge would go to schools and libraries. But it did, in fact, stir up 2 fundamental issues, one dealing with the administrative problems associated with the program; and the second, the question about whether or not this was somehow a new tax to provide Internet services.

Mr. Speaker, it is true that there have been administrative problems associated with the e-rate, and, in fact, I agree with the critics who have called it into question. But the fact is that the FCC has taken steps to put in place the recommendations that have been required at the same time that they have cut the program down to $1.9 billion.

The second issue here is whether or not the e-rate is a tax. I think it is important for us to look back in history. The United States Appeals Court has already examined the administratively established universal service program and have concluded that it did not represent a tax, it was not an inappropriate delegation of the power to tax. The court found that instead, it was ensuring affordable rates for specified services, not designated primarily as a means of raising revenue.

The addition of a support mechanism for schools and libraries does not change that fundamental nature of the universal service, and I think it is, indeed, a great stretch of the imagination to suggest that this is attached.

At times I fear we are losing our perspective on the telecommunication industry. At a time when long-distance bills are now at their lowest point in history, when AT&T and MCI, GTE and Bell Atlantic have agreed to or are looking at mergers that total $100 billion, at a time when the industry has saved billions of dollars as a result of the telecommunication reform, controversy has erupted over this little, tiny element which would represent less than 1 cent per day, per customer to provide Internet access for America's schools and libraries.

Mr. Speaker, I hope that we do not abandon our commitment that Congress has made and that we support the e-rate in the course of this week's deliberations.

THE IMPACT OF NAFTA ON CROSS-BORDER DRUG TRAFFICKING

The SPEAKER pro tempore (Mrs. MORELLA). Under the Speaker's announced policy of January 21, 1997, the gentleman from Ohio (Mr. BROWN) is recognized during morning hour debates for 5 minutes.

Mr. BROWN of Ohio. Madam Speaker, I rise today to call on the Customs Department to release its findings regarding the effects of the North American Free Trade Agreement on our Nation's war against drugs. Americans have been concerned since the beginning of NAFTA, since early 1994, about NAFTA's impact on truck safety, NAFTA's impact on jobs, NAFTA's impact on food safety, and especially NAFTA's impact on illegal drugs coming across the border.

Entitled "Drug Trafficking, Commercial Trade and NAFTA on the Southwest Border," the 63-page Customs Department report confirms that NAFTA has made it easier than ever for Mexican traffickers to smuggle drugs into the United States. Further, it found that Mexican and American authorities are not doing enough to counter this fast-growing threat to our Nation's children.

NAFTA has opened the floodgates as more and more illegal substances are pouring from Mexico into the United States. Mexican traffickers are believed to smuggle about 330 tons of cocaine, 14 tons of heroin, and hundreds of tons of marijuana into the United States every year.

Sophisticated drug gangs are investing in trucking and shipping companies, rail lines and warehouses to shield their trafficking activities. They use these legitimate business operations to shield those trafficking activities.

Mexican smugglers have even been busy hiring consultants to learn how to take advantage of the North American Free Trade Agreement, some former drug agents have said. A former high-level DEA official has proclaimed that for Mexico's drug gangs, "NAFTA is a deal made in narco-heaven."

Another former high-level DEA official remarked that if you believe NAFTA has not adversely affected the fight against drug traffickers, "then you must believe in the tooth fairy."

In light of these allegations, I submitted a letter to the Commissioner of Customs regarding a copy of this report in May. In a June letter of reply, I was notified that the report contains "sensitive information" and is not "releasable." Former DEA agents have alleged they were under strict orders not to say anything negative about our current drug policies with Mexico.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Hard-working Americans who want to protect their children from the scourge of drugs have taken a back seat to free trade.

Madam Speaker, it is troubling that Customs refuses to release this taxpayer-funded report to the American public. By ignoring the flood of illegal drugs from Mexico, we are sacrificing the future of countless American kids on the altar of free trade.

Madam Speaker, I call on Customs again today to release this report immediately so we can move to fix NAFTA or to pull America out of this failed trade agreement.

PATIENT PROTECTION LEGISLATION

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Iowa (Mr. GANSKE) is recognized during morning hour debates for 5 minutes.

Mr. GANSKE. Madam Speaker, a week ago we had a debate on the floor of Congress here concerning patient protection legislation. It has been clear all along that there were major differences that needed to be worked out between the Patient Bill of Rights, the bill that I supported, a bipartisan bill, sometimes referred to as the Democratic bill, and the Republican bill, the Patient Protection Act. But it seemed as if at least there was some consensus on some of the basic fundamentals. For instance, a layperson's definition of emergency; or, for instance, provisions related to privacy.

However, as I warned several of my GOP colleagues, be careful in voting for the Republican bill, the Patient Protection Act. We may find that it is a pig in a poke because of the legislative language.

Today I would draw my colleagues' attention to an article in The New York Times by Robert Pear: "Common Ground on Patient Rights Hides a Chasm." Looking at the details of the House Republican plan shows that there are major differences even in areas where it seemed as if the two sides were in agreement. For instance, both sides were saying we are for a layperson's definition for emergency care; we both agree in the privacy of patient records.

When Members start to read the details of the Republican plan, I think they are going to be surprised. For instance, it would have seemed easy to have achieved consensus on a layperson's definition of an emergency. After all, this Congress passed a year ago, or in the 104th Congress, a provision on the layperson's definition for Medicare, a Federal health program that provides for 38 million people. But when we read the fine print of the House Republican's bill, the Patient Protection Act, which was introduced by the gentleman from Georgia (Mr. GINGRICH) and passed 8 days later by a vote of 216-to-10, we find out that there are some significant differences.

The Patient Bill of Rights would require HMOs and insurance companies to cover emergency services for subscribers "without the need for any prior authorization," regardless of whether the doctor or hospital was affiliated with the patient's health plan.

Emergency services as defined in the bill include a medical screening examination to evaluate the patient and further treatment that may be required to stabilize that patient's conditions. The HMO would have to cover those services if "A prudent layperson who possesses an average knowledge of health and medicine could reasonably expect an absence of immediate medical attention to cause serious harm."

By contrast, the House and Senate Republican bills would establish a two-step test. An HMO or insurance company would have to cover the initial screening examination if a prudent layperson would consider it necessary. But, the health plan would have to pay for additional emergencies only if "A prudent emergency medical professional" would judge them necessary. And under the GOP bill, the Patient Protection Act, the need for such services must be certified in writing by "an appropriate physician."

The Speaker said the Republican bill would guarantee coverage for "anyone who has a practical layman's feeling that they need emergency care." But that is not what is really in the bill.

That bill was rushed through at the last minute, there were no hearings on the bill, and so what we have is a situation where the provisions that we passed in Medicare for a layperson's definition have been significantly watered down. There is no guarantee in the Republican bill that the cost ultimately for a patient going to the emergency room with crushing chest pain, severe pain, would, in the end, be covered by their HMO.

The Congressional Budget Office estimates that the Patient Bill of Rights would require HMOs to pay for emergency room visits in half the cases where they now deny payment. It says, the charge for emergency care outside the HMO is typically 50 percent higher than hospitals in the HMO network. Remember, when we look at the details of the GOP plan, there is a provision in there that says, one has to go to the HMO hospital or else one could be left with a large, large bill.

Look at the details, I say to my colleagues, and let us try to fix this in the long run.

[From the New York Times, Aug. 4, 1998]

COMMON GROUND ON PATIENT RIGHTS HIDES A CHASM

(By Robert Pear)

WASHINGTON, August 3.—It has been clear that there are major differences to be worked out between the Democratic and Republic bills on patient rights.

But a look at the details of the House Republic plan shows that there are also major differences in important areas on which the two sides had seemed to agree.

The disagreements are illustrated in two areas: emergency medical services and the privacy of patients' medical records.

At first, it appeared that members of Congress agreed that health maintenance organizations should be required pay for emergency medical care. And they seemed to agree on a standard, promising ready access to emergency care whenever "a prudent lay person" would consider it necessary. After all, that was the standard set by Congress last year for Medicare, the Federal health program for 38 million people who are elderly or disabled.

But the consensus dissolved when emergency physicians read the fine print of the House Republicans' bill, the Patient Protection Act, which was introduced on July 16 by Speaker Newt Gingrich and passed eight days later by a vote of 216 to 210.

Since 1986, the Government has required hospitals to provide emergency care for anyone who needs and requests it. But the question of who should pay for such care has provoked many disputes among insurers, hospitals and patients.

The Democratic bill would require H.M.O.'s and insurance companies to cover emergency services for subscribers, "without the need for any prior authorization," regardless of whether the doctor or hospital was affiliated with the patient's health plan. Emergency services, as defined in the bill, include a medical screening examination to evaluate the patient and any further treatment that may be required to stabilize the patient's condition.

The H.M.O. would have to cover these services if "a prudent lay person, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention" to cause serious harm.

By contrast, the House and Senate Republican bills would establish a two-step test. An H.M.O. or an insurance company would have to cover the initial screening examination if a prudent lay person would consider it necessary. But the health plan would have to pay for additional emergency services only if "a prudent emergency medical professional" would judge them necessary. And under the House Republican bill, the need for such services must be certified in writing by "an appropriate physician."

Mr Gingrich said the Republicans' bill would guarantee coverage for "anybody who has a practical layman's feeling that they need emergency care."

But Representative Benjamin L. Cardin, Democrat of Maryland, said the bill "is not going to do what they are advertising."

One reason, Mr. Cardin said, is that the bill was rushed through the House. "There have been no hearings on the Republican bill," he said. "It did not go through any of the committees of jurisdiction for the purpose of markup or to try to get the drafting done correctly."

Under the Democratic bill, H.M.O. patients who receive emergency care outside their health plan—whether in a different city or close to home—may be charged no more than they would have to pay for using a hospital affiliated with the H.M.O. There is no such guarantee in the Republican bills. And the cost to patients could be substantial.

The Congressional Budget Office estimates that the Democratic bill would require H.M.O.'s to pay for emergency room visits in

half the cases where they now deny payment. And it says that the charge for emergency care outside the H.M.O. is typically 50 percent higher than at hospitals in the H.M.O. network.

John H. Scott, director of the Washington office of the American College of Emergency Physicians, said the protections for patients were much weaker under the Republican bills than under the Democratic bill or the 1997 Medicare law.

"We have more than a century of common law and court decisions interpreting the standard of a prudent lay person, or reasonable man, as it used to be called," Mr. Scott said. "But this new standard of a prudent emergency medical professional was invented out of thin air. It creates new opportunities for H.M.O.'s to second-guess the treating physician and to deny payment for emergency services. It would introduce a whole new level of dispute."

Dr. Charlotte S. Yeh, chief of emergency medicine at the New England Medical Center in Boston, said, "The Republicans performed some unnecessary surgery on the 'prudent lay person' standard, to the point that it's hardly recognizable as the consumer protection we envisioned."

The Senate adjourned on Friday for its summer vacation without debating the legislation, but leaders of both parties said they hoped to take it up in September. Senate Republicans intend to take their bill directly to the floor, bypassing committees, which normally scrutinize the details of legislation.

There was, and still is, plenty of common ground if Republicans and Democrats want to compromise. Both parties' bills would, for example, require H.M.O.'s to establish safeguards to protect the confidentiality of medical records.

But on this issue too, the details have provoked a furor. When privacy advocates read the fine print of the House Republican bill, they were surprised to find a provision that explicitly authorizes the disclosure of information from a person's medical records for the purpose of "health care operations." In the bill, that phrase is broadly defined to include risk assessment, quality assessment, disease management, underwriting, auditing and "coordinating health care."

Moreover, the House Republican bill would override state laws that limit the use or disclosure of medical records for those purposes.

The House Republican bill says patients may inspect and copy their records. But it stipulates that the patients must ordinarily go to the original source—a laboratory, X-ray clinic or pharmacy, for example—rather than to their health plan for such information.

Representative Bill Thomas, the California Republican who is chairman of the Ways and Means Subcommittee on Health, said the bill "prohibits health care providers and health plans from selling individually identifiable patient medical records."

Still, privacy advocates say the bill would allow many uses of personal health care data without the patients' consent.

Robert M. Gellman, an expert on privacy and information policy, said: "The House-passed bill gives the appearance of providing privacy rights. But it may actually take away rights that people have today under state law or common practice."

PROGRESS ON PRIORITY LEGISLATION OF CONGRESSIONAL WOMEN'S CAUCUS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized during morning hour debates for 5 minutes.

Ms. NORTON. Madam Speaker, this year the Women's Caucus made a calculated decision to concentrate our energies on 7 must-pass bills. This decision is being vindicated as we look at bills that have, in fact, already moved forward. These bills say to Members on both sides of the aisle that the bipartisan Women's Caucus has 7 bills and expects every Member to support these consensus bills. These are easy bills.

Madam Speaker, I come to the floor this morning to thank the gentleman from Florida (Mr. BILIRAKIS) and the gentleman from Ohio (Mr. BROWN) for moving the reauthorization of the Mammography Quality Standards Act, one of the 7 bills that we believe must be passed before we go home. It simply reauthorizes for another 5 years standards that would ensure that mammographies are safe, that technicians are well trained, and that mammography results are read correctly. This bill, we are told, will move to full committee and will be passed by the Committee on Commerce in time to reach the floor before we adjourn.

Madam Speaker, we have already seen progress on the Violence Against Women Act; piecemeal to be sure, but better piecemeal than nothing. The appropriation of the Subcommittee on Commerce, Justice, State, The Judiciary and Related Agencies of the Committee on Appropriations has some of these provisions in it. Some provisions were passed as part of the Child Sexual Predator Act.

The gentlewoman from Maryland (Mrs. MORELLA) has a commission on the advancement of women in the fields of science, engineering and technology development, an act that seeks to learn why, and then remove, barriers to women coming into and progressing in science. So a commission would be established to look at recruitment and advancement of women in science, engineering and technology in a country which is begging for men and women in the sciences. We cannot afford to let female talent go undiscovered, or worse, when discovered, not used. This is a must-pass bill.

There is a women-owned businesses resolution, H. Con. Res. 313, which simply calls upon agencies to review the recommendations before them for improving the access of women-owned businesses to the Federal procurement market. It is women-owned businesses that are growing at a rapid pace. That should be reflected in Federal contracts.

There are 2 more pieces of legislation which we believe we will have trouble getting passed this session, but they remain our priorities. One is child care legislation. We have endorsed no bill, but have indicated 4 principles that every bill must contain. Finally, a bill that would bar genetic discrimination, a looming problem. We have 3 bills by 3 members of the caucus, any one of which would mean great progress. The gentlewoman from New York (Ms. SLAUGHTER); the gentlewoman from Washington (Mrs. SMITH); and the gentlewoman from New York (Mrs. LOWEY) all have submitted different bills.

Madam Speaker, what this focus of the Women's Caucus says is that men and women in this House need to go home saying, we voted for and passed Women's Caucus bills this session.

CITIZENSHIP FOR CHONG HO KWAK

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Pennsylvania (Mr. GEKAS) is recognized during morning hour debates for 5 minutes.

Mr. GEKAS. Madam Speaker, to all who are within the sound of our voice this morning, I want to express my appreciation to a number of people for the moment that we are about to embrace here on the floor of the House.

Very shortly now we will be considering a special bill, a private bill in which the Congress of the United States will confer a benefit on one of our fellow citizens. I say one of our fellow citizens advisedly because that is exactly why the Congress has had to act in this extraordinary way, to pass a bill that confers a benefit directly on one individual.

Here is what happened. Chong Ho Kwak, a Korean immigrant, came to our country legally, worked and supported his family, did all of the things necessary to become an American citizen, focused on becoming an American citizen because that was the light of his life, to finally gain the status that everyone in the world yearns to have, the status of being a bona fide American citizen.

So he studied English, he studied the history of our country, he engaged in the special classes that are set for people who want to become citizens with all that that entails, and then, when the time came to take the test, nervous as he was, he went to the appointed place and presented himself for the purpose of undergoing the examinations that are necessary before one becomes a citizen. He passed them royally and was ecstatic, as was his family.

He passed the exams and he was ready now to take the oath of citizenship for the greatest honor that would ever be bestowed on him in his own mind, and in those of us who recognize how important that is for a person eager to become an American citizen.

Then, a tragic thing happened. About two months before the scheduled event for the naturalization ceremony in

which he would take his oath, he, Mr. Kwak, while operating his small grocery store, was attacked and robbed, shot in the head, and rendered unconscious, of course, and was relegated to a hospital where he still lingers in a coma from which he has never been able to revive himself and which has engendered much sympathy and much newsprint, as it were, covering that tragic event and all of its consequences.

The young thugs who attacked him got very little reward, were sentenced, and even as we speak are probably finishing out their sentences as the court might have dealt out to them, but Mr. Kwak is sentenced for the rest of his life to a long-term care facility, barely able to exist, let alone live a normal life.

Well, now what has happened? He was not able to take the oath of naturalization because of his condition. We asked the Immigration and Naturalization Service to outline a special circumstance for this individual and to permit him to be conferred a citizen of the United States, even without taking the oath, because of the circumstances. He could not raise his arm and do the natural things that are required to undertake an oath of naturalization.

The INS refused to do this, saying that the book by which they conduct their naturalization actually requires, and there is no straying from it, according to them, no veering away from it, that he must take the oath. We pointed out that we have attended many naturalization services where an infant, a young child is held in the arms of a parent who is an American citizen and the citizenship is conferred on this youngster who could not know what the meaning of the oath of office that was undertaken by his parent. Is that not similar, we said. Here is an individual who, because he was shot in the head, would not be able to understand the oath of allegiance to the United States, but nevertheless all of us who know that he passed the examination and was that split second short of being able to become an American citizen.

Madam Speaker, we will conduct a bill at 10 o'clock this morning which will confer citizenship on Mr. Kwak.

U.S. CONTINUES TO IGNORE PLIGHT OF KURDISH PEOPLE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentlewoman from Oregon (Ms. FURSE) is recognized during morning hour debates for 2 minutes.

Ms. FURSE. Madam Speaker, I rise today on behalf of 40 million people who have an identity, but do not have a country. The Kurdish people. Their land continues to be a setting for war and destruction that has lasted for decades.

The Kurds are a persecuted minority. It is a crime in Turkey to talk about Kurds or Kurdish issues. One cannot fly a Kurdish flag or even address another by his Kurdish name.

Madam Speaker, I am outraged wherever violations of human rights occur, but I am particularly enraged and distressed that our country continues to ignore the Kurdish people and their plight. For years, the U.S. has neglected reports and testimony from the Kurdish people about the human rights violations. Madam Speaker, our government must engage in and develop a Kurdish policy. We cannot continue to stand by as millions of their people suffer.

Now, Turkey is an important partner of the United States. It is a NATO member, gets huge amounts of money from us, but its abuses of the Kurdish people are unacceptable.

I would like to draw my colleagues' attention to Leyla Zana, who is an elected member of the Turkish Parliament. She is the first Kurdish woman to ever be elected. She is also a nominee for the Nobel Peace Prize. But Leyla Zana was arrested and severely tortured by the Turkish police in 1988. What was her crime? She engaged in peaceful demonstrations on behalf of prisoners who were also being tortured, and for respect for human dignity and the universal declaration of human rights, Leyla Zana, a parliamentarian, is currently serving a 15-year sentence with 4 other Kurdish members of the Turkish Parliament.

Leyla Zana writes, and I quote, that she is determined "to continue by peaceful means the struggle for peace between Kurds and Turkey, for democracy and for respect for human rights." She goes on to say, "These are the universal values which must unite us."

As elected officials here in the United States, we must speak out against abuses and develop a Kurdish U.S. policy.

HOME HEALTH CARE SYSTEM SUFFERING STATE OF EMERGENCY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentlewoman from Michigan (Ms. STABENOW) is recognized during morning hour debates for 5 minutes.

Ms. STABENOW. Madam Speaker, I rise today to declare a state of emergency. Our home health care industry is suffering from drastic cuts to the Medicare reimbursement system that was done in last year's balanced budget agreement. Cuts were made to reduce fraud and abuse, but these cuts unfortunately have had unintended consequences.

To date, over 1,200 home health agencies have gone out of business, and that number is expected to triple by the end of September, and these are not the high-cost agencies. Families are suffering. The new payment system for home health is so restrictive that patients who require the most expensive care will be the first to lose their care. The sickest and most feeble will be left in the cold.

I have visited many families and have made many home visits over the years. I know how important it is for individuals to receive care in their own home whenever possible where they can be surrounded by family and friends who love them. We are not just talking about the elderly, we are talking about children, we are talking about the disabled, anyone who needs to be in their home and receive home health care.

Home health care is a critical element of our Nation's health care safety net and that safety net is quickly unraveling as more and more patients are unable to receive care and more and more home health care agencies shut their doors.

Madam Speaker, I would like to put a human face on this issue and share one of the many constituent letters I have received from families who are afraid that a loved one will lose their home health care.

Dear Ms. Stabenow:

Suppose you were 84 years old, living on a Social Security monthly check of $650 in a small town. Suppose further that approximately one-and-a-half years ago you were declared legally blind because of complications from diabetes, and then one year ago you fell and broke your hip, but most importantly, through all of this you kept a sound mind and you owned your own home and had lived alone since your husband died 25 years earlier.

Now suppose also that when you broke your hip you had to be put in a nursing home, and the only one with available beds was 45 minutes from your home, family and friends. Now, further suppose that thanks to a home health care program, you were able to return home where you could live in your own home, talk to your friends on the telephone, attend senior citizen functions, keep your dog, and live somewhat of a normal life. All of this is possible because home health care provided:

A nurse to oversee administering of daily insulin, which you could not give yourself because you could not see, and an aid to come in twice a day for an hour to make sure you were well, got your bath, had breakfast and dinner, and had regular contact with the outside world.

I do not have to suppose any of this, because that 84 year old woman is my mother. I am not a great supporter of government programs, but taking care of our elderly so they can live with dignity has got to be a valid issue for government.

After such a long introduction, why am I writing this, my first-ever letter to a Congresswoman? Why, because the Balanced Budget Act has endangered my mother's home health care. She is in danger of losing her home and really, her life. The spending limits will cause the Health Department to drop her from the program. The only alternative is a nursing home. My mother cannot continue to live alone without the assistance that she has been receiving. Please help to restore the budget cuts in Medicare.

I urge my colleagues today to act quickly. There are many initiatives that have been introduced by the gentleman from Massachusetts (Mr. MCGOVERN); the gentleman from Oklahoma (Mr. COBURN); the gentleman from West Virginia (Mr. RAHALL); the gentleman from New Jersey (Mr. PAPPAS); the gentleman from Rhode Island (Mr. WEYGAND), to name just a few, and there are several bills. Unfortunately, we must act now if we are going to solve this issue in time for too many families.

First, I am pleased to join with the gentleman from Oklahoma (Mr. COBURN); the gentleman from Massachusetts (Mr. MCGOVERN); and the gentleman from Rhode Island (Mr. WEYGAND) today in urging the immediate adoption of the Home Health Access Preservation Act, a bill that will correct many of these problems, and I urge immediate consideration by this House.

If this does not happen quickly, then I would secondarily urge that the bill introduced by the gentleman from West Virginia (Mr. RAHALL) and myself and others that would place a 3-year moratorium on the interim perspective payment system for home health care benefits be passed immediately. We must act either to fix the problem or put a moratorium on the current payment system until it is fixed, or we are going to see more and more serious repercussions for our families.

Madam Speaker, after a serious examination of the data, I believe that either of these approaches are budget-neutral. The Balanced Budget Agreement has targeted $16.1 billion in savings to home health care. But the new CBO baseline now projects Medicare savings will exceed $26 billion.

This is $9.9 billion more than the expected savings from the Balanced Budget Agreement. Unfortunately this savings has been achieved on the backs of efficient, quality home care providers and the people who need care.

In the next few days I will be asking my colleagues to join me in a letter to President Clinton and to Speaker Gingrich. The letter will urge them to recognize the crisis in the home health care industry and implore them to make the resolution of this crisis a national priority. Congress should not let one more family or one more senior citizen suffer. Madam Speaker, I urge my colleagues to sign these letters and to get involved in finding an immediate solution to this home health care crisis. Thank you.

RECESS

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

Accordingly (at 9 o'clock and 33 minutes a.m.), the House stood in recess until 10 a.m.

□ 1000

AFTER RECESS

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

PRAYER

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

With Your goodness to us that is so freely given we place before You, O God, our personal petitions and pray that You would give strength when we are weak, heal us when we are hurt, forgive us when we miss the mark and encourage us to hear Your word and receive Your grace. We are grateful for so much and yet our needs are great, so we ask in this our prayer that Your spirit would abide in our hearts and Your presence live deep in our souls. May we be the people You would have us be and do those things that honor You and serve people everywhere. This is our earnest prayer. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Illinois (Mr. SHIMKUS) come forward and lead the House in the Pledge of Allegiance.

Mr. SHIMKUS 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.

PRIVATE CALENDAR

The SPEAKER pro tempore. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

LARRY ERROL PIETERSE

The Clerk called the bill (H.R. 379) for the relief of Larry Errol Pieterse.

There being no objection, the Clerk read the bill as follows:

H.R. 379

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

SECTION 1. WAIVER OF GROUNDS FOR REMOVAL OF, OR DENIAL OF ADMISSION TO, LARRY ERROL PIETERSE.

(a) IN GENERAL.—Notwithstanding section 212(a)(2)(A) of the Immigration and Nationality Act, and notwithstanding paragraphs (1)(A) and (2)(B) of section 241(a) of such Act (before redesignation as section 237(a) of such Act by section 305(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996), Larry Errol Pieterse may not be removed or deported from the United States or denied admission to the United States by reason of any offense for which he received a full pardon from the Governor of Florida prior to January 1, 1992.

(b) RESCISSION OF OUTSTANDING ORDER OF REMOVAL OR DEPORTATION.—The Attorney General shall rescind any outstanding order of removal or deportation, or any finding of deportability or removability, that has been entered against Larry Errol Pieterse by reason of any offense for which he received a full pardon from the Governor of Florida prior to January 1, 1992.

(c) PERMANENT RESIDENCE STATUS.—Notwithstanding any order terminating the status of Larry Errol Pieterse as an alien lawfully admitted for permanent residence, for purposes of the Immigration and Nationality Act he shall be considered lawfully admitted for permanent residence as of November 3, 1981, and such status shall be considered not to have changed between such date and the date of the enactment of this Act.

(d) ESTABLISHMENT OF GOOD MORAL CHARACTER.—Notwithstanding section 101(f) of the Immigration and Nationality Act, any offense for which Larry Errol Pieterse received a full pardon from the Governor of Florida prior to January 1, 1992, may not be considered in determining whether he is, or during any period has been, a person of good moral character for purposes of such Act.

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

CHONG HO KWAK

The Clerk called the bill (H.R. 2744) for the relief of Chong Ho Kwak.

There being no objection, the Clerk read the bill as follows:

H.R. 2744

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

SECTION 1. NATURALIZATION FOR CHONG HO KWAK.

(a) IN GENERAL.—By reason the inability of Chong Ho Kwak to understand the oath of allegiance required under section 337(a) of the Immigration and Nationality Act, because of his physical disability, notwithstanding such section or any other provision of such Act, the Attorney General shall naturalize Chong Ho Kwak, residing at 7 East Dulles Drive, Camp Hill, Pennsylvania, as a citizen of the United States, without his being administered the oath of allegiance pursuant to such section, not later than 5 days after the date of the enactment of this Act.

(b) EFFECTIVE DATE.—This Act shall take effect on the date of the enactment of this Act and shall apply regardless of whether the application for naturalization filed by Chong Ho Kwak before the date of the enactment of this Act has been finally denied by the Attorney General as of such date.

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

BELINDA MCGREGOR

The Clerk called the Senate bill (S. 1304) for the relief of Belinda McGregor.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the Senate bill be passed over without prejudice.

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

There was no objection.

The SPEAKER pro tempore. This concludes the call of the Private Calendar.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 379 and H.R. 2744, the two bills just passed.

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

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will take 15 one-minutes from each side.

THE COURAGE AND PERSEVERANCE OF LT. COL. LLOYD MILES

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

Mr. SHIMKUS. Mr. Speaker, this West Point graduate salutes my friend and classmate, Lieutenant Colonel Lloyd Miles, who took command of the First Battalion, 187th Infantry Regiment on July 21, 1998.

Lloyd was originally appointed battalion commander 2 years ago, but was sidelined after a grenade explosion took his left leg below the knee during a training accident just a couple of weeks into the job. Now, with a prosthetic that allows him to perform all of his duties, Lloyd has returned to his battalion.

Lloyd endured a painful rehabilitation at Walter Reed. Through his rehab, he had one goal in mind: to walk down the aisle unassisted. That is right, Lloyd was in the midst of planning his wedding when the accident occurred. He was determined to keep the wedding on schedule.

Not only did Lloyd reach his goal of walking down the aisle, he can now ride a bike. Lloyd credits his success to his wife and both of their families, as well as several generals who were also amputees and had successful careers.

Lloyd wants to lead by example, which is exactly what he has done through his courage, dedication and value of family and friends. Lloyd exhibits the best of our alma mater and class: Pride and excellence.

Lloyd, well done.

IF THE DRAGON FITS, JANET RENO SHOULD COMMIT

(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, the media says, "If it is on the dress, he must confess." I say, "If the dragon fits, Janet Reno should commit."

That is right, Janet Reno should appoint an independent counsel to investigate this Chinagate business. Even FBI director Louis Freeh agrees. But Janet Reno says, no, absolutely not. That is unbelievable to me.

The Justice Department cries out for reform from the top to the bottom. It is such a joke. If someone at the Justice Department commits a crime, that crime is investigated by a peer, a friend, a buddy in the same Justice Department.

Beam me up. From Waco, to Ruby Ridge, to China, to Filegate, it is out of control. While Monica's dress may be a fly on her face, my colleagues, I submit that China is a dragon eating our assets.

I yield back any justice left at the United States Justice Department.

ONE INTERESTING CONSPIRACY

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

Mr. BALLENGER. Mr. Speaker, the most amazing thing about the so-called "vast right-wing conspiracy" is that it is led by Democrats.

In fact, what is even more surprising is that it is led by Democrats who volunteer their time to help the Clinton-Gore White House.

Kathleen Willey and Monica Lewinsky were White House volunteers and loyal Democrats, about the last people we would expect to organize a vast right-wing conspiracy.

But just think about the other Democrats in this vast network of people who are out to get the President: Attorney General Reno; former Carter speech writer and aide to Tip O'Neil Chris Matthews; and former aide to Senator MOYNIHAN Tim Russert.

Am I forgetting anyone? Oh, yes, let us recall that Louis Freeh, appointed by President Clinton, has called for the appointment of an independent counsel to look into illegal campaign contributions to the Democratic party, as has Charles LaBella, handpicked by Janet Reno to investigate those allegations.

This is one interesting conspiracy.

YEAR 2000 CENSUS

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

Mr. PASCRELL. Mr. Speaker, the 1990 Census was the first in history to be less accurate than its predecessor. It missed millions of Americans, predominantly children and minorities.

Virtually every expert agrees that the way to get the most accurate census possible is by using modern scientific methods to supplement the traditional head count.

The Census Bureau's plan will not only produce the most accurate census, it will save literally hundreds of millions of dollars. Using the methods employed in 1990 will cost close to a billion more dollars and still miss millions of Americans. We cannot let this happen.

Funding the Census Bureau for only 6 months will cripple its ability to adequately plan and prepare for the largest peacetime mobilization undertaken by the U.S. Government. We must take the guessing out of the census.

For these reasons, we must today support the Mollohan amendment which strikes the provisions that restrict funding to the Census Bureau as they prepare for the 2000 census.

DOLLARS TO THE CLASSROOM ACT

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

Mr. PITTS. Mr. Speaker, I rise today to tell my colleagues what America's teachers are saying about the need to get tax dollars to the classroom.

The Association of American Educators has found that 82 percent of the teachers surveyed support consolidating Federal education programs, sending those funds in a formula grant to the States, just what the Dollars to the Classroom Act does.

I would like to share with my colleagues some interesting comments from teachers who support the Dollars to the Classroom approach.

"The Federal Government should quit dictating to local communities what should be taught to children, mainly because the Federal Government is totally out of touch with reality." Kansas City, Missouri.

"It's time we realize that no one program can meet the needs of every region." Oklahoma City, Oklahoma.

"I'm all in favor of localizing control of school budgets. Local educators are professionals with the training and experience to make the best decisions for their schools." Harrisburg, Pennsylvania.

Those are thoughts of teachers.

The question we need to ask is who do we trust to educate our children, Washington bureaucrats or local teachers, parents, and school officials?

Let us pass the Dollars to the Classroom Act. Send $2.7 billion to our classrooms.

NATION NEEDS AN ACCURATE CENSUS

(Mrs. MALONEY of New York asked and was given permission to address the House for 1 minute.)

Mrs. MALONEY of New York. Mr. Speaker, the Nation needs an accurate census, one that includes everyone.

The 1990 census undercounted 8.4 million people. The count heavily disfavored minorities. Correcting the census undercount is the civil rights issue of the 1990s.

The Census Bureau, under the direction of the National Academy of Sciences, has come forward with the modern comprehensive plan for the Year 2000 Census, one that will include everyone. The Republican majority is trying to stop the plan from going forward.

The Republican majority should not fear counting blacks, Hispanics and Asians. What they should be afraid of is repeating the errors of 1990 while the Nation's minorities look on, knowing those mistakes could have been prevented, knowing they were intentionally left out.

Mr. Speaker, the Year 2000 census must be about policy, accurate policy, not politics.

EDUCATION SAVINGS ACCOUNTS

(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, I do not recall precisely what I was doing July 21, but I do recall that I was not celebrating the passage of the Education Savings Accounts, a middle-class and low-income initiative that would have given millions of parents hope, hope for their children's future that they do not now have.

I did not celebrate because President Clinton vetoed that legislation on July 21. And the only people who were celebrating that day were here in Washington DC.

That is right, the Washington bureaucrats and the special interests who were responsible for the failed schools in the first place, who were responsible for the need for this legislation, they were celebrating already. They rejoiced in their ability to avoid real reform for one more year.

Schools which are laden with education malpractice will continue to avoid accountability. Children who graduate from these schools lacking even a basic competency in math and reading will continue to hold back any nation that is leading the world in science, technology, and innovation.

Yes, for the special interests and Washington bureaucrats, it was a time to celebrate. But for the children whose lives are clouded by the lack of hope, it is a sad day indeed.

HOME HEALTH CARE INDUSTRY

(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, it is not many times we can come to the floor of the House and solve a problem by working with the administration and working legislatively to make good or make better what we have wronged.

I am speaking this morning about the home health care industry, millions and millions of servants around the Nation who have made life better for those who are home-bound or infirm. We have a problem that they are facing that is causing many of them to close their doors, and that is the Medicare Interim Payment Plan. It is a problem and a plan that does not work.

The home health care industry and those professionals who work every day go to the neighborhoods and homes of our respective constituents and provide them with the necessary health care at home that allows them to stay with their families, to stay in the homes that they paid for, to stay where they raised their children, to stay in their familiar surroundings.

This process that is being enacted by HCFA is causing great stress and distress. And so, I would ask this House and the Administration to collaborate to change the laws and save our home health care industry. It will save the people who want to be home with their family and friends.

RADIO AND TV MARTI

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

Ms. ROS-LEHTINEN. Mr. Speaker, one of the many projects in the Commerce bill which helped to further American priorities and objectives is Radio and TV Marti.

Cuban patriot and poet Jose Marti said, "Only oppression should fear the full exercise of freedom."

Today, only Fidel Castro should fear the transmission of Radio and TV Marti. Only a brutal dictator like Castro should fear the dissemination of democratic principles throughout Cuba. Only those who want to keep the people of Cuba enslaved in an island prison should fear Radio and TV Marti.

One hundred years ago the U.S. joined forces with the Cuban opposition to help usher in a new era of independence and representative democracy for Cuba. Today, through Radio and TV Marti, the echoes of this commitment to bringing freedom to Cuba should be heard and seen by the Cuban people.

Daily transmissions from the U.S. to Cuba bring hope to an oppressed population and remind them of the more than 100 years of friendship and solidarity between the people of our two countries.

Let us do what is right. Let us recall the courage of those men and women who fought to defend the principles of liberty 100 years ago. Let us honor their memory by supporting Radio and TV Marti.

□ 1015

CENSUS

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

Mr. GREEN. Mr. Speaker, it is important for every American to be counted. How can Congress determine what a community needs if we really do not know how many people are in that community? It is estimated that the 1990 census undercounted the population in my hometown of Houston, Texas by 67,000 people. It is estimated the State of Texas lost $1 billion in title I school funding, road construction and senior citizen services because of the undercount in 1990.

Statisticians and scientists have determined that using scientific statistical methods will produce a census that is more accurate and less costly to taxpayers. We should stop playing politics with the census issue and say let us count every American. Today the Mollohan amendment will ensure that the Census Bureau be able to conduct an accurate and cost effective census in the year 2000. We need to support the Mollohan amendment.

Mr. Speaker, everyone deserves to be counted.

JOB CORPS

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

Mr. DUNCAN. Mr. Speaker, the House will soon approve more than $1 billion and a big increase for one of the most wasteful, least effective organizations in the entire Federal Government. This organization is the Job Corps, and it is presently spending more than $25,000 per year per Job Corps student. Yet the GAO has confirmed that very few Job Corps students, only about 4 percent, end up in jobs for which they were trained. For this $25,000 per year per student, we could give each of these young people a $1,000 a month allowance, send them to some expensive private school and still save money. They would probably think they had almost gone to heaven. This money will be approved because there are more than 110 Job Corps centers spread politically all over the country, and because most people mistakenly assume that this money is going to underprivileged young people.

Yet the kids are not getting this money. The only ones really benefiting are wealthy government contractors and the bureaucrats who are running the program.

SUPPORT MOLLOHAN AMENDMENT FOR A FAIR AND ACCURATE CENSUS

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

Ms. DELAURO. Mr. Speaker, the debate over the census should be about how to get a fair and an accurate count in the year 2000. We need to make sure that everyone counts in this country, everyone. The Census Bureau consulted the experts at the National Academy of Sciences, who recommended a plan to use the latest scientific methods to supplement the traditional head count. It would also save taxpayers millions of dollars. A more accurate, less costly census, that is the plan that the Democrats support. But the Republicans in this body want to overrule the experts.

That is a bad idea. The census is too important to fall victim to partisan politics. The census data directly affects decisions made on funding for education, veterans services, public health care, the environment and housing. In America, every family should count. Every child should count. Every senior should count. Every veteran should count.

Support a fair and an accurate census. Support the Mollohan amendment.

CENSUS MUST FOLLOW CONSTITUTIONAL MANDATE

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

Mr. EWING. Mr. Speaker, the last speaker talked about the census. There is one overriding requirement for the census, that it follow the constitutional mandate for an actual count. Now, all the great things that have been said about doing it the other way really do not follow the constitutional mandate. It is easy to get up and say, "Well, it will cost less money. We are going to count everybody."

Of course we want to count everybody. That is the issue. We do not believe you will get an accurate count by sampling. The Constitution does not provide for a count by sampling. It requires an actual enumeration. So the Democrats do not want to follow the Constitution. The Republicans do. We believe that is the requirement. We are willing to pay the cost. We want an accurate count.

AMERICA NEEDS A FAIR AND ACCURATE CENSUS

(Ms. MCKINNEY asked and was given permission to address the House for 1 minute.)

Ms. MCKINNEY. Mr. Speaker, the census is America's family portrait. I would like to bring attention to my staff. We thought we would take a family portrait. Unfortunately, this is what my staff would look like after a Republican census. If the Republicans have their way, some of my staff will disappear, because the Republicans do not want a fair and accurate census. Republicans are absolutely satisfied with certain people not being counted because it preserves their political power.

In the year 2000, the only way we are going to make sure that every man, woman and child is included in America's family portrait is by putting Republican racial fearmongering aside and let the Census Bureau do its job. America needs a fair and accurate census.

MANAGED CARE REFORM

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

Mr. GEJDENSON. Mr. Speaker, just in case there are any questions left about what is wrong with health care in America and the failure of the Republican proposal in this House, my family has had another opportunity to see America's present health care system up close and personal.

My brother, who runs the dairy farm that we live on, woke up one morning with the right side of his face paralyzed from blind tick palsy. He had no sensation on the right side of his face. "Silly brother," Ike thought, "this was serious." So he went to the emergency room. But not his insurance company. They rejected the claim.

Americans are being injured and harassed by the present system. We need to applaud President Clinton for his efforts to move health care forward and let doctors and hospitals make decisions about health care and not the profits of the managed care companies.

CAMPAIGN FINANCE REFORM

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

Mr. FARR of California. Mr. Speaker, I rise to point out that last night we had quite a victory in this House on campaign finance reform. We had a victory on an amendment, a small step. It is not the answer. The answer is comprehensive campaign reform. People fail to realize that in the elections last time, running for this seat in the House of Representatives cost over half a billion dollars for all the candidates. That was what was reported, because there are a lot of ads done by independent agencies that are not reported.

So, Mr. Speaker, if we are going to have meaningful campaign finance reform, we are going to have to put limits on what candidates can spend. That amendment is up today. We are going to have a great debate and we are going to see whether this House can live up to what it has done in 1991, 1992 and 1993, when we passed comprehensive campaign reform that really put limits on campaigns. Shays-Meehan is a step in the right direction, but it is not the answer.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

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

REQUIRING OSHA TO RECOGNIZE THAT ELECTRONIC FORMS AND PAPER COPIES PROVIDE THE SAME LEVEL OF ACCESS TO INFORMATION

Mr. BALLENGER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4037) to require the Occupational Safety and Health Administration to recognize that electronic forms of providing Material Safety Data Sheets provide the same level of access to information as paper copies and to improve the presentation of safety and emergency information on such Data Sheets, as amended.

The Clerk read as follows:

H.R. 4037

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

SECTION 1. ELECTRONIC ACCESS.

In the administration and enforcement of the regulation on Hazard Communication, published at 29 C.F.R. Sec. 1910.1200, the Secretary shall provide that an employer complies with the requirement of maintaining and making readily accessible to employees material safety data sheets (MSDS) for each hazardous chemical if such employer makes the MSDS available through electronic access, so long as—

(1) the electronic system for retrieving MSDS's is reasonably and readily available to employees in their work areas throughout their work shifts and to representatives of the employees upon reasonable request;

(2) the electronic system is capable of providing a paper copy of a retrieved MSDS without unreasonable delay;

(3) employees are adequately trained in the use of the electronic system for retrieving MSDS's; and

(4) the electronic system provides a means of retrieving information contained in MSDS's in case of a temporary power or equipment failure or other emergency.

SEC. 2. DISPLAY OF SAFETY INFORMATION.

(a) GENERAL RULE.—Under the regulation on Hazard Communication, published at 29 C.F.R. Sec. 1910.1200, each chemical manufacturer, importer, or distributor shall prominently display worker safety information described in subsection (b) by either—

(1) attaching to the first page of each material safety data sheet a container label (or facsimile thereof) which includes, at a minimum, the information described in subsection (b); or

(2) attaching to the first page of each material safety data sheet the information described in subsection (b).

(b) INFORMATION.—The information required by subsection (a) shall include—

(1) the manufacturer's, importer's, or distributor's name, address, and emergency telephone number (including the hours of operation);

(2) the identity of the chemical, using the trade name or chemical name and potentially hazardous ingredients of the chemical;

(3) appropriate hazard warnings, with immediate hazards listed first;

(4) instructions for safe handling and precautionary measures to avoid injury from hazards; and

(5) first aid instructions in case of contact or exposure which require immediate treatment before medical treatment is available. Information required under paragraph (5) should be targeted to the technical level of the audience and information required by this subsection shall be presented with the least technical language appropriate.

(c) EFFECTIVE DATE.—The requirements of subsection (a) shall apply to material safety data sheets for new or reformulated chemicals beginning 18 months after the date of the enactment of this Act and shall apply to all other material safety data sheets beginning 36 months after such date.

SEC. 3. STUDY.

Not later that 90 days after the date of the enactment of this Act, the Secretary of Labor shall initiate a study that assesses and measures the comprehensibility of hazard warnings to industrial workers. Upon completion of the study, the Secretary shall prepare a report and make it available to chemical manufacturers and importers which prepare material safety data sheets.

SEC. 4. REPORT ON AGREEMENT.

The Secretary of Labor shall report to the House Committee on Education and the Workforce and the Senate Labor Committee upon United States entry into any international agreement regarding the format or contents of material safety data sheets or labeling of hazardous chemicals with recommendations for changes to the requirements of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from North Carolina (Mr. BALLENGER) and the gentleman from Indiana (Mr. ROEMER) each will control 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. BALLENGER).

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

First let me acknowledge and commend the two sponsors of H.R. 4037, the gentlewoman from Texas (Ms. GRANGER) and the gentleman from Indiana (Mr. ROEMER). I appreciate the work that both of them and their staffs have done in making this a bipartisan bill and in working with everyone involved so that we can bring this bill to the House floor today.

OSHA's Hazard Communication Standard is one of OSHA's most important but also most troublesome regulations. A lot of complaints that we hear about, about the paperwork burden and the nit-picky paperwork violations from OSHA are because of the Hazard Communication Standard. The idea of the standard is a good one, to make sure that employers and employees know what chemicals they are working with and how to safely handle them. But the implementation of this standard has long been a source of complaint, and OSHA has not been exactly quick to fix the problems.

H.R. 4037 addresses two of the problems that have been the source of these complaints for years. Under the Hazard Communication Standard, each chemical product must have a Material Safety Data Sheet, or better known as an MSDS that is written by the producer or importer of the chemical, and which must contain a variety of information about the chemical involved and the potential hazards it may present. Those Material Safety Data Sheets, or MSDS, are then forwarded down through the chain of commerce all the way to the retailer or user of the product. Each employer who uses or sells any products containing chemicals for which there have been any studies showing potential health or safety hazards must maintain these Material Safety Data Sheets in his or her workplace. OSHA estimates that there are over 650,000 chemical products covered by the Hazard Communication Standard. Others have estimated that there are Material Safety Data Sheets in circulation for over a million different products. Your typical small business can easily have a couple of thousand of these MSDS Data Sheets on hand. And an MSDS Data Sheet can easily be 10 or more pages long. It is little wonder that failure to have all of the required MSDS Data Sheets on hand has been one of the most frequently cited of all OSHA's regulations.

The first part of H.R. 4037 makes clear that an employer's obligation to have these Safety Data Sheets readily accessible may be met by electronic access to the MSDS Data Sheets.

□ 1030

The advantage of using the electronic system to access these sheets are overwhelming, particularly for small employers. For a couple of hundred dollars a year, a small businessman can subscribe to an electronic service that maintains all of the MSDS sheets through which he can instantly call up the desired information. Instead of going through piles of paper and filing cabinets and looseleaf folders, the employee can simply type in the name of the product and access the information.

OSHA does not prohibit electronic systems from accessing material, the safety data sheets, but the regulation and OSHA's enforcement policy suggests that employers should maintain copies of MSDS sheets, whether or not they are also in the electronic system. As a result, many employers simply maintain paper copies, despite the fact that the electronic system would be more useful and effective.

H.R. 4037 makes it clear that electronic access systems, whether maintained in-house or by third parties, are permitted, so long as four conditions are met: First, the electronic system is reasonably and readily available to employees and upon request to union representatives of the employees; second, the electronic system can produce paper copies of the MSDS, if requested, without unreasonable delay; third, employees are adequately trained in the use of the electronic system; and, fourth, the electronic system provides a means of retrieving information contained in the MSDS in case of temporary power or equipment failure. Thus, for example, an employer whose electronic system used as an Internet connection could receive information contained in the MSDS via telephone in the event of computer or power failure until the Internet connection is restored.

A second complaint about the hazard communications standard has been the fact that the MSDS sheets are not easily used by most employees or employers, both because of the amount of information they include and because they are often written in technical language. Suppliers of these MSDS point out that the sheets are used for a variety of purposes, including emergency response personnel and health care providers, so more detailed and technical information in the Material Safety Data Sheet is important.

H.R. 4037 attempts to strike a balance between these two concerns. It does not require change in either the format of the MSDS or in the type of information provided by this MSDS. Instead, it requires that summary emergency information with the information most useful to the employee be attached to the front of the MSDS. That information is the same as is often provided in the product label.

So the bill provides that either the label or the text of the label should be attached to the front of the Material Safety Data Sheet. But the label or the text of the label must include certain basic information about chemicals, including emergency contacts.

Finally, concerns were raised about the effect of H.R. 4037 on efforts under

way to reach an international agreement on a standardized form for presenting information on chemicals. Now, I appreciate that concern, and as we continue the move into the global marketplace, it makes sense to standardize as much as possible the presentation of hazard information.

On the other hand, we do not know at this point when the international effort will conclude or what it might provide. So H.R. 4037 requires that the Secretary of Labor, if an international agreement is reached, recommend to this committee and to the Senate Labor Committee any changes in the law necessary to make it consistent with international agreement.

Mr. Speaker, H.R. 4037 is a simple but important step towards improving this OSHA regulation.

Again I want to thank the gentleman from Indiana (Mr. ROEMER) and the gentlewoman from Texas (Ms. GRANGER) for their efforts to move this bill, and I urge my colleagues to support this bill.

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

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

Mr. Speaker, I rise today in strong support of this common sense legislation. First of all, I, too, want to applaud the gentleman from North Carolina (Mr. BALLENGER) and the gentlewoman from Texas (Ms. GRANGER) for their work and their cooperation and their bipartisanship on this very common sense bill.

The bottom line, Mr. Speaker, for me is we need to work in a bipartisan, common sense way to prevent the 6,000 people that are killed in the workplace every year and the 70,000 workers that are hurt in the workplace every year. There are things we can do, working across the aisle, Democrats and Republicans, to use common sense, and in this case technology, to prevent those deaths and those injuries.

This bill, I think, goes a long way toward providing that common sense and that usage of technology by updating these MSDSs. We now can encourage our small businesses and big businesses to use the CD-ROMs. Instead of merely using what they have used over the decades and through years and years of paperwork, the Material Safety Data Sheets, that have all kinds of complexities and paperwork and sheets of data that are faxed from one employer to another and back and forth, and you cannot even read them once they are faxed back and forth, we want to bring OSHA into the new century and the next century and use the kind of technology, Internet services, fax-on-demand, electronic services, and, yes, CD-ROMs, to make sure we try to use technology to prevent the 6,000 people that are killed every year and the 70,000 people that are injured in the workplace. So this uses technology, and it uses it in a very, very fair, common sense and efficient manner.

Secondly, we want to use the common sense with that technology to prevent these injuries and deaths. Too often in these sheets of paper we do not use common sense and things read "avoid ocular contact." Avoid ocular contact? Why can we not just say "keep out of the eyes." That is the kind of common sense language that I think we all need to use, whether we are speaking on the House floor or whether we are trying to prevent injury and death in the workplace.

So this bill goes a long way towards using that common sense, toward permitting the use of technology and the Internet and CD-ROMs, and toward working with a diverse group of people and interest groups in this town and throughout the country.

We have worked with the AFL-CIO, we have worked with the Department of Labor, we have worked with the Chemical Manufacturers Association and the Small Business Coalition for MSDS reform led by the NFIB. All of these groups have worked with the gentlewoman from Texas (Ms. GRANGER) and the gentleman from North Carolina (Mr. BALLENGER) to put together this bipartisan legislation and try to move this country forward toward protecting our workers with technology and common sense.

So I strongly applaud this bipartisan work, this good work product, this use of technology, this use of better English language to help our workers understand the dangers of the workplace.

Finally, I want to conclude by saying, Mr. Speaker, that this is the third bill this year where we have passed incremental changes to OSHA that try to do things to ensure better morale, better productivity and a safer workplace.

We passed H.R. 2877, which prohibited OSHA from setting quotas for citations and fines. We should not have quotas for citations and fines. This committee worked together to prohibit that practice.

We passed 2864, which allows state OSHA agencies to consult with businesses to improve their safety programs. This kind of consultation and proactive way, rather than just doing penalties, will also improve the way OSHA tries to protect the workers with common sense and technology and proactive ways of working with our businesses, rather than just simply going in and fining them.

In conclusion, Mr. Speaker, I want to say I am very proud to have worked with the Republicans and Democrats to get this legislation up before the body today. I am very proud to have worked in a bipartisan way to pass two previous pieces of legislation that reflect the same kind of things in this bill, the common sense and the use of technology, and also very proud to do some things in this body that reach out to States like Indiana and North Carolina, that reach out to States like Texas and California and New York, to do what we all want to do, increase productivity, keep this economy rolling along, and, yes, protect the worker in the workplace. That is what this common sense legislation will achieve.

I thank again the gentlewoman from Texas (Ms. GRANGER) and the gentleman from North Carolina (Mr. BALLENGER), to the staff on my side of the Committee on Education and the Workplace, and to my staff member Ryan Dvorak for his hard work.

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

Mr. BALLENGER. Mr. Speaker, I yield three minutes to the gentlewoman from Texas (Ms. GRANGER).

Ms. GRANGER. Mr. Speaker, many times on many occasions we come to this floor in the hope of solving a crisis. Today we come in the hope of preventing one. H.R. 4037 is a simple bill with a simple premise, to protect the safety and security of America's workers.

Let me give you an example of how this bill will make a difference in the lives of working people everywhere. Under current law, when a chemical is spilled in the workplace, the workers have to plow through a Material Safety Data Sheet to find instructions on how to clean up the spill and minimize danger. Unfortunately, these forms are, as the gentleman from Indiana (Mr. ROEMER) said, generally written in legal terms, not common sense terms, that can straightforwardly protect the safety of our workers.

Our bill ensures that at the beginning of each MSDS form there will be an emergency overview that lays out in layman's terms what needs to be done in the case of a chemical spill in the workplace.

Moreover, our bill allows these important forms to be kept through an electronic communication systems, like a fax-on-demand system, Internet service or CD-ROM. These will make them more convenient, more accessible, and, the most important thing, they will make them more effective for our workers.

I want to thank the gentleman from North Carolina (Chairman BALLENGER) for his hard work on this issue and for his willingness to bring this bill to the floor. I would also like to thank the gentleman from Indiana (Mr. ROEMER), who cosponsored this legislation with me, and, as the Congressman said, in particular, we would like to thank our staff, in my case Lisa Helfman who worked on my staff and Ryan Dvorak on the staff of the gentleman from Indiana (Mr. ROEMER), for their hard work in bringing this forward.

We often speak of issues in terms of right or left. This is an issue that is truly right versus wrong. It is right to

give our workers the protections they need, since it is always the right time to do the right thing.

I urge my colleagues to pass H.R. 4037 today.

Mr. GOODLING. Mr. Speaker, H.R. 4037 makes two simple but important changes to OSHA's regulation on Hazard Communication.

First, H.R. 4037 clarifies the law with regard to the acceptable use of electronic systems for maintaining "material safety data sheets," which employers are required to maintain and make available to employees by the Hazard Communication standard.

To anyone who has looked at the amount of information required of the typical business by the Hazard Communication standard, it should be evident that an electronic system of keeping that information is preferable to a paper system. And yet OSHA continues to suggest a preference for paper copies of material safety data sheets by putting conditions on the use of electronic systems that it does not put on paper copies.

By encouraging employers, especially small employers, to use electronic systems for maintaining material safety data sheets, H.R. 4037 will make a real impact in reducing OSHA's paperwork burden on employers.

Second, H.R. 4037 requires that summary and emergency information be attached to the front page of the material safety data sheet. This is to make the information more useful and useable for employers and employees.

Mr Speaker, I want to commend the sponsors of H.R. 4037, Representative GRANGER and Representative ROEMER, for their work on this bipartisan bill, as well as Subcommittee Chairman BALLENGER. H.R. 4037 will help make one Federal regulation a little more sensible and compliance a little easier. I urge my colleagues to support H.R. 4037.

Mr. ROEMER. Mr. Speaker, today, the House of Representatives will pass H.R. 4037, a bill of which I am an original cosponsor. I would like to thank my colleagues, Representative KAY GRANGER and Representative CASS BALLENGER, and all of the cosponsors, for their bipartisan efforts to help create and pass this common sense OSHA reform legislation.

Under current law, every business in the country must maintain documentation about the chemicals they keep at a work site. These documents are called Material Safety Data Sheets (MSDS's) and while originally intended to provide critical health and safety information about dangerous chemicals, they have become cumbersome technical documents that can be up to twenty pages long, and are the causes of frequent paperwork violation citations.

H.R. 4037 has three main points. First, it would allow businesses the choice to access the information contained on an MSDS through electronic communications services, like a fax-on-demand system, internet service, or a CD-ROM. This type of service eliminates an enormous amount of regulatory paperwork, while actually increasing access to the information. Current MSDS service companies can provide instantaneous access to critical chemical information, expert technical advice, and coordination with emergency responders. The current paper system can do none of those.

Second, H.R. 4037 would require all MSDS to have an emergency overview at the beginning of the document that lists emergency contacts, hazard warnings, and first aid information. This emergency overview would allow both employers and employees to have immediate access to the most critical information on an MSDS. Currently, this information can be buried near the end of the document, behind pages of confusing technical information.

Finally, the bill instructs the Occupational Safety and Health Administration (OSHA) to conduct a study on the technical level of language used to write MSDS's. Presently, some documents still say things like: "Avoid ocular contact," instead of: "Keep out of eyes." OSHA would make the results of their study available to MSDS writers to provide guidance and improve their quality.

To achieve this bipartisan piece of legislation, we have worked in good faith with every interested party to address the concerns of the AFL-CIO, the Chemical Manufacturers Association, the Department of Labor, and the small business Coalition for Material Safety Data Sheet Reform. Again, I thank my colleagues for their cooperation and hard work on H.R. 4037. I look forward to working with the Senate to ensure its eventual enactment into law.

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

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

The SPEAKER pro tempore (Mr. DICKEY). The question is on the motion offered by the gentleman from North Carolina (Mr. BALLENGER) that the House suspend the rules and pass the bill, H.R. 4037, as amended.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BALLENGER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 4037.

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

There was no objection.

□ 1045

OCEAN SHIPPING REFORM ACT OF 1998

Mr. SHUSTER. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 414) to amend the Shipping Act of 1984 to encourage competition in international shipping and growth of United States exports, and for other purposes, as amended.

The Clerk read as follows:

S. 414

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ocean Shipping Reform Act of 1998".

SEC. 2. EFFECTIVE DATE.

Except as otherwise expressly provided in this Act, this Act and the amendments made by this Act take effect May 1, 1999.

TITLE I—AMENDMENTS TO THE SHIPPING ACT OF 1984

SEC. 101. PURPOSE.

Section 2 of the Shipping Act of 1984 (46 U.S.C. App. 1701) is amended by—

(1) striking "and" after the semicolon in paragraph (2);

(2) striking "needs." in paragraph (3) and inserting "needs; and";

(3) adding at the end thereof the following:

"(4) to promote the growth and development of United States exports through competitive and efficient ocean transportation and by placing a greater reliance on the marketplace.".

SEC. 102. DEFINITIONS.

Section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702) is amended by—

(1) striking "the government under whose registry the vessels of the carrier operate;" in paragraph (8) and inserting "a government;";

(2) striking paragraph (9) and inserting the following:

"(9) 'deferred rebate' means a return by a common carrier of any portion of freight money to a shipper as a consideration for that shipper giving all, or any portion, of its shipments to that or any other common carrier over a fixed period of time, the payment of which is deferred beyond the completion of service for which it is paid, and is made only if the shipper has agreed to make a further shipment or shipments with that or any other common carrier.";

(3) striking paragraph (10) and redesignating paragraphs (11) through (27) as paragraphs (10) through (26);

(4) striking "in an unfinished or semi-finished state that require special handling moving in lot sizes too large for a container," in paragraph (10), as redesignated;

(5) striking "paper board in rolls, and paper in rolls." in paragraph (10) as redesignated and inserting "paper and paper board in rolls or in pallet or skid-sized sheets.";

(6) striking "conference, other than a service contract or contract based upon time-volume rates," in paragraph (13) as redesignated and inserting "agreement";

(7) striking "conference." in paragraph (13) as redesignated and inserting "agreement and the contract provides for a deferred rebate arrangement.";

(8) by striking "carrier." in paragraph (14) as redesignated and inserting "carrier, or in connection with a common carrier and a water carrier subject to subchapter II of chapter 135 of title 49, United States Code.";

(9) striking paragraph (16) as redesignated and redesignating paragraphs (17) through (26) as redesignated as paragraphs (16) through (25), respectively;

(10) striking paragraph (17), as redesignated, and inserting the following:

"(17) 'ocean transportation intermediary' means an ocean freight forwarder or a non-vessel-operating common carrier. For purposes of this paragraph, the term—

"(A) 'ocean freight forwarder' means a person that—

"(i) in the United States, dispatches shipments from the United States via a common carrier and books or otherwise arranges space for those shipments on behalf of shippers; and

"(ii) processes the documentation or performs related activities incident to those shipments; and

"(B) 'non-vessel-operating common carrier' means a common carrier that does not operate the vessels by which the ocean transportation is provided, and is a shipper in its relationship with an ocean common carrier.";

(11) striking paragraph (19), as redesignated and inserting the following:

"(19) 'service contract' means a written contract, other than a bill of lading or a receipt, between one or more shippers and an individual ocean common carrier or an agreement between or among ocean common carriers in which the shipper or shippers makes a commitment to provide a certain volume or portion of cargo over a fixed time period, and the ocean common carrier or the agreement commits to a certain rate or rate schedule and a defined service level, such as assured space, transit time, port rotation, or similar service features. The contract may also specify provisions in the event of nonperformance on the part of any party."; and

(12) striking paragraph (21), as redesignated, and inserting the following:

"(21) 'shipper' means—

"(A) a cargo owner;

"(B) the person for whose account the ocean transportation is provided;

"(C) the person to whom delivery is to be made;

"(D) a shippers' association; or

"(E) an ocean transportation intermediary, as defined in paragraph (17)(B) of this section, that accepts responsibility for payment of all charges applicable under the tariff or service contract.".

SEC. 103. AGREEMENTS WITHIN THE SCOPE OF THE ACT.

(a) OCEAN COMMON CARRIERS.—Section 4(a) of the Shipping Act of 1984 (46 U.S.C. App. 1703(a)) is amended by—

(1) striking "operators or non-vessel-operating common carriers;" in paragraph (5) and inserting "operators;";

(2) striking "and" in paragraph (6) and inserting "or"; and

(3) striking paragraph (7) and inserting the following:

"(7) discuss and agree on any matter related to service contracts.".

(b) MARINE TERMINAL OPERATORS.—Section 4(b) of that Act (46 U.S.C. App. 1703(b)) is amended by—

(1) striking "(to the extent the agreements involve ocean transportation in the foreign commerce of the United States)";

(2) striking "and" in paragraph (1) and inserting "or"; and

(3) striking "arrangements." in paragraph (2) and inserting "arrangements, to the extent that such agreements involve ocean transportation in the foreign commerce of the United States.".

SEC. 104. AGREEMENTS.

(a) IN GENERAL.—Section 5 of the Shipping Act of 1984 (46 U.S.C. App. 1704) is amended by—

(1) striking subsection (b)(8) and inserting the following:

"(8) provide that any member of the conference may take independent action on any rate or service item upon not more than 5 calendar days' notice to the conference and that, except for exempt commodities not published in the conference tariff, the conference will include the new rate or service item in its tariff for use by that member, effective no later than 5 calendar days after receipt of the notice, and by any other member that notifies the conference that it elects to adopt the independent rate or service item on or after its effective date, in lieu of the existing conference tariff provision for that rate or service item;

(2) redesignating subsections (c) through (e) as subsections (d) through (f); and

(3) inserting after subsection (b) the following:

"(c) OCEAN COMMON CARRIER AGREEMENTS.—An ocean common carrier agreement may not—

"(1) prohibit or restrict a member or members of the agreement from engaging in negotiations for service contracts with 1 or more shippers;

"(2) require a member or members of the agreement to disclose a negotiation on a service contract, or the terms and conditions of a service contract, other than those terms or conditions required to be published under section 8(c)(3) of this Act; or

"(3) adopt mandatory rules or requirements affecting the right of an agreement member or agreement members to negotiate and enter into service contracts.

An agreement may provide authority to adopt voluntary guidelines relating to the terms and procedures of an agreement member's or agreement members' service contracts if the guidelines explicitly state the right of members of the agreement not to follow the guidelines. These guidelines shall be confidentially submitted to the Commission.".

(b) APPLICATION.—

(1) Subsection (e) of section 5 of that Act, as redesignated, is amended by striking "this Act, the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933, do" and inserting "this Act does"; and

(2) Subsection (f) of section 5 of that Act, as redesignated, is amended by—

(A) striking "and the Shipping Act, 1916, do" and inserting "does";

(B) striking "or the Shipping Act, 1916,"; and

(C) inserting "or are essential terms of a service contract" after "tariff".

SEC. 105. EXEMPTION FROM ANTITRUST LAWS.

Section 7 of the Shipping Act of 1984 (46 U.S.C. App. 1706) is amended by—

(1) inserting "or publication" in paragraph (2) of subsection (a) after "filing";

(2) striking "or" at the end of subsection (b)(2);

(3) striking "States." at the end of subsection (b)(3) and inserting "States; or"; and

(4) adding at the end of subsection (b) the following:

"(4) to any loyalty contract.".

SEC. 106. TARIFFS.

(a) IN GENERAL.—Section 8(a) of the Shipping Act of 1984 (46 U.S.C. App. 1707(a)) is amended by—

(1) inserting "new assembled motor vehicles," after "scrap," in paragraph (1);

(2) striking "file with the Commission, and" in paragraph (1);

(3) striking "inspection," in paragraph (1) and inserting "inspection in an automated tariff system,";

(4) striking "tariff filings" in paragraph (1) and inserting "tariffs";

(5) striking "freight forwarder" in paragraph (1)(C) and inserting "transportation intermediary, as defined in section 3(17)(A),";

(6) striking "and" at the end of paragraph (1)(D);

(7) striking "loyalty contract," in paragraph (1)(E);

(8) striking "agreement." in paragraph (1)(E) and inserting "agreement; and";

(9) adding at the end of paragraph (1) the following:

"(F) include copies of any loyalty contract, omitting the shipper's name."; and

(10) striking paragraph (2) and inserting the following:

"(2) Tariffs shall be made available electronically to any person, without time, quantity, or other limitation, through appropriate access from remote locations, and a reasonable charge may be assessed for such access. No charge may be assessed a Federal agency for such access.".

(b) SERVICE CONTRACTS.—Subsection (c) of that section is amended to read as follows:

"(c) SERVICE CONTRACTS.—

"(1) IN GENERAL.—An individual ocean common carrier or an agreement between or among ocean common carriers may enter into a service contract with one or more shippers subject to the requirements of this Act. The exclusive remedy for a breach of a contract entered into under this subsection shall be an action in an appropriate court, unless the parties otherwise agree. In no case may the contract dispute resolution forum be controlled by or in any way affiliated with a controlled carrier as defined in section 3(8) of this Act, or by the government which owns or controls the carrier.

"(2) FILING REQUIREMENTS.—Except for service contracts dealing with bulk cargo, forest products, recycled metal scrap, new assembled motor vehicles, waste paper, or paper waste, each contract entered into under this subsection by an individual ocean common carrier or an agreement shall be filed confidentially with the Commission. Each service contract shall include the following essential terms—

"(A) the origin and destination port ranges;

"(B) the origin and destination geographic areas in the case of through intermodal movements;

"(C) the commodity or commodities involved;

"(D) the minimum volume or portion;

"(E) the line-haul rate;

"(F) the duration;

"(G) service commitments; and

"(H) the liquidated damages for nonperformance, if any.

"(3) PUBLICATION OF CERTAIN TERMS.—When a service contract is filed confidentially with the Commission, a concise statement of the essential terms described in paragraphs 2 (A), (C), (D), and (F) shall be published and made available to the general public in tariff format.

"(4) DISCLOSURE OF CERTAIN TERMS.—

"(A) An ocean common carrier, which is a party to or is subject to the provisions of a collective bargaining agreement with a labor organization, shall, in response to a written request by such labor organization, state whether it is responsible for the following work at dock areas and within port areas in the United States with respect to cargo transportation under a service contract described in paragraph (1) of this subsection—

"(i) the movement of the shipper's cargo on a dock area or within the port area or to or from railroad cars on a dock area or within the port area;

"(ii) the assignment of intraport carriage of the shipper's cargo between areas on a dock or within the port area;

"(iii) the assignment of the carriage of the shipper's cargo between a container yard on a dock area or within the port area and a rail yard adjacent to such container yard; and

"(iv) the assignment of container freight station work and container maintenance and repair work performed at a dock area or within the port area.

"(B) The common carrier shall provide the information described in subparagraph (A) of this paragraph to the requesting labor organization within a reasonable period of time.

"(C) This paragraph requires the disclosure of information by an ocean common carrier only if there exists an applicable and otherwise lawful collective bargaining agreement which pertains to that carrier. No disclosure made by an ocean common carrier shall be deemed to be an admission or agreement that any work is covered by a collective bargaining agreement. Any dispute regarding whether any work is covered by a collective bargaining agreement and the responsibility of the ocean common carrier under such agreement shall be resolved solely in accordance with the dispute resolution procedures contained in the collective bargaining agreement and the National Labor Relations Act, and without reference to this paragraph.

"(D) Nothing in this paragraph shall have any effect on the lawfulness or unlawfulness under this Act, the National Labor Relations Act, the Taft-Hartley Act, the Federal Trade Commission Act, the antitrust laws, or any other Federal or State law, or any revisions or amendments thereto, of any collective bargaining agreement or element thereof, including any element that constitutes an essential term of a service contract under this subsection.

"(E) For purposes of this paragraph the terms 'dock area' and 'within the port area' shall have the same meaning and scope as in the applicable collective bargaining agreement between the requesting labor organization and the carrier.".

(c) RATES.—Subsection (d) of that section is amended by—

(1) striking the subsection caption and inserting "(d) TARIFF RATES.—";

(2) striking "30 days after filing with the Commission." in the first sentence and inserting "30 calendar days after publication.";

(3) inserting "calendar" after "30" in the next sentence; and

(4) striking "publication and filing with the Commission." in the last sentence and inserting "publication.".

(d) REFUNDS.—Subsection (e) of that section is amended by—

(1) striking "tariff of a clerical or administrative nature or an error due to inadvertence" in paragraph (1) and inserting a comma; and

(2) striking "file a new tariff," in paragraph (1) and inserting "publish a new tariff, or an error in quoting a tariff,";

(3) striking "refund, filed a new tariff with the Commission" in paragraph (2) and inserting "refund for an error in a tariff or a failure to publish a tariff, published a new tariff";

(4) inserting "and" at the end of paragraph (2); and

(5) striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(e) MARINE TERMINAL OPERATOR SCHEDULES.—Subsection (f) of that section is amended to read as follows:

"(f) MARINE TERMINAL OPERATOR SCHEDULES.—A marine terminal operator may make available to the public, subject to section 10(d) of this Act, a schedule of rates, regulations, and practices, including limitations of liability for cargo loss or damage, pertaining to receiving, delivering, handling, or storing property at its marine terminal. Any such schedule made available to the public shall be enforceable by an appropriate court as an implied contract without proof of actual knowledge of its provisions.".

(f) AUTOMATED TARIFF SYSTEM REQUIREMENTS; FORM.—Section 8 of that Act is amended by adding at the end the following:

"(g) REGULATIONS.—The Commission shall by regulation prescribe the requirements for the accessibility and accuracy of automated tariff systems established under this section. The Commission may, after periodic review, prohibit the use of any automated tariff system that fails to meet the requirements established under this section. The Commission may not require a common carrier to provide a remote terminal for access under subsection (a)(2). The Commission shall by regulation prescribe the form and manner in which marine terminal operator schedules authorized by this section shall be published.".

SEC. 107. AUTOMATED TARIFF FILING AND INFORMATION SYSTEM.

Section 502 of the High Seas Driftnet Fisheries Enforcement Act (46 U.S.C. App. 1707a) is repealed.

SEC. 108. CONTROLLED CARRIERS.

Section 9 of the Shipping Act of 1984 (46 U.S.C. App. 1708) is amended by—

(1) striking "service contracts filed with the Commission" in the first sentence of subsection (a) and inserting "service contracts, or charge or assess rates,";

(2) striking "or maintain" in the first sentence of subsection (a) and inserting "maintain, or enforce";

(3) striking "disapprove" in the third sentence of subsection (a) and inserting "prohibit the publication or use of"; and

(4) striking "filed by a controlled carrier that have been rejected, suspended, or disapproved by the Commission" in the last sentence of subsection (a) and inserting "that have been suspended or prohibited by the Commission";

(5) striking "may take into account appropriate factors including, but not limited to, whether—" in subsection (b) and inserting "shall take into account whether the rates or charges which have been published or assessed or which would result from the pertinent classifications, rules, or regulations are below a level which is fully compensatory to the controlled carrier based upon that carrier's actual costs or upon its constructive costs. For purposes of the preceding sentence, the term 'constructive costs' means the costs of another carrier, other than a controlled carrier, operating similar vessels and equipment in the same or a similar trade. The Commission may also take into account other appropriate factors, including but not limited to, whether—";

(6) striking paragraph (1) of subsection (b) and redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively;

(7) striking "filed" in paragraph (1) as redesignated and inserting "published or assessed";

(8) striking "filing with the Commission." in subsection (c) and inserting "publication.";

(9) striking "DISAPPROVAL OF RATES.—" in subsection (d) and inserting "PROHIBITION OF RATES.—Within 120 days after the receipt of information requested by the Commission under this section, the Commission shall determine whether the rates, charges, classifications, rules, or regulations of a controlled carrier may be unjust and unreasonable.";

(10) striking "filed" in subsection (d) and inserting "published or assessed";

(11) striking "may issue" in subsection (d) and inserting "shall issue";

(12) striking "disapproved." in subsection (d) and inserting "prohibited.";

(13) striking "60" in subsection (d) and inserting "30";

(14) inserting "controlled" after "affected" in subsection (d);

(15) striking "file" in subsection (d) and inserting "publish";

(16) striking "disapproval" in subsection (e) and inserting "prohibition";

(17) inserting "or" after the semicolon in subsection (f)(1);

(18) striking paragraphs (2), (3), and (4) of subsection (f); and

(19) redesignating paragraph (5) of subsection (f) as paragraph (2).

SEC. 109. PROHIBITED ACTS.

(a) Section 10(b) of the Shipping Act of 1984 (46 U.S.C. App. 1709(b)) is amended by—

(1) striking paragraphs (1) through (3);

(2) redesignating paragraph (4) as paragraph (1);

(3) inserting after paragraph (1), as redesignated, the following:

"(2) provide service in the liner trade that—

"(A) is not in accordance with the rates, charges, classifications, rules, and practices contained in a tariff published or a service contract entered into under section 8 of this Act unless excepted or exempted under section 8(a)(1) or 16 of this Act; or

"(B) is under a tariff or service contract which has been suspended or prohibited by the Commission under section 9 of this Act or the Foreign Shipping Practices Act of 1988 (46 U.S.C. App. 1710a);";

(4) redesignating paragraphs (5) and (6) as paragraphs (3) and (4), respectively;

(5) striking "except for service contracts," in paragraph (4), as redesignated, and inserting "for service pursuant to a tariff,";

(6) striking "rates;" in paragraph (4)(A), as redesignated, and inserting "rates or charges;";

(7) inserting after paragraph (4), as redesignated, the following:

"(5) for service pursuant to a service contract, engage in any unfair or unjustly discriminatory practice in the matter of rates or charges with respect to any port;";

(8) redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively;

(9) striking paragraph (6) as redesignated and inserting the following:

"(6) use a vessel or vessels in a particular trade for the purpose of excluding, preventing, or reducing competition by driving another ocean common carrier out of that trade;";

(10) striking paragraphs (9) through (13) and inserting the following:

"(8) for service pursuant to a tariff, give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage;

"(9) for service pursuant to a service contract, give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage with respect to any port;

"(10) unreasonably refuse to deal or negotiate;";

(11) redesignating paragraphs (14), (15), and (16) as paragraphs (11), (12), and (13), respectively;

(12) striking "a non-vessel-operating common carrier" in paragraphs (11) and (12) as redesignated and inserting "an ocean transportation intermediary";

(13) striking "sections 8 and 23" in paragraphs (11) and (12) as redesignated and inserting "sections 8 and 19";

(14) striking "or in which an ocean transportation intermediary is listed as an affiliate" in paragraph (12), as redesignated;

(15) striking "Act;" in paragraph (12), as redesignated, and inserting "Act, or with an affiliate of such ocean transportation intermediary;"

(16) striking "paragraph (16)" in the matter appearing after paragraph (13), as redesignated, and inserting "paragraph (13)"; and

(17) inserting "the Commission," after "United States," in such matter.

(b) Section 10(c) of the Shipping Act of 1984 (46 U.S.C. App. 1709(c)) is amended by—

(1) striking "non-ocean carriers" in paragraph (4) and inserting "non-ocean carriers, unless such negotiations and any resulting agreements are not in violation of the antitrust laws and are consistent with the purposes of this Act";

(2) striking "freight forwarder" in paragraph (5) and inserting "transportation intermediary, as defined by section 3(17)(A) of this Act,";

(3) striking "or" at the end of paragraph (5);

(4) striking "contract." in paragraph (6) and inserting "contract;"; and

(5) adding at the end the following:

"(7) for service pursuant to a service contract, engage in any unjustly discriminatory practice in the matter of rates or charges with respect to any locality, port, or persons due to those persons' status as shippers' associations or ocean transportation intermediaries; or

"(8) for service pursuant to a service contract, give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage with respect to any locality, port, or persons due to those persons' status as shippers' associations or ocean transportation intermediaries;".

(c) Section 10(d) of the Shipping Act of 1984 (46 U.S.C. App. 1709(d)) is amended by—

(1) striking "freight forwarders," and inserting "transportation intermediaries,";

(2) striking "freight forwarder," in paragraph (1) and inserting "transportation intermediary,";

(3) striking "subsection (b)(11), (12), and (16)" and inserting "subsections (b)(10) and (13)"; and

(4) adding at the end thereof the following:

"(4) No marine terminal operator may give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage with respect to any person.

"(5) The prohibition in subsection (b)(13) of this section applies to ocean transportation intermediaries, as defined by section 3(17)(A) of this Act.".

SEC. 110. COMPLAINTS, INVESTIGATIONS, REPORTS, AND REPARATIONS.

Section 11(g) of the Shipping Act of 1984 (46 U.S.C. App. 1710(g)) is amended by—

(1) striking "section 10(b)(5) or (7)" and inserting "section 10(b)(3) or (6)"; and

(2) striking "section 10(b)(6)(A) or (B)" and inserting "section 10(b)(4)(A) or (B).".

SEC. 111. FOREIGN SHIPPING PRACTICES ACT OF 1988.

Section 10002 of the Foreign Shipping Practices Act of 1988 (46 U.S.C. App. 1710a) is amended by—

(1) striking "'non-vessel-operating common carrier'," in subsection (a)(1) and inserting "'ocean transportation intermediary',";

(2) striking "forwarding and" in subsection (a)(4);

(3) striking "non-vessel-operating common carrier" in subsection (a)(4) and inserting "ocean transportation intermediary services and";

(4) striking "freight forwarder," in subsections (c)(1) and (d)(1) and inserting "transportation intermediary,";

(5) striking "filed with the Commission," in subsection (e)(1)(B) and inserting "and service contracts,";

(6) inserting "and service contracts" after "tariffs" the second place it appears in subsection (e)(1)(B); and

(7) striking "(b)(5)" each place it appears in subsection (h) and inserting "(b)(6)".

SEC. 112. PENALTIES.

(a) Section 13(a) of the Shipping Act of 1984 (46 U.S.C. App. 1712(a)) is amended by adding at the end thereof the following: "The amount of any penalty imposed upon a common carrier under this subsection shall constitute a lien upon the vessels operated by that common carrier and any such vessel may be libeled therefore in the district court of the United States for the district in which it may be found.".

(b) Section 13(b) of the Shipping Act of 1984 (46 U.S.C. App. 1712(b)) is amended by—

(1) striking "section 10(b)(1), (2), (3), (4), or (8)" in paragraph (1) and inserting "section 10(b)(1), (2), or (7)";

(2) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively;

(3) inserting before paragraph (5), as redesignated, the following:

"(4) If the Commission finds, after notice and an opportunity for a hearing, that a common carrier has failed to supply information ordered to be produced or compelled by subpoena under section 12 of this Act, the Commission may request that the Secretary of the Treasury refuse or revoke any clearance required for a vessel operated by that common carrier. Upon request by the Commission, the Secretary of the Treasury shall, with respect to the vessel concerned, refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).."; and

(4) striking "paragraphs (1), (2), and (3)" in paragraph (6), as redesignated, and inserting "paragraphs (1), (2), (3), and (4)".

(c) Section 13(f)(1) of the Shipping Act of 1984 (46 U.S.C. App. 1712(f)(1)) is amended by—

(1) striking "or (b)(4)" and inserting "or (b)(2)";

(2) striking "(b)(1), (4)" and inserting "(b)(1), (2)"; and

(3) adding at the end thereof the following "Neither the Commission nor any court shall order any person to pay the difference between the amount billed and agreed upon in writing with a common carrier or its agent and the amount set fourth in any tariff or service contract by that common carrier for the transportation service provided.".

SEC. 113. REPORTS AND CERTIFICATES.

Section 15 of the Shipping Act of 1984 (46 U.S.C. App. 1714) is amended by—

(1) striking "and certificates" in the section heading;

(2) striking "(a) REPORTS.—" in the subsection heading for subsection (a); and

(3) striking subsection (b).

SEC. 114. EXEMPTIONS.

Section 16 of the Shipping Act of 1984 (46 U.S.C. App. 1715) is amended by striking "substantially impair effective regulation by the Commission, be unjustly discriminatory, result in a substantial reduction in competition, or be detrimental to commerce." and inserting "result in substantial reduction in competition or be detrimental to commerce.".

SEC. 115. AGENCY REPORTS AND ADVISORY COMMISSION.

Section 18 of the Shipping Act of 1984 (46 U.S.C. App. 1717) is repealed.

SEC. 116. OCEAN FREIGHT FORWARDERS.

Section 19 of the Shipping Act of 1984 (46 U.S.C. App. 1718) is amended by—

(1) striking "freight forwarders" in the section caption and inserting "transportation intermediaries";

(2) striking subsection (a) and inserting the following:

"(a) LICENSE.—No person in the United States may act as an ocean transportation intermediary unless that person holds a license issued by the Commission. The Commission shall issue an intermediary's license to any person that the Commission determines to be qualified by experience and character to act as an ocean transportation intermediary.";

(3) redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively;

(4) inserting after subsection (a) the following:

"(b) FINANCIAL RESPONSIBILITY.—

"(1) No person may act as an ocean transportation intermediary unless that person furnishes a bond, proof of insurance, or other surety in a form and amount determined by the Commission to insure financial responsibility that is issued by a surety company found acceptable by the Secretary of the Treasury.

"(2) A bond, insurance, or other surety obtained pursuant to this section—

"(A) shall be available to pay any order for reparation issued pursuant to section 11 or 14 of this Act, or any penalty assessed pursuant to section 13 of this Act;

"(B) may be available to pay any claim against an ocean transportation intermediary arising from its transportation-related activities described in section 3(17) of this Act with the consent of the insured ocean transportation intermediary and subject to review by the surety company, or when the claim is deemed valid by the surety company after the ocean transportation intermediary has failed to respond to adequate notice to address the validity of the claim; and

"(C) shall be available to pay any judgment for damages against an ocean transportation intermediary arising from its transportation-related activities under section 3(17) of this Act, provided the claimant has first attempted to resolve the claim pursuant to subparagraph (B) of this paragraph and the claim has not been resolved within a reasonable period of time.

"(3) The Commission shall prescribe regulations for the purpose of protecting the interests of claimants, ocean transportation intermediaries, and surety companies with respect to the process of pursuing claims against ocean transportation intermediary bonds, insurance, or sureties through court judgments. The regulations shall provide that a judgment for monetary damages may not be enforced except to the extent that the damages claimed arise from the transportation-related activities of the insured ocean transportation intermediary, as defined by the Commission.

"(4) An ocean transportation intermediary not domiciled in the United States shall designate a resident agent in the United States for receipt of service of judicial and administrative process, including subpoenas.";

(5) striking, each place such term appears—

(A) "freight forwarder" and inserting "transportation intermediary";

(B) "a forwarder's" and inserting "an intermediary's";

(C) "forwarder" and inserting "intermediary"; and

(D) "forwarding" and inserting "intermediary";

(6) striking "a bond in accordance with subsection (a)(2)." in subsection (c), as redesignated, and inserting "a bond, proof of insurance, or other surety in accordance with subsection (b)(1).";

(7) striking "FORWARDERS.—" in the caption of subsection (e), as redesignated, and inserting "INTERMEDIARIES.—";

(8) striking "intermediary" the first place it appears in subsection (e)(1), as redesignated and as amended by paragraph (5)(A), and inserting "intermediary, as defined in section 3(17)(A) of this Act,";

(9) striking "license" in paragraph (1) of subsection (e), as redesignated, and inserting "license, if required by subsection (a),";

(10) striking paragraph (3) of subsection (e), as redesignated, and redesignating paragraph (4) as paragraph (3); and

(11) adding at the end of subsection (e), as redesignated, the following:

"(4) No conference or group of 2 or more ocean common carriers in the foreign commerce of the United States that is authorized to agree upon the level of compensation paid to an ocean transportation intermediary, as defined in section 3(17)(A) of this Act, may—

"(A) deny to any member of the conference or group the right, upon notice of not more than 5 calendar days, to take independent action on any level of compensation paid to an ocean transportation intermediary, as so defined; or

"(B) agree to limit the payment of compensation to an ocean transportation intermediary, as so defined, to less than 1.25 percent of the aggregate of all rates and charges which are applicable under a tariff and which are assessed against the cargo on which the intermediary services are provided.".

SEC. 117. CONTRACTS, AGREEMENTS, AND LICENSES UNDER PRIOR SHIPPING LEGISLATION.

Section 20 of the Shipping Act of 1984 (46 U.S.C. App. 1719) is amended by—

(1) striking subsection (d) and inserting the following:

"(d) EFFECTS ON CERTAIN AGREEMENTS AND CONTRACTS.—All agreements, contracts, modifications, licenses, and exemptions previously issued, approved, or effective under the Shipping Act, 1916, or the Shipping Act of 1984, shall continue in force and effect as if issued or effective under this Act, as amended by the Ocean Shipping Reform Act of 1998, and all new agreements, contracts, and modifications to existing, pending, or new contracts or agreements shall be considered under this Act, as amended by the Ocean Shipping Reform Act of 1998.";

(2) inserting the following at the end of subsection (e):

"(3) The Ocean Shipping Reform Act of 1998 shall not affect any suit—

"(A) filed before the effective date of that Act; or

"(B) with respect to claims arising out of conduct engaged in before the effective date of that Act filed within 1 year after the effective date of that Act.

"(4) Regulations issued by the Federal Maritime Commission shall remain in force and effect where not inconsistent with this Act, as amended by the Ocean Shipping Reform Act of 1998.".

SEC. 118. SURETY FOR NON-VESSEL-OPERATING COMMON CARRIERS.

Section 23 of the Shipping Act of 1984 (46 U.S.C. App. 1721) is repealed.

TITLE II—AUTHORIZATION OF APPROPRIATIONS FOR THE FEDERAL MARITIME COMMISSION

SEC. 201. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1998.

There are authorized to be appropriated to the Federal Maritime Commission, $15,000,000 for fiscal year 1998.

SEC. 202. FEDERAL MARITIME COMMISSION ORGANIZATION.

Section 102(d) of Reorganization Plan No. 7 of 1961 (75 Stat. 840) is amended to read as follows:

"(d) A vacancy or vacancies in the membership of Commission shall not impair the power of the Commission to execute its functions. The affirmative vote of a majority of the members serving on the Commission is required to dispose of any matter before the Commission.".

SEC. 203. REGULATIONS.

Not later than March 1, 1999, the Federal Maritime Commission shall prescribe final regulations to implement the changes made by this Act.

TITLE III—AMENDMENTS TO OTHER SHIPPING AND MARITIME LAWS

SEC. 301. AMENDMENTS TO SECTION 19 OF THE MERCHANT MARINE ACT, 1920.

(a) IN GENERAL.—Section 19 of the Merchant Marine Act, 1920 (46 U.S.C. App. 876) is amended by—

(1) striking "forwarding and" in subsection (1)(b);

(2) striking "non-vessel-operating common carrier operations," in subsection (1)(b) and inserting "ocean transportation intermediary services and operations,";

(3) striking "methods or practices" and inserting "methods, pricing practices, or other practices" in subsection (1)(b);

(4) striking "tariffs of a common carrier" in subsection 7(d) and inserting "tariffs and service contracts of a common carrier";

(5) striking "use the tariffs of conferences" in subsections (7)(d) and (9)(b) and inserting "use tariffs of conferences and service contracts of agreements";

(6) striking "tariffs filed with the Commission" in subsection (9)(b) and inserting "tariffs and service contracts";

(7) striking "freight forwarder," each place it appears and inserting "transportation intermediary,"; and

(8) striking "tariff" each place it appears in subsection (11) and inserting "tariff or service contract".

(b) STYLISTIC CONFORMITY.—Section 19 of the Merchant Marine Act, 1920 (46 U.S.C. App. 876), as amended by subsection (a), is further amended by—

(1) redesignating subdivisions (1) through (12) as subsections (a) through (l), respectively;

(2) redesignating subdivisions (a), (b), and (c) of subsection (a), as redesignated, as paragraphs (1), (2), and (3);

(3) redesignating subdivisions (a) through (d) of subsection (f), as redesignated, as paragraphs (1) through (4), respectively;

(4) redesignating subdivisions (a) through (e) of subsection (g), as redesignated, as paragraphs (1) through (5), respectively;

(5) redesignating clauses (i) and (ii) of subsection (g)(4), as redesignated, as subparagraphs (A) and (B), respectively;

(6) redesignating subdivisions (a) through (e) of subsection (i), as redesignated, as paragraphs (1) through (5), respectively;

(7) redesignating subdivisions (a) and (b) of subsection (j), as redesignated, as paragraphs (1) and (2), respectively;

(8) striking "subdivision (c) of paragraph (1)" in subsection (c), as redesignated, and inserting "subsection (a)(3)";

(9) striking "paragraph (2)" in subsection (c), as redesignated, and inserting "subsection (b)";

(10) striking "paragraph (1)(b)" each place it appears and inserting "subsection (a)(2)";

(11) striking "subdivision (b)," in subsection (g)(4), as redesignated, and inserting "paragraph (2),";

(12) striking "paragraph (9)(d)" in subsection (j)(1), as redesignated, and inserting "subsection (i)(4)"; and

(13) striking "paragraph (7)(d) or (9)(b)" in subsection (k), as redesignated, and inserting "subsection (g)(4) or (i)(2)".

SEC. 302. TECHNICAL CORRECTIONS.

(a) PUBLIC LAW 89–777.—Sections 2 and 3 of the Act of November 6, 1966 (46 U.S.C. App. 817d and 817e) are amended by striking "they in their discretion" each place it appears and inserting "it in its discretion".

(b) TARIFF ACT OF 1930.—Section 641(i) of the Tariff Act of 1930 (19 U.S.C. 1641) is repealed.

TITLE IV—CERTAIN LOAN GUARANTEES AND COMMITMENTS

SEC. 401. CERTAIN LOAN GUARANTEES AND COMMITMENTS.

(a) The Secretary of Transportation may not issue a guarantee or commitment to guarantee a loan for the construction, reconstruction, or reconditioning of a liner vessel under the authority of title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et seq.) after the date of enactment of this Act unless the Chairman of the Federal Maritime Commission certifies that the operator of such vessel—

(1) has not been found by the Commission to have violated section 19 of the Merchant Marine Act, 1920 (46 U.S.C. App. 876), or the Foreign Shipping Practices Act of 1988 (46 U.S.C. App. 1701a), within the previous 5 years; and

(2) has not been found by the Commission to have committed a violation of the Shipping Act of 1984 (46 U.S.C. App. 1701 et seq.), which involves unjust or unfair discriminatory treatment or undue or unreasonable prejudice or disadvantage with respect to a United States shipper, ocean transportation intermediary, ocean common carrier, or port within the previous 5 years.

(b) The Secretary of Commerce may not issue a guarantee or a commitment to guarantee a loan for the construction, reconstruction, or reconditioning of a fishing vessel under the authority of title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et seq.) if the fishing vessel operator has been—

(1) held liable or liable in rem for a civil penalty pursuant to section 308 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1858) and not paid the penalty;

(2) found guilty of an offense pursuant to section 309 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1859) and not paid the assessed fine or served the assessed sentence;

(3) held liable for a civil or criminal penalty pursuant to section 105 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1375) and not paid the assessed fine or served the assessed sentence; or

(4) held liable for a civil penalty by the Coast Guard pursuant to title 33 or 46, United States Code, and not paid the assessed fine.

The SPEAKER pro tempore (Mr. DICKEY). Pursuant to the rule, the gentleman from Pennsylvania (Mr. SHUSTER) and the gentleman from Tennessee (Mr. CLEMENT) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. SHUSTER).

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

Mr. Speaker, this is the Ocean Shipping Reform Act of 1998 which modernizes our system of international ocean shipping. This reform is long overdue. In fact, in the last Congress, the House overwhelmingly passed Ocean Shipping Reform. However, there was no action in the other body.

The bill before us today maintains the essential reforms contained in that previous bill, and the most important of these reforms is the authority for American businesses to keep their ocean transportation costs confidential from their foreign competitors.

Today our ocean transportation systems are competing against foreign exporters and foreign importers, and indeed, American exporters and importers are required to publicly file their ocean transportation contract prices. This bill will allow American businesses to keep those transportation costs confidential from their foreign competitors, and it will level the international playing field for our U.S. exporters. Further delay in not passing this bill will sacrifice any chance of reform in this Congress.

This bill is strongly supported by millions of U.S. businesses, including the National Industrial Transportation League and the American Flag Carriers. It is supported by the administration and it is supported by organized labor.

I would emphasize to my colleagues that competitive American ocean shipping is becoming more and more important to our country as we compete more and more in a global economy. In fact, let me share a statistic that I find a bit stunning.

The average American plant, if it wants to ship product overseas from a seaport, must ship its product to that port an average distance of 1,500 miles. For a German company in Germany, it must ship its product to a seaport only 300 miles. For a Japanese company, it must ship its product to a seaport only 30 miles. So one can see the relative disadvantage we have in transportation costs, and therefore, the extraordinary need for us to make our transportation system as efficient as possible.

This, of course, means the multimodal nature of our transportation system, from an efficient railroad system, an efficient trucking system, shipping into those ports, to modernize ports which can handle those products to be shipped overseas, and the actual passage, the actual ocean shipping itself.

For all of these reasons we need to pass this legislation today as one of the steps in making American global transportation more efficient. For that reason, I urge my colleagues to support this legislation.

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

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

Mr. Speaker, I rise in strong support of the Senate bill, S. 414, the Ocean Shipping Reform Act of 1997. S. 414 will significantly increase competition in international shipping, and help make U.S. industries more competitive by decreasing their transportation costs to overseas markets.

In the last Congress the House passed H.R. 2149, the Ocean Shipping Reform Act of 1995, legislation which was widely criticized for allowing international shipping conferences to enter into totally confidential contracts with shippers while maintaining their antitrust immunity. The Ocean Shipping Reform Act of 1997 does not allow for totally confidential contracts by conferences. Carriers in conferences must continue to disclose to the Federal Maritime Commission the commodity, volume, origin, and destination port ranges, as well as the contract duration.

In the interests of eliminating unnecessary government involvement, tariffs and rates will not need to be filed with the Federal Maritime Commission. We are going to allow the electronic technology in the marketplace to promote competition by requiring that tariffs and rates be made available on the Internet. People around the world will have instantaneous access to the rates and services provided by water carriers.

Many of the complaints about the Shipping Act of 1984 centered around restrictions that international shipping conferences had placed upon their members. For many years, conferences had restricted the ability of their members to enter into service contracts with their customers. S. 414 solves this problem by prohibiting a conference from restricting its members from entering into service contracts. Similarly, a conference may not require its members to disclose the terms of the service contracts that they enter into.

Mr. Speaker, this bill will increase competition among international carriers. It will benefit both large and small companies that desire to have their goods exported.

The Ocean Shipping Reform Act of 1997 has broad support from shipping lines, such as Sea-Land and American President Lines, from shoreside labor, including the ILA and the ILWU, the American Association of Port Authorities, and the National Industrial Transportation League.

There is one group, Transportation Intermediaries, that has concerns about S. 414. These companies do not operate the vessels on which the cargo is carried, but resell their space to shippers. One of the purposes of the Shipping Act is to promote investment in international shipping. This bill attempts to give people reason to invest in shipping by allowing the company that operates the vessel on which the goods are transported to have a more confidential contract with shippers than those that do not operate the vessel.

International shipping is continuing to evolve with larger, more efficient ships. By promoting investment in these types of ship operations, we will help to decrease the cost of transporting goods in the future.

However, if we do not see this type of investment and increased competition as a result of enactment of S. 414, I do not believe that Congress will hesitate to revisit these issues to promote competition in international shipping.

Mr. Speaker, I would like to take a moment to mention one other essential of S. 414 that is being dropped from that bill. Title IV, as passed by the Senate, grants limited burial and funeral benefits to Merchant Mariners who served in World War II between August 16, 1945, and December 31, 1946.

In 1987, the Department of Defense granted veterans status to Merchant Mariners who served between December 7th, 1941, and August 16, 1945. However, the dangers of the war did not end on that day. Foreign harbors continued to have dangerous mines. At least 11 merchant ships were sunk during those 14½ months between 1945 and at the end of 1946.

Mr. Speaker, over 310 members of the House have cosponsored H.R. 1126, which would have granted these Merchant Mariners full veterans status. The provisions that were contained in S. 414 would have simply allowed these men to be buried in our national cemeteries, and be given a flag and a headstone for their valiant service to our country. I do not think that was too much to ask.

However, when considered in its entirety, S. 414 is a major step forward in promoting competition in international shipping when compared to the Shipping Act of 1984. I strongly urge my colleagues to support passage of this bill so that it can be signed into law by the President.

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

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

Mr. Speaker, we bring this bill to the floor today in consultation with the Committee on the Judiciary. I ask to include for the RECORD the letters between the Committee on Transportation and Infrastructure and the Committee on the Judiciary concerning the committees' respective jurisdictions over this legislation.

The letters referred to are as follows:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, August 3, 1998.

Hon. BUD SHUSTER,
Chairman, Committee on Transportation and Infrastructure, U.S. House of Representatives, Washington, DC.

DEAR BUD: I understand that you intend to move to suspend the rules and pass S. 414, the "Ocean Shipping Reform Act of 1998," as passed by the Senate.

Title I of S. 414, as passed by the Senate, makes a variety of amendments to the regime under which ocean common carrier conferences enjoy antitrust immunity. Under Rule X(1)(j)(15), the Committee on the Judiciary has jurisdiction over the antitrust provisions of the Act.

Because of the leadership's request that we move this bill to the floor quickly and the delicate political balance involved in this compromise legislation, I am willing to waive this Committee's right to a referral of S. 414. I will not attempt to impede this legislation from going forward so long as it remains in exactly the form it was passed by the Senate, other than the provisions of Title IV, which I understand will be removed at the request of the Committee on Veterans' Affairs. However, my doing so does not constitute any waiver of the Committee's jurisdiction over these provisions and does not prejudice its rights in any future legislation relating to these provisions or any other antitrust immunity provided in the Act. I will, of course, insist that Members of this Committee be named as conferees on these provisions or any other antitrust immunity provided in the Act should the bill go to the conference.

I want to note, however, that I am very concerned about the situation of the non-vessel-owning common carriers, or NVOCCs, the freight forwarders, and the shipping associations. These groups were not included in the compromise that was reached in the Senate, and I believe that the provisions of this bill will harm them. For that reason, I will not be able to support S. 414 when it comes to the floor, and I intend to speak against it. I understand that you also are concerned about the plight of these groups and that you intend to take further action to address their concerns in the next Congress. This action will include hearings and other oversight activities as the amendments to the Shipping Act of 1984 are implemented.

If the foregoing meets with your understanding of the matter, I would appreciate your placing this letter and your response in the record during the debate on S. 414. Thank you for your cooperation in this matter.

Sincerely,

HENRY J. HYDE,
Chairman.

HOUSE OF REPRESENTATIVES, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC, August 4, 1998.

Hon. HENRY J. HYDE,
Chairman, Committee on the Judiciary, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter waiving your Committee's right to a referral of amendments to the Shipping Act of 1984 contained in S. 414, the Ocean Shipping Reform Act. I agree that the waiver should not be viewed as a waiver of any jurisdictional claim that you might have over the bill. As you know, ocean shipping reform has been an extremely controversial subject, and I appreciate your continuing support of my effort to modernize international ocean shipping.

Since the House of Representatives passed H.R. 2149, the Ocean Shipping Reform Act of 1996, the Senate has worked to pass a bill that maintained the most essential provisions of H.R. 2149. Earlier this year, the Senate passed S. 414, the Ocean Shipping Reform Act of 1998. That bill is not identical to H.R. 2149, but it retains the provisions from the House bill that are the most important to millions of American businesses. These provisions give American businesses the freedom to keep their ocean transportation contract prices confidential from their foreign competitors. This change in the law will improve the competitive position of American exporters, and stimulate American exports.

I believe we must act now to pass S. 414. This bill is a huge step forward in the process of deregulation of international ocean shipping. If we delay action on this important matter any longer, we will lose this chance to modernize ocean shipping transportation practices and level the playing field for American businesses.

I understand that you have strong concerns about the provisions in S. 414 related to shipping intermediaries and other matters. During the next Congress, I will work with you, the shipping intermediaries, and the Federal Maritime Commission to bring a more level playing field to all U.S. businesses involved in ocean shipping.

Please be assured that I will submit our correspondence on S. 414 for the RECORD when we take the bill up on the House Floor.

With kind personal regards, I am

Sincerely,

BUD SHUSTER,
Chairman.

Mr. Speaker, I am pleased to yield 3½ minutes to the distinguished gentleman from Illinois (Mr. HYDE), chairman of the Committee on the Judiciary.

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

Mr. Speaker, I rise in reluctant opposition to S. 414, the Ocean Shipping Reform Act of 1998. Two years ago I stood here and supported H.R. 2149, another version of shipping reform. The bill we consider today differs from the 1996 bill in important ways, and I cannot support it.

Current law provides an antitrust exemption for ocean-going ships, most of which are foreign-owned, to form cartels that legally enter into price-fixing agreements at the expense of American shippers. As chairman of the committee with jurisdiction over antitrust, I find that system difficult to accept.

If we were writing on a blank slate, I do not think such a system would pass. However, I understand the political reality that this system has been in the law since 1916, and it probably cannot be eliminated in one shot. I reluctantly accept that change probably has to come incrementally. However, in making that incremental change, we should follow the fundamental principles of medicine: First, do no harm.

I think this bill does harm in some important ways. First and most importantly, one group of small businesses, many of whom are my constituents, will suffer severe harm if this bill becomes law. At every port there are businesses that consolidate small shipments into large shipments, thereby getting lower rates for small shippers.

These businesses go by various names, nonvessel operating common carriers, freight forwarders, or shipping associations, but they all perform basically the same economic function. In doing so, they compete directly with the ocean-going common carriers for shipping business.

This bill puts these small businesses at a severe disadvantage. It allows their competitors to use secret contracts to undermine the cartels, but it requires these small businesses to publish their rates for all to see. It does not take an economic genius to realize that this system will soon drive them out of business.

Second, I am concerned that this bill actually encourages the joint negotiation of inland shipping rates. Thus, not only will the rates for the ocean part of the trip be set by legally-sanctioned price-fixing cartels, but now those same cartels will be encouraged to jointly negotiate rates for the overland trip to the port, as well. I see no justification for this further extension of cartel behavior.

Let me just repeat, I would like to see the entire antitrust exemption eliminated. Failing that, I would like to allow all of the competitors to use secret contracts so that the cartels are undermined. But I am not willing to make those changes in a way that gives one group of competitors an insurmountable advantage over another, and unfortunately, that is what this bill does.

This compromise was reached in the Senate after the committee reported the bill, but before it reached the floor. We are now taking it up on the floor without any committee consideration. We are told if we change one word the whole thing will fall apart. I understand that reality as well, and thus, I have not insisted on a referral. However, I can only go so far, and I cannot support this bill, which harms my constituents. I urge my colleagues to defeat it.

I want to thank my colleagues, the gentleman from Pennsylvania (Mr. SHUSTER) and the gentleman from Maryland (Mr. GILCHREST). I appreciate their commitment to conduct vigorous oversight of the situation of the various types of freight consolidators if this bill becomes law, and I intend to conduct such oversight in the Committee on the Judiciary, as well.

Mr. SHUSTER. Mr. Speaker, I am pleased to yield 4 minutes to the gentleman from Maryland (Mr. GILCHREST), the distinguished chairman of our subcommittee.

Mr. GILCHREST. Mr. Speaker, I thank the chairman for yielding time to me. I am not sure if I need the entire

4 minutes. I want to address some of the concerns that the chairman of the Committee on the Judiciary raised.

One is the antitrust exemption, and he is correct, we have tried to deal with this particular issue, and ocean shipping in general, in an international way since 1916. This has been addressed in Congress in 1961, during the 1970s recession, then in 1984 in the Ocean Shipping Act, and again as recently as a couple of years ago, in order to stabilize ocean shipping in an international way, understanding that 85 percent of the regulated ocean shipping is basically controlled by the international community or our foreign competitors.

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To deal with this issue in an incremental fashion would mean that we are trying to do no harm to U.S. shipping, the main goal of this legislation. It is not a panacea. It does not solve all of the problems for those people who are involved in the shipping industry, especially the freight forwarders that the gentleman from Illinois (Mr. HYDE) mentioned, but it does, in an incremental fashion, create stability and a further advantage for the U.S. shipping industry, with the U.S. shipping industry being able to enter into private contracts, the shippers and the carriers.

This has not been done before. Our foreign competitors were able to enter into private contracts, which was a big disadvantage to U.S. shippers, and if that was a big disadvantage to U.S. shippers, it was not helpful to those who are categorized as a freight forwarder.

We do have to deal with those constituents of the gentleman from Illinois (Mr. HYDE), the gentleman from Illinois (Mr. FAWELL), myself and a number of other Members in the area of what we might call travel agents, those people who try to decide, someone who has a small business, who cannot fill up many containers or who may not be able to fill up one container, how do we consolidate all those small businesses so that we can get their goods on these ships and ship overseas at the lowest rate possible? The competition in there is very great.

I would say to the chairman of the Committee on the Judiciary that we are very cognizant of that particular problem. As we go through this legislation again next year, those areas of concern will be addressed and the freight forwarders and people in that particular arena, we want to make sure that those small businesses stay in business, because they add such a great deal to the free and open marketplace.

The chairman of the Committee on Transportation and Infrastructure talking about the intermodal system, which the gentleman from Illinois (Mr. HYDE) also raised, in order to be competitive with the rest of the world, knowing that we do not ship these goods, understanding how short the distance is shipping from Japan to the ports and from Germany to the ports or from Holland to the ports and from the Midwest to our coastal areas, our intermodal system must be very organized, very structured, very aligned.

We are doing what we can for the whole international marketplace for the United States to be able to compete not only with the shipping but with the intermodal transportation system.

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

Mr. GILCHREST. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, I just want to express my thanks to the gentleman for his assurances that he will give this problem continuing attention. I will be very interested in his performance. I am very grateful for his understanding.

Mr. GILCHREST. Mr. Speaker, I thank the chairman of the Committee on the Judiciary, and I thank the gentleman for yielding me the time.

Mr. CLEMENT. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. MENENDEZ), my friend.

Mr. MENENDEZ. Mr. Speaker, I want to thank the distinguished gentleman for yielding me the time.

As a representative of one of the Nation's largest ports in the Ports of Elizabeth and Newark within the context of the Port of New York, I had opposed ocean shipping before in the last Congress, but I rise in support of S. 414, the Ocean Shipping Reform Act of 1998.

I do want to express, however, some concerns. We clearly should not underestimate the importance of this topic. Ocean shipping is the very means that our Nation trades with the world. Ocean-going vessels move more than 95 percent of all the international trade, and small businesses account for the majority of all export and import trade.

Unfortunately, small business did not end up being part of this compromise which produced the current version. In my district, small businesses have made it clear to me that S. 414 is not perfect. While S. 414 is an attempt to introduce more competition, and that is good, in the ocean-shipping industry, freight forwarders, nonvessel operating common carriers, shipper associations and independently owned businesses, all important and vital elements in the international ocean-borne commerce community, have reservations about the bill.

I have sincere concerns for the many ocean freight forwarders and NVOCCs that are active in New Jersey. I want to reiterate the thoughts of my Democratic colleague, Senator BREAUX, who called upon the Federal Maritime Commission to actively monitor how this legislation impacts small businesses and freight forwarders in the areas of ocean freight forwarder compensation and whether confidential contracts will undermine the forwarder's place as an integral service provider to smaller business active in the international trade community.

I am glad to hear that the chairman of the subcommittee as well as the chairman of the Committee on the Judiciary are going to continue to pursue these concerns.

Let me reiterate my support for the bill, which represents careful negotiation by labor groups and shippers. It was clearly no small task to reach the agreement that we will be voting on. However, I hope that we will continue to examine the effects of the bill to ensure that unintended consequences do not take place.

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

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

In closing, I would simply emphasize that this bill has the support of NIT league, the shippers who use the ocean-going vessels, of the AFL–CIO, labor, and of the administration, and it is a big step in the right direction. It does not solve all of the problems, but certainly moves in the right direction.

I would urge passage of this important legislation.

Mr. OBERSTAR. Mr. Speaker, I rise in support of S. 414, the Ocean Shipping Reform Act of 1997. This bill is the culmination of a process that began in the Transportation Committee last Congress with House passage of the Ocean Shipping Reform Act of 1995. That bill, H.R. 2149, would have drastically changed the way international common carriage by water is regulated. I was very concerned about that bill because of the unrestricted authority it gave conferences or cartels to enter into confidential contracts.

The approach contained in S. 414 is much more balanced. That is why it is supported by vessel operators, manufacturers, ports, seagoing labor, and shoreside labor.

Enactment of S. 414 will allow individual carriers and conferences to enter into more confidential contracts than they are allowed today. However, they must continue to disclose with the Federal Maritime Commission the commodity, volume, origin and destination port ranges, and contract duration. Similarly, carriers and conferences will no longer have to file tariffs with the Commission, but they must make their tariffs publicly available electronically, such as through the internet.

S. 414 prohibits conferences from requiring its individual members to disclose their service contract terms and prohibits conferences from restricting in any way the ability to their members to enter into service contracts with shippers. Along with this, S. 414 will allow individual carriers to act independently of the conferences with notice of 5 calendar days, instead of the current 10 business days.

Mr. Speaker, the changes made by S. 414 will profoundly change international shipping by increasing competition among carriers and

by allowing carriers to offer a broader array of services to their customers.

Not everyone is totally happy with S. 414. Under the bill, only the person operating the vessel on which the goods are actually carried can enter into a confidential service contract with a shipper. The basis for this is simple: these people have invested millions of dollars in the vessel and pay for its operating cost. Why should they be treated the same as someone who has not invested any money in the vessel on which the goods are transported? This bill attempts to give an incentive for capital investment in these ships. Others may argue that allowing people that do not operate the vessel on which the goods are transported to enter into confidential contracts will help promote competition and reduce rates. However, investment in new, more efficient ships, will also increase capacity and decrease rates. The FMC is going to continue to oversee these contracts and will be responsible for ensuring that the conferences and their members do not engage in anti-competitive practices such as voluntarily pooling information on their service contracts with each other.

Mr. Speaker, I must say that I am very disappointed that an amendment to S. 414 has been added that eliminates a Senate provision that would have granted merchant mariners who served during World War II the same burial benefits as other veterans from that war. Merchant Mariners suffered the second highest casualty rate of any service during the war, second only to the Marine Corps. The convoys of ships they operated were the lifeline to England and enabled our forces to free Europe. The provisions in the bill were but a small way of our nation telling these gallant men thanks. The benefits that would have been provided for in the Senate passed bill would have been a small part of the benefits provided for by H.R. 1126, which currently has over 310 cosponsors.

And why was this section deleted? Because, the gentleman from Arizona, Mr. STUMP, the Chairman of the Veterans Affairs Committee, refused to agree to scheduling S. 414 for the House floor with the merchant mariners benefits provisions included, unless his bill, H.R. 3211, restricting who can be buried in Arlington National Cemetery was passed by the Senate. Why won't the Senate consider his bill? Because it does not allow for heroes like Officer John Gibson to be buried in Arlington National Cemetery under a waiver process. The gentleman from Arizona opposes burial of national heroes such as Officer Gibson in Arlington Cemetery and does not want U.S. merchant mariners who served their country during World War II buried in any national cemetery, even though 310 members of this body disagree with him. I believe this is terribly wrong and that the Republican leadership should not prevent all of these people who served our country from being buried in our national cemeteries simply because one Member is opposed.

Mr. Speaker, on balance, I believe that S. 414 is a good bill. Our Committee is going to continue its oversight of international shipping to ensure that there is fair competition and that the needs of U.S. exporters are being met. Therefore, I urge my colleagues to support passage of S. 414, the Ocean Shipping Reform Act of 1997.

Mr. FAWELL. Mr. Speaker, I rise today to express my concern about S. 414, the Ocean Shipping Reform Act of 1998. I have always supported deregulation, because I believe the free market is the best way to receive goods and services at the best price. Unfortunately, S. 414 does not fully deregulate the ocean shipping industry. This bill has the potential to benefit only the large shipping companies at the expense of small and medium-size exporters, importers, and freight intermediaries.

Under a 1916 law, all steamship companies are granted "antitrust immunity," thereby exempting them from compliance with the Sherman Antitrust Act. As a result, steamship companies have historically grouped together in what are known as "conferences" to consider, establish, and enforce collective transportation rates. This situation puts the shipping public at a disadvantage.

To counterbalance the antitrust exemption, all charges and rates are "transparent"—made available to the public, to ensure that there is no discrimination against small business and even the government.

S. 414, however, would give steamship conferences the ability to negotiate contracts in a confidential environment. These "secret" contracts could very well allow the conferences to provide lower costs to large shippers at the expense of small businesses and the U.S. government, which purchases about $1 billion of ocean transportation per year. If S. 414 becomes law, there will be no way of determining what the private sector is paying to transport goods. As a result, steamship companies could force the government, along with small businesses, to subsidize the lower rates extended secretly to these large shippers.

I do not oppose shipping deregulation, as long as it is done for the benefit of large as well as small shippers. S. 414 in its current form creates inequalities that could easily drive small shipping companies and shipping intermediaries out of business. This bill should be considered before a House committee and brought back to the House after these inequities are resolved and S. 414 benefits all shippers.

Mr. EVANS. Mr. Speaker, during World War II thousands of young men volunteered for service in the United States Merchant Marine. Many of these mariners were recruited specifically to staff ships under the control and direction of the United States Government to assist the U.S. war effort. These seamen were subject to government control, their vessels were controlled by the government under the authority of the War Shipping Administration and, like branches of military service, they traveled under sealed orders and were subject to the Code of Military Justice.

Some volunteers joined the Merchant Marines because their youthful age or minor physical problems, such as poor eyesight, made them ineligible for service in the Army, Navy, or Marine Corps. Others were encouraged by military recruiters to volunteer for service in the Merchant Marines because the recruiter recognized that the special skills offered by the volunteer could best be put to use for our country by service in the Merchant Marines. Most importantly, all were motivated by their deep love of country and personal sense of patriotism to contribute to the war effort.

In order to staff our growing merchant fleet during World War II, the U.S. Maritime Commission established training camps around the country under the direct supervision of the Coast Guard. After completing basic training, which included both small arms and cannon proficiency, seamen became active members of the U.S. Merchant Marine. These seamen, often at great personal risk, helped deliver troops and war supplies needed for every Allied invasion site from Guadalcanal to Omaha Beach. I have heard from the merchant mariners who were responsible in 1946 for transporting tons of German mustard and other poisonous gas containers from Europe to the San Jacinto ordinance base in Texas.

More than 6,500 Merchant Mariners who served our country during World War II gave the ultimate sacrifice of their lives, including 37 who died as prisoners of war, and almost 5,000 World War II Merchant Mariners remain officially missing and are presumed dead. In addition, 733 U.S. Merchant ships were destroyed. Even after the surrender of Japan, members of our Merchant Marine fleet were in mortal danger as they continued to support the war effort by entering mined harbors to transport our troops safely home. After the war ended, they carried food and medicine to millions of the world's starving people.

In spite of the illustrious service of the World War II U.S. Merchant Marine, the Secretary of the Air Force, Edward Aldridge, inexplicably and erroneously made the decision in 1988 to define the dates for World War II service differently for Merchant Marines than for those who served in the other American forces. The effect of this decision was to deny veteran status to those mariners who served between the dates of August 15, 1945 and December 31, 1946, the official end of World War II.

It is important to remember that during the time period addressed by this bill, August 15, 1945 through December 31, 1946, 12 U.S. Flag Merchant Vessels were lost or damaged as a result of striking mines, and some of the Merchant Mariners serving on these vessels were killed or injured. Fully understanding the tremendous risks they faced, mariners nonetheless willingly went into mined harbors so that they could bring our American troops home to their families and friends. I believe these courageous Merchant Mariners, who were subject to the risks and dangers of war between V–J Day and the official end of the war, have been wrongfully denied veteran status. They faced the very real hazards of wartime hostile actions and should not be denied the status of veteran of purposes of laws administered by the Department of Veterans Affairs because their seagoing contributions began after August 15, 1945.

In recognition of the service rendered and dangers faced by those mariners who served during the period of August 15, 1945 through December 31, 1946, on March 19, 1997, I introduced the Merchant Mariner Fairness Act (H.R. 1126). H.R. 1126 will finally provide appropriate recognition: veteran status for a few thousand World War II American Merchant Mariners. While this status will enable them to be eligible for veterans' benefits, it is likely that

the only benefit most will receive is proper recognition of their contributions to the war effort and the right to a veterans' funeral. The merchant mariners who would be granted veteran status by this bill are aging. They will not qualify for educational benefits. As Medicare beneficiaries, most already have long standing relationships with their medical providers and are unlikely to seek VA health care. Nonetheless, the Merchant Mariners of World War II will receive the long-overdue thanks from the nation they served faithfully and courageously. The Merchant Mariners Fairness Act would correct this erroneous administrative decision by making the service eligibility period for World War II Merchant Mariners identical to that established for others.

As of yesterday, H.R. 1126 has been cosponsored by 310 Members of the House. Clearly, there is widespread and bipartisan support for H.R. 1126 and an overwhelming majority of the House agree with me on granting veteran status to this select group of Merchant Mariners of World War II. Unfortunately, the House has not yet taken action on the Merchant Mariners Fairness Act.

It has been more than than a half century since the end of World War II. How much longer must these aging Merchant Mariners, who are the forgotten partriots of World War II, wait for their service to our Nation to be properly and fully honored and acknowledged?

As approved by the other body, S. 414, the Ocean Shipping Reform Act of 1998, contained an important provision granting veteran status and limited veteran's benefits to a select group of World War II merchant mariners. With the number of days remaining in the 105th Congress rapidly dwindling, enactment of S. 414 as approved by the other body, would have properly provided the long overdue recognition to the Merchant Mariners who bravely served our Nation during the final days of World War II by granting veteran status and limited veterans' benefits. At long last, our Nation would have appropriately acknowledged their sacrifice and service to our Nation during wartime.

I regret, however, that the provisions contained in S. 414 bestowing veterans' status to those mariners, who served between the dates of August 15, 1945 and the official end of World War II, have been deleted from this legislation being considered by the House. As a result of striking these provisions from S. 414, those mariners who served between the dates of August 15, 1945 and December 31, 1946, will be required to wait even longer to receive the veterans status which I strongly believe they have earned and are due.

On a more positive note, I am very pleased to report that the Chairman of the House Committee on Veterans Affairs has pledged to work for Congressional approval of legislation granting veteran status and limited veterans' benefits to those mariners who served between the dates of August 15, 1945 and December 31, 1946, before the end of the 105th Congress. I welcome this commitment from Chairman Stump and based on his pledge I look forward to the approval of this legislation before the adjournment of the 105th Congress sine die.

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

The SPEAKER pro tempore (Mr. DICKEY). The question is on the motion offered by the gentleman from Pennsylvania (Mr. SHUSTER) that the House suspend the rules and pass the Senate bill, S. 414, as amended.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SHUSTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 414, the Senate bill just passed.

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

There was no objection.

AIRPORT IMPROVEMENT PROGRAM REAUTHORIZATION ACT OF 1998

Mr. SHUSTER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4057) to amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4057

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Airport Improvement Program Reauthorization Act of 1998".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Amendments to title 49, United States Code.
Sec. 3. Applicability.
Sec. 4. Administrator defined.

TITLE I—AIRPORT AND AIRWAY IMPROVEMENTS

Sec. 101. Airport improvement program.
Sec. 102. Airway facilities improvement program.
Sec. 103. FAA operations.
Sec. 104. AIP formula changes.
Sec. 105. Grants from small airport fund.
Sec. 106. Innovative use of airport grant funds.
Sec. 107. Airport security program.
Sec. 108. Matching share for State block grant program.
Sec. 109. Treatment of certain facilities as airport-related projects.
Sec. 110. Terminal development costs.
Sec. 111. Conveyances of surplus property for public airports.
Sec. 112. Construction of runways.
Sec. 113. Potomac Metroplex terminal radar approach control facility.
Sec. 114. General facilities authority.
Sec. 115. Transportation assistance for Olympic cities.
Sec. 116. Denial of airport access to certain air carriers.
Sec. 117. Period of applicability of amendments.
Sec. 118. Technical amendments.

TITLE II—CONTRACT TOWER PROGRAM

Sec. 201. Contract towers.

TITLE III—FAMILY ASSISTANCE

Sec. 301. Responsibilities of National Transportation Safety Board.
Sec. 302. Air carrier plans.
Sec. 303. Foreign air carrier plans.
Sec. 304. Applicability of Death on the High Seas Act.

TITLE IV—WAR RISK INSURANCE PROGRAM

Sec. 401. Aviation insurance program amendments.

TITLE V—SAFETY

Sec. 501. Cargo collision avoidance systems deadline.
Sec. 502. Records of employment of pilot applicants.
Sec. 503. Whistleblower protection for FAA employees.
Sec. 504. Safety risk mitigation programs.
Sec. 505. Flight operations quality assurance rules.
Sec. 506. Small airport certification.
Sec. 507. Marking of life limited aircraft parts.

TITLE VI—WHISTLEBLOWER PROTECTION

Sec. 601. Protection of employees providing air safety information.
Sec. 602. Civil penalty.

TITLE VII—CENTENNIAL OF FLIGHT COMMISSION

Sec. 701. Short title.
Sec. 702. Findings.
Sec. 703. Establishment.
Sec. 704. Membership.
Sec. 705. Duties.
Sec. 706. Powers.
Sec. 707. Staff and support services.
Sec. 708. Contributions.
Sec. 709. Exclusive right to name, logos, emblems, seals, and marks.
Sec. 710. Reports.
Sec. 711. Audit of financial transactions.
Sec. 712. Advisory Board.
Sec. 713. Definitions.
Sec. 714. Termination.
Sec. 715. Authorization of appropriations.

TITLE VIII—MISCELLANEOUS PROVISIONS

Sec. 801. Clarification of regulatory approval process.
Sec. 802. Duties and powers of Administrator.
Sec. 803. Prohibition on release of offeror proposals.
Sec. 804. Multiyear procurement contracts.
Sec. 805. Federal Aviation Administration personnel management system.
Sec. 806. General facilities and personnel authority.
Sec. 807. Implementation of article 83 bis of the Chicago Convention.
Sec. 808. Public availability of airmen records.
Sec. 809. Government and industry consortia.
Sec. 810. Passenger manifest.
Sec. 811. Cost recovery for foreign aviation services.
Sec. 812. Technical corrections to civil penalty provisions.
Sec. 813. Enhanced vision technologies.
Sec. 814. Foreign carriers eligible for waiver under Airport Noise and Capacity Act.
Sec. 815. Typographical errors.
Sec. 816. Acquisition management system.
Sec. 817. Independent validation of FAA costs and allocations.

Sec. 818. Elimination of backlog of equal employment opportunity complaints.
Sec. 819. Newport News, Virginia.
Sec. 820. Grant of easement, Los Angeles, California.
Sec. 821. Regulation of Alaska air guides.
Sec. 822. Public aircraft defined.

TITLE IX—NATIONAL PARKS AIR TOUR MANAGEMENT

Sec. 901. Short title.
Sec. 902. Findings.
Sec. 903. Air tour management plans for national parks.
Sec. 904. Advisory group.
Sec. 905. Reports.
Sec. 906. Exemptions.
Sec. 907. Definitions.

TITLE X—EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURE AUTHORITY

Sec. 1001. Extension of expenditure authority.

SEC. 2. AMENDMENTS TO TITLE 49, UNITED STATES CODE.

Except as otherwise specifically 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 of law, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 3. APPLICABILITY.

(a) IN GENERAL.—Except as otherwise specifically provided, this Act and the amendments made by this Act apply only to fiscal years beginning after September 30, 1998.

(b) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this Act or any amendment made by this Act shall be construed as affecting funds made available for a fiscal year ending before October 1, 1998.

SEC. 4. ADMINISTRATOR DEFINED.

In this Act, the term "Administrator" means the Administrator of the Federal Aviation Administration.

TITLE I—AIRPORT AND AIRWAY IMPROVEMENTS

SEC. 101. AIRPORT IMPROVEMENT PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 48103 is amended—

(1) by striking "September 30, 1996" and inserting "September 30, 1998"; and

(2) by striking "$2,280,000,000" and all that follows through the period at the end and inserting the following: "$2,347,000,000 for fiscal years ending before October 1, 1999.".

(b) OBLIGATIONAL AUTHORITY.—Section 47104(c) is amended by striking "1998" and inserting "1999".

SEC. 102. AIRWAY FACILITIES IMPROVEMENT PROGRAM.

(a) GENERAL AUTHORIZATION AND APPROPRIATIONS.—Section 48101(a) is amended by adding at the end the following:

"(3) $2,131,000,000 for fiscal year 1999.".

(b) UNIVERSAL ACCESS SYSTEMS.—Section 48101 is amended by adding at the end the following:

"(d) UNIVERSAL ACCESS SYSTEMS.—Of the amounts appropriated under subsection (a) for fiscal year 1999, $8,000,000 may be used for the voluntary purchase and installation of universal access systems.".

SEC. 103. FAA OPERATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS FROM GENERAL FUND.—Section 106(k) is amended—

(1) by inserting "(1) IN GENERAL.—" before "There";

(2) in paragraph (1) (as so designated) by striking "$5,158,000,000" and all that follows through the period at the end and inserting the following: "$5,632,000,000 for fiscal year 1999.";

(3) by adding at the end the following:

"(2) AUTHORIZED EXPENDITURES.—Of the amounts appropriated under paragraph (1) for fiscal year 1999—

"(A) $450,000 may be used for wildlife hazard mitigation measures and management of the wildlife strike database of the Federal Aviation Administration;

"(B) such sums as may be necessary may be used to fund an office within the Federal Aviation Administration dedicated to supporting infrastructure systems development for both general aviation and the vertical flight industry;

"(C) such sums as may be necessary may be used to revise existing terminal and en route procedures and instrument flight rules to facilitate the takeoff, flight, and landing of tiltrotor aircraft and to improve the national airspace system by separating such aircraft from congested flight paths of fixed-wing aircraft; and

"(D) $3,000,000 may be used to establish a prototype helicopter infrastructure using current technologies (such as the Global Positioning System) to support all-weather, emergency medical service for trauma patients."; and

(4) by indenting paragraph (1) (as designated by paragraph (1) of this subsection) and aligning such paragraph (1) with paragraph (2) (as added by paragraph (2) of this subsection).

(b) AUTHORIZATION OF APPROPRIATIONS FROM TRUST FUND.—Section 48104 is amended—

(1) by striking subsection (b) and redesignating subsection (c) as subsection (b);

(2) in subsection (b), as so redesignated—

(A) in the subsection heading by striking "FISCAL YEARS 1994-1998" and inserting "FISCAL YEAR 1999"; and

(B) in the matter preceding paragraph (1) by striking "each of fiscal years 1994 through 1998" and inserting "fiscal year 1999".

(c) LIMITATION ON OBLIGATING OR EXPENDING AMOUNTS.—Section 48108(c) is amended by striking "1998" and inserting "1999".

SEC. 104. AIP FORMULA CHANGES.

(a) DISCRETIONARY FUND.—Section 47115 is amended—

(1) by striking subsection (g);

(2) by redesignating subsection (h) as subsection (g); and

(3) by inserting before the period at the end of subsection (g) (as so redesignated) the following: "with funds made available under this section and, if such funds are not sufficient, with funds made available under sections 47114(c)(1)(A), 47114(c)(2), 47114(d), and 47117(e) on a pro rata basis".

(b) AMOUNTS APPORTIONED TO SPONSORS.—Section 47114(c)(1) is amended—

(1) in subparagraph (A)(v) by inserting "subject to subparagraph (C)," before "$.50"; and

(2) by adding at the end the following:

"(C) The amount to be apportioned for a fiscal year for a passenger described in subparagraph (A)(v) shall be reduced to $.40 if the total amount made available under section 48103 for such fiscal year is less than $1,350,000,000.".

(c) ENTITLEMENT FOR GENERAL AVIATION AIRPORTS.—Section 47114(d)(2) is amended—

(1) in the matter preceding subparagraph (A) by striking "18.5 percent" and inserting "20 percent";

(2) in subparagraph (A) by striking "0.66" and inserting "0.62; and

(3) in each of subparagraphs (B) and (C) by striking "49.67" and inserting "49.69".

(d) USE OF APPORTIONMENTS FOR ALASKA, PUERTO RICO, AND HAWAII.—Section 47114(d)(3) is amended to read as follows:

"(3) SPECIAL RULE.—An amount apportioned under paragraph (2) of this subsection for airports in Alaska, Puerto Rico, or Hawaii may be made available by the Secretary for any public airport in those respective jurisdictions.".

(e) USE OF STATE-APPORTIONED FUNDS FOR SYSTEM PLANNING.—Section 47114(d) is further amended by adding at the end the following:

"(4) INTEGRATED AIRPORT SYSTEM PLANNING.—Notwithstanding paragraph (2), funds made available under this subsection may be used for integrated airport system planning that encompasses 1 or more primary airports.".

(f) GRANTS FOR AIRPORT NOISE COMPATIBILITY PLANNING.—Section 47117(e)(1) is amended—

(1) in subparagraph (A) by striking "31 percent" each place it appears and inserting "33 percent"; and

(2) in subparagraph (B) by striking "At least" and all that follows through "sponsors of current" and inserting "At least 4 percent to sponsors of current".

(g) SUPPLEMENTAL APPORTIONMENT FOR ALASKA.—Section 47114(e) is amended—

(1) in the subsection heading by striking "ALTERNATIVE" and inserting "SUPPLEMENTAL";

(2) in paragraph (1)—

(A) by striking "Instead of apportioning amounts for airports in Alaska under" and inserting "IN GENERAL.—Notwithstanding"; and

(B) by striking "those airports" and inserting "airports in Alaska";

(3) in paragraph (2) by inserting "AUTHORITY FOR DISCRETIONARY GRANTS.—" before "This subsection";

(4) by striking paragraph (3) and inserting the following:

"(3) AIRPORTS ELIGIBLE FOR FUNDS.—An amount apportioned under this subsection may be used for any public airport in Alaska.";

(5) by indenting paragraph (1) and aligning it and paragraph (2) with paragraph (3) (as amended by paragraph (4) of this subsection).

(h) REPEAL OF APPORTIONMENT LIMITATION ON COMMERCIAL SERVICE AIRPORTS IN ALASKA.—Section 47117 is amended by striking subsection (f) and by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

(i) DESIGNATING CURRENT AND FORMER MILITARY AIRPORTS.—Section 47118 is amended—

(1) in subsection (a) by striking "12" and inserting "15";

(2) by striking subsection (c) and redesignating subsections (d) through (f) as subsections (c) through (e), respectively;

(3) in subsection (c), as so redesignated, by striking "47117(e)(1)(E)" and inserting "47117(e)(1)(B)"; and

(4) by adding at the end the following:

"(f) DESIGNATION OF GENERAL AVIATION AIRPORT.—Notwithstanding any other provision of this section, at least 1 of the airports designated under subsection (a) shall be a general aviation airport that is a former military installation closed or realigned under a law described in subsection (a)(1).".

(j) ELIGIBILITY OF RUNWAY INCURSION PREVENTION DEVICES.—

(1) POLICY.—Section 47101(a)(11) is amended by inserting "(including integrated in-pavement lighting systems for runways and

taxiways and other runway and taxiway incursion prevention devices)" after "activities".

(2) MAXIMUM USE OF SAFETY FACILITIES.—Section 47101(f) is amended—

(A) by striking "and" at the end of paragraph (9); and

(B) by striking the period at the end of paragraph (10) and inserting "; and"; and

(C) by adding at the end the following:

"(11) runway and taxiway incursion prevention devices, including integrated in-pavement lighting systems for runways and taxiways.".

(3) AIRPORT DEVELOPMENT DEFINED.—Section 47102(3)(B)(ii) is amended by inserting "and including integrated in-pavement lighting systems for runways and taxiways and other runway and taxiway incursion prevention devices" before the semicolon at the end.

SEC. 105. GRANTS FROM SMALL AIRPORT FUND.

(a) SET-ASIDE FOR MEETING SAFETY TERMS IN AIRPORT OPERATING CERTIFICATES.—Section 47116 is amended by adding at the end the following:

"(e) SET-ASIDE FOR MEETING SAFETY TERMS IN AIRPORT OPERATING CERTIFICATES.—In the first fiscal year beginning after the effective date of regulations issued to carry out section 44706(b) with respect to airports described in section 44706(a)(2), and in each of the next 4 fiscal years, the lesser of $15,000,000 or 20 percent of the amounts distributed to sponsors of airports under subsection (b)(2) shall be used to assist the airports in meeting the terms established by the regulations. If the Secretary publishes in the Federal Register a finding that all the terms established by the regulations have been met, this subsection shall cease to be effective as of the date of such publication.".

(b) NOTIFICATION OF SOURCE OF GRANT.—Section 47116 is further amended by adding at the end the following:

"(f) NOTIFICATION OF SOURCE OF GRANT.—Whenever the Secretary makes a grant under this section, the Secretary shall notify the recipient of the grant, in writing, that the source of the grant is from the small airport fund.".

SEC. 106. INNOVATIVE USE OF AIRPORT GRANT FUNDS.

(a) IN GENERAL.—Subchapter I of chapter 471 is amended by adding at the end the following:

"§ 47135. Innovative financing techniques

"(a) IN GENERAL.—The Secretary of Transportation may approve applications under this subchapter for not more than 20 projects for which grants made under this subchapter may be used to implement innovative financing techniques.

"(b) PURPOSE.—The purpose of implementing innovative financing techniques under this section shall be to provide information on the benefits and difficulties of using such techniques for airport development projects.

"(c) LIMITATION.—In no case shall the implementation of an innovative financing technique under this section be used in a manner giving rise to a direct or indirect guarantee of any airport debt instrument by the United States Government.

"(d) INNOVATIVE FINANCING TECHNIQUE DEFINED.—In this section, the term 'innovative financing technique' is limited to—

"(1) payment of interest;

"(2) commercial bond insurance and other credit enhancement associated with airport bonds for eligible airport development; and

"(3) flexible non-Federal matching requirements.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter 1 of chapter 471 is amended by adding at the end the following:

"47135. Innovative financing techniques.".

SEC. 107. AIRPORT SECURITY PROGRAM.

(a) IN GENERAL.—Chapter 471 (as amended by section 106 of this Act) is amended by adding the following new section:

"§ 47136. Airport security program

"(a) GENERAL AUTHORITY.—To improve security at public airports in the United States, the Secretary of Transportation shall carry out not less than 1 project to test and evaluate innovative airport security systems and related technology.

"(b) PRIORITY.—In carrying out this section, the Secretary shall give the highest priority to a request from an eligible sponsor for a grant to undertake a project that—

"(1) evaluates and tests the benefits of innovative airport security systems or related technology, including explosives detection systems, for the purpose of improving airport and aircraft physical security and access control; and

"(2) provides testing and evaluation of airport security systems and technology in an operational, test bed environment.

"(c) MATCHING SHARE.—Notwithstanding section 47109, the United States Government's share of allowable project costs for a project under this section is 100 percent.

"(d) TERMS AND CONDITIONS.—The Secretary may establish such terms and conditions as the Secretary determines appropriate for carrying out a project under this section, including terms and conditions relating to the form and content of a proposal for a project, project assurances, and schedule of payments.

"(e) ELIGIBLE SPONSOR DEFINED.—In this section, the term 'eligible sponsor' means a nonprofit corporation composed of a consortium of public and private persons, including a sponsor of a primary airport, with the necessary engineering and technical expertise to successfully conduct the testing and evaluation of airport and aircraft related security systems.

"(f) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts made available to the Secretary under section 47115 in a fiscal year, the Secretary shall make available not less than $5,000,000 for the purpose of carrying out this section.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter 1 of such chapter is amended by adding at the end the following:

"47136. Airport security program.".

SEC. 108. MATCHING SHARE FOR STATE BLOCK GRANT PROGRAM.

Section 47109(a) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(2) by inserting after paragraph (1) the following:

"(2) not more than 90 percent for a project funded by a grant issued to and administered by a State under section 47128, relating to the State block grant program;";

(3) by striking "and" at the end of paragraph (3) (as so redesignated); and

(4) by striking the period at the end of paragraph (4) (as so redesignated) and inserting "; and".

SEC. 109. TREATMENT OF CERTAIN FACILITIES AS AIRPORT-RELATED PROJECTS.

Section 40117 is amended by adding at the end the following:

"(j) SHELL OF TERMINAL BUILDING AND AIRCRAFT FUELING FACILITIES.—In order to enable additional air service by an air carrier with less than 50 percent of the scheduled passenger traffic at an airport, the Secretary may consider the shell of a terminal building (including heating, ventilation, and air conditioning) and aircraft fueling facilities adjacent to an airport terminal building to be an eligible airport-related project under subsection (a)(3)(E).".

SEC. 110. TERMINAL DEVELOPMENT COSTS.

(a) REPAYING BORROWED MONEY.—Section 47119(a) is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking "0.05" and inserting "0.25"; and

(B) by striking "between January 1, 1992, and October 31, 1992," and inserting "between August 1, 1986, and September 30, 1990, or between June 1, 1991, and October 31, 1992,"; and

(2) in paragraph (1)(B) by striking "an airport development project outside the terminal area at that airport" and inserting "any needed airport development project affecting safety, security, or capacity".

(b) NONHUB AIRPORTS.—Section 47119(c) is amended by striking "0.05" and inserting "0.25".

SEC. 111. CONVEYANCES OF SURPLUS PROPERTY FOR PUBLIC AIRPORTS.

(a) REQUESTS BY PUBLIC AGENCIES.—Section 47151 is amended by adding at the end the following:

"(d) REQUESTS BY PUBLIC AGENCIES.—Except with respect to a request made by another department, agency, or instrumentality of the executive branch of the United States Government, such a department, agency, or instrumentality shall give priority consideration to a request made by a public agency (as defined in section 47102) for surplus property described in subsection (a) for use at a public airport.".

(b) NOTICE AND PUBLIC COMMENT; PUBLICATION OF DECISIONS.—Section 47153(a) is amended—

(1) in paragraph (1) by inserting ", after providing notice and an opportunity for public comment," after "if the Secretary decides"; and

(2) by adding at the end the following:

"(3) PUBLICATION OF DECISIONS.—The Secretary shall publish in the Federal Register any decision to waive a term under paragraph (1) and the reasons for the decision.".

(c) CONSIDERATIONS.—Section 47153 is amended by adding at the end the following:

"(c) CONSIDERATIONS.—In deciding whether to waive a term required under section 47152 or add another term, the Secretary shall consider the current and future needs of the users of the airport and the interests of the owner of the property.".

(d) REFERENCES TO GIFTS.—Chapter 471 is amended—

(1) in section 47151—

(A) in subsection (a)—

(i) in the matter preceding paragraph (1) by striking "give" and inserting "convey to"; and

(ii) in paragraph (2) by striking "gift" and inserting "conveyance";

(B) in subsection (b)—

(i) by striking "giving" and inserting "conveying"; and

(ii) by striking "gift" and inserting "conveyance"; and

(C) in subsection (c)—

(i) in the subsection heading by striking "GIVEN" and inserting "CONVEYED"; and

(ii) by striking "given" and inserting "conveyed";

(2) in section 47152—

(A) in the section heading by striking "**gifts**" and inserting "**conveyances**"; and

(B) in the matter preceding paragraph (1) by striking "gift" and inserting "conveyance";

(3) in section 47153(a)(1)—

(A) by striking "gift" each place it appears and inserting "conveyance"; and

(B) by striking "given" and inserting "conveyed"; and

(4) in the analysis for such chapter by striking the item relating to section 47152 and inserting the following:

"47152. Terms of conveyances.".

SEC. 112. CONSTRUCTION OF RUNWAYS.

Notwithstanding any provision of law that specifically restricts the number of runways at a single international airport, the Secretary of Transportation may obligate funds made available under chapters 471 and 481 of title 49, United States Code, for any project to construct a new runway at such airport, unless this section is expressly repealed.

SEC. 113. POTOMAC METROPLEX TERMINAL RADAR APPROACH CONTROL FACILITY.

(a) SITE SELECTION.—The Administrator may not select a site for, or begin construction of, the Potomac Metroplex terminal radar approach control facility before the 90th day after the Administrator transmits to Congress a report on the relative costs and benefits of constructing the facility on land already owned by the United States, including land located outside the Washington, D.C., metropolitan area.

(b) CONTENTS OF REPORT.—The report to be transmitted under subsection (a) shall include—

(1) a justification for the current construction plan, including the size and cost of the consolidated facility; and

(2) a complete risk analysis of the possibility that the redesigned airspace may not be completed, or may be only partially completed, including an explanation of whether or not the consolidation will be cost beneficial if the airspace is only partially redesigned.

SEC. 114. GENERAL FACILITIES AUTHORITY.

(a) CONTINUATION OF ILS INVENTORY PROGRAM.—Section 44502(a)(4)(B) is amended—

(1) by striking "each of fiscal years 1995 and 1996" and inserting "fiscal year 1999"; and

(2) by inserting "under new or existing contracts" after "including acquisition".

(b) LORAN-C NAVIGATION FACILITIES.—Section 44502(a) is amended by adding at the end the following:

"(5) MAINTENANCE AND UPGRADE OF LORAN-C NAVIGATION FACILITIES.—The Secretary shall maintain and upgrade Loran-C navigation facilities throughout the transition period to satellite-based navigation.".

SEC. 115. TRANSPORTATION ASSISTANCE FOR OLYMPIC CITIES.

(a) PURPOSE.—The purpose of this section is to provide assistance and support to State and local efforts on aviation-related transportation issues necessary to obtain the national recognition and economic benefits of participation in the International Olympic, Paralympic, and Special Olympics movements by hosting international quadrennial Olympic events and Paralympic and Special Olympic events in the United States.

(b) AIRPORT DEVELOPMENT PROJECTS.—

(1) AIRPORT DEVELOPMENT DEFINED.—Section 47102(3) is amended by adding at the end the following:

"(H) Developing, in coordination with State and local transportation agencies, intermodal transportation plans necessary for Olympic-related projects at an airport.".

(2) DISCRETIONARY GRANTS.—Section 47115(d) is amended—

(A) by striking "and" at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting "; and"; and

(C) by adding at the end the following:

"(7) the need for the project in order to meet the unique demands of hosting international quadrennial Olympic events.".

SEC. 116. DENIAL OF AIRPORT ACCESS TO CERTAIN AIR CARRIERS.

(a) IN GENERAL.—It shall not be considered unreasonable or unjust discrimination or a violation of section 47107 of title 49, United States Code, for the owner or operator of an airport described in (b) to deny access to any air carrier that is conducting operations as a public charter under part 380 of title 14, Code of Federal Regulations, with aircraft designed to carry more than 9 passengers per flight.

(b) COVERED AIRPORTS.—This section shall only apply to an airport that—

(1) is designated as a reliever airport by the Administrator;

(2) does not have an operating certificate issued under part 139 of title 14, Code of Federal Regulations; and

(3) is located within 25 miles of an airport that has at least 0.05 percent of the total annual boardings in the United States and has current gate capacity to handle the demands of the public charter operation.

(c) PUBLIC CHARTER DEFINED.—In this section, the term 'public charter' means charter air transportation for which the general public is provided in advance a schedule containing the departure location, departure time, and arrival location of the flights.

SEC. 117. PERIOD OF APPLICABILITY OF AMENDMENTS.

Effective September 29, 1998, section 125 of the Federal Aviation Reauthorization Act of 1996 (49 U.S.C. 47114 note; 110 Stat. 3220) is repealed.

SEC. 118. TECHNICAL AMENDMENTS.

(a) DISCRETIONARY FUND DEFINITION.—

(1) AMOUNTS IN FUND AND AVAILABILITY.—Section 47115 is amended—

(A) in subsection (a)(2) by striking "25" and inserting "12.5"; and

(B) by striking the second sentence of subsection (b).

(2) SMALL AIRPORT FUND.—Section 47116 is amended—

(A) in subsection (a) by striking "75" and inserting "87.5"; and

(B) in subsection (b) by striking paragraphs (1) and (2) and inserting the following:

"(1) ⅓ for grants for projects at small hub airports (as defined in section 41731 of this title).

"(2) The remaining amounts as follows:

"(A) ⅓ for grants to sponsors of public-use airports (except commercial service airports).

"(B) ⅔ for grants to sponsors of each commercial service airport that each year has less than .05 percent of the total boardings in the United States in that year.".

(b) CONTINUATION OF PROJECT FUNDING.—Section 47108 is amended by adding at the end the following:

"(e) CHANGE IN AIRPORT STATUS.—In the event that the status of a primary airport changes to a nonprimary airport at a time when a terminal development project under a multiyear agreement under subsection (a) is not yet completed, the project shall remain eligible for funding from discretionary funds under section 47115 at the funding level and under the terms provided by the agreement, subject to the availability of funds.".

(c) PASSENGER FACILITY FEE WAIVER FOR CERTAIN CLASS OF CARRIERS OR FOR SERVICE TO AIRPORTS IN ISOLATED COMMUNITIES.—Section 40117(i) is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting "; and"; and

(3) by adding at the end the following:

"(3) may permit a public agency to request that collection of a passenger facility fee be waived for—

"(A) passengers enplaned by any class of air carrier or foreign air carrier if the number of passengers enplaned by the carrier in the class constitutes not more than 1 percent of the total number of passengers enplaned annually at the airport at which the fee is imposed; or

"(B) passengers enplaned on a flight to an airport—

"(i) that has fewer than 2,500 passenger boardings each year; and

"(ii) in a community which has a population of less than 10,000 and is not connected by a land highway or vehicular way to the land-connected National Highway System within a State.".

TITLE II—CONTRACT TOWER PROGRAM

SEC. 201. CONTRACT TOWERS.

Section 47124(b) is amended by adding at the end the following:

"(3) NONQUALIFYING AIR TRAFFIC CONTROL TOWERS.—

"(A) IN GENERAL.—The Secretary shall establish a program to contract for air traffic control services at not more than 20 level I air traffic control towers, as defined by the Administrator of the Federal Aviation Administration, that do not qualify for the program established under subsection (a) and continued under paragraph (1).

"(B) PRIORITY.—In selecting facilities to participate in the program under this paragraph, the Administrator shall give priority to the following:

"(i) Air traffic control towers that are participating in the program continued under paragraph (1) but have been notified that they will be terminated from such program because the Administrator has determined that the benefit-to-cost ratio for their continuation in such program is less than 1.

"(ii) Level I air traffic control towers of the Federal Aviation Administration that are closed as a result of the air traffic controllers strike in 1981.

"(iii) Air traffic control towers that are located at airports that receive air service from an air carrier that is receiving compensation under the essential air service program of subchapter II of chapter 417.

"(iv) Air traffic control towers located at airports that are prepared to assume responsibility for tower construction and maintenance costs.

"(v) Air traffic control towers that are located at airports with safety or operational problems related to topography, weather, runway configuration, or mix of aircraft.

"(C) COSTS EXCEEDING BENEFITS.—If the costs of operating a control tower under the program established under this paragraph exceed the benefits, the airport sponsor or State or local government having jurisdiction over the airport shall pay the portion of the costs that exceed such benefits.

"(D) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $6,000,000 per fiscal year to carry out this paragraph.".

TITLE III—FAMILY ASSISTANCE

SEC. 301. RESPONSIBILITIES OF NATIONAL TRANSPORTATION SAFETY BOARD.

(a) PROHIBITION ON UNSOLICITED COMMUNICATIONS.—

(1) IN GENERAL.—Section 1136(g)(2) is amended—

(A) by inserting after "transportation," the following: "and in a case involving a foreign air carrier and an accident that occurs within the United States,";

(B) by inserting after "attorney" the following: "(including any associate, agent, employee, or other representative of the attorney)"; and

(C) by striking "30th day" and inserting "45th day".

(2) ENFORCEMENT.—Section 1151 is amended by inserting "1136(g)(2)," before "or 1155(a)" each place it appears.

(b) PROHIBITION ON ACTIONS TO PREVENT MENTAL HEALTH AND COUNSELING SERVICES.—Section 1136(g) is amended by adding at the end the following:

"(3) PROHIBITION ON ACTIONS TO PREVENT MENTAL HEALTH AND COUNSELING SERVICES.—No State or political subdivision may prevent the employees, agents, or volunteers of an organization designated for an accident under subsection (a)(2) from providing mental health and counseling services under subsection (c)(1) in the 30-day period beginning on the date of the accident. The director of family support services designated for the accident under subsection (a)(1) may extend such period for not to exceed an additional 30 days if the director determines that the extension is necessary to meet the needs of the families and if State and local authorities are notified of the determination.".

(c) INCLUSION OF NON-REVENUE PASSENGERS IN FAMILY ASSISTANCE COVERAGE.—Section 1136(h)(2) is amended to read as follows:

"(2) PASSENGER.—The term 'passenger' includes—

"(A) an employee of an air carrier or foreign air carrier aboard an aircraft; and

"(B) any other person aboard the aircraft without regard to whether the person paid for the transportation, occupied a seat, or held a reservation for the flight.".

(d) LIMITATION ON STATUTORY CONSTRUCTION.—Section 1136 is amended by adding at the end the following:

"(i) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed as limiting the actions that an air carrier may take, or the obligations that an air carrier may have, in providing assistance to the families of passengers involved in an aircraft accident.".

SEC. 302. AIR CARRIER PLANS.

(a) CONTENTS OF PLANS.—

(1) FLIGHT RESERVATION INFORMATION.—Section 41113(b) is amended by adding at the end the following:

"(14) An assurance that, upon request of the family of a passenger, the air carrier will inform the family of whether the passenger's name appeared on a preliminary passenger manifest for the flight involved in the accident.".

(2) TRAINING OF EMPLOYEES AND AGENTS.—Section 41113(b) is further amended by adding at the end the following:

"(15) An assurance that the air carrier will provide adequate training to the employees and agents of the carrier to meet the needs of survivors and family members following an accident.".

(3) SUBMISSION OF UPDATED PLANS.—The amendments made by paragraphs (1) and (2) shall take effect on the 180th day following the date of enactment of this Act. On or before such 180th day, each air carrier holding a certificate of public convenience and necessity under section 41102 of title 49, United States Code, shall submit to the Secretary of Transportation and the Chairman of the National Transportation Safety Board an updated plan under section 41113 of such title that meets the requirement of the amendments made by paragraphs (1) and (2).

(4) CONFORMING AMENDMENTS.—Section 41113 is amended—

(A) in subsection (a) by striking "Not later than 6 months after the date of the enactment of this section, each air carrier" and inserting "Each air carrier"; and

(B) in subsection (c) by striking "After the date that is 6 months after the date of the enactment of this section, the Secretary" and inserting "The Secretary".

(b) LIMITATION ON LIABILITY.—Section 41113(d) is amended by inserting ", or in providing information concerning a flight reservation," before "pursuant to a plan".

(c) LIMITATION ON STATUTORY CONSTRUCTION.—Section 41113 is amended by adding at the end the following:

"(f) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed as limiting the actions that an air carrier may take, or the obligations that an air carrier may have, in providing assistance to the families of passengers involved in an aircraft accident.".

SEC. 303. FOREIGN AIR CARRIER PLANS.

(a) INCLUSION OF NON-REVENUE PASSENGERS IN FAMILY ASSISTANCE COVERAGE.—Section 41313(a)(2) is amended to read as follows:

"(2) PASSENGER.—The term 'passenger' has the meaning given such term by section 1136 of this title.".

(b) ACCIDENTS FOR WHICH PLAN IS REQUIRED.—Section 41313(b) is amended by striking "significant" and inserting "major".

(c) CONTENTS OF PLANS.—

(1) IN GENERAL.—Section 41313(c) is amended by adding at the end the following:

"(15) An assurance that the foreign air carrier will provide adequate training to the employees and agents of the carrier to meet the needs of survivors and family members following an accident.".

(2) SUBMISSION OF UPDATED PLANS.—The amendment made by paragraph (1) shall take effect on the 180th day following the date of enactment of this Act. On or before such 180th day, each foreign air carrier providing foreign air transportation under chapter 413 of title 49, United States Code, shall submit to the Secretary of Transportation and the Chairman of the National Transportation Safety Board an updated plan under section 41313 of such title that meets the requirement of the amendment made by paragraph (1).

SEC. 304. APPLICABILITY OF DEATH ON THE HIGH SEAS ACT.

(a) IN GENERAL.—Section 40120(a) is amended by inserting "(including the Act entitled 'An Act relating to the maintenance of actions for death on the high seas and other navigable waters', approved March 30, 1920, commonly known as the Death on the High Seas Act (46 U.S.C. App. 761–767; 41 Stat. 537–538))" after "United States".

(b) APPLICABILITY.—The amendment made by subsection (a) applies to civil actions commenced after the date of enactment of this Act and to civil actions that are not adjudicated by a court of original jurisdiction or settled on or before such date of enactment.

TITLE IV—WAR RISK INSURANCE PROGRAM

SEC. 401. AVIATION INSURANCE PROGRAM AMENDMENTS.

(a) REIMBURSEMENT OF INSURED PARTY'S SUBROGEE.—Section 44309(a) is amended to read as follows:

"(a) LOSSES.—

"(1) ACTIONS AGAINST UNITED STATES.—A person may bring a civil action in a district court of the United States or in the United States Court of Federal Claims against the United States Government when—

"(A) a loss insured under this chapter is in dispute; or

"(B)(i) the person is subrogated under a contract between the person and a party insured under this chapter (other than section 44305(b)) to the rights of the insured party against the United States Government; and

"(ii) the person has paid to the insured party, with the approval of the Secretary of Transportation, an amount for a physical damage loss that the Secretary has determined is a loss covered by insurance issued under this chapter (other than section 44305(b)).

"(2) LIMITATION.—A civil action involving the same matter (except the action authorized by this subsection) may not be brought against an agent, officer, or employee of the Government carrying out this chapter.

"(3) PROCEDURE.—To the extent applicable, the procedure in an action brought under section 1346(a)(2) of title 28 applies to an action under this subsection.".

(b) EXTENSION OF AVIATION INSURANCE PROGRAM.—Section 44310 of such title is amended by striking "1998" and inserting "2003".

TITLE V—SAFETY

SEC. 501. CARGO COLLISION AVOIDANCE SYSTEMS DEADLINE.

(a) IN GENERAL.—The Administrator shall require by regulation that, not later than December 31, 2002, equipment be installed, on each cargo aircraft with a payload capacity of 15,000 kilograms or more, that provides protection from mid-air collisions and resolution advisory capability that is at least as good as is provided by the collision avoidance system known as TCAS–II.

(b) EXTENSION OF DEADLINE.—The Administrator may extend the deadline established by subsection (a) by not more than 1 year if the Administrator finds that the extension would promote safety.

SEC. 502. RECORDS OF EMPLOYMENT OF PILOT APPLICANTS.

Section 44936 is amended—

(1) in subsection (f)(1)(B) by inserting "(except a branch of the United States Armed Forces, the National Guard, or a reserve component of the United States Armed Forces)" after "person" the first place it appears;

(2) in subsection (f)(1)(B)(ii) by striking "individual" and inserting "individual's performance as a pilot"; and

(3) in subsection (f)(14)(B) by inserting "or from a foreign government or entity that employed the individual" after "exists".

SEC. 503. WHISTLEBLOWER PROTECTION FOR FAA EMPLOYEES.

Section 347(b)(1) of the Department of Transportation and Related Agencies Appropriations Act, 1996 (49 U.S.C. 106 note; 109 Stat. 460) is amended by inserting before the semicolon at the end the following: ", including the provisions for investigation and enforcement as provided in chapter 12 of title 5, United States Code".

SEC. 504. SAFETY RISK MITIGATION PROGRAMS.

Section 44701 (as amended by section 805 of this Act) is amended by adding at the end the following:

"(g) SAFETY RISK MANAGEMENT PROGRAM GUIDELINES.—The Administrator shall issue guidelines and encourage the development of air safety risk mitigation programs throughout the aviation industry, including self-audits and self-disclosure programs.".

SEC. 505. FLIGHT OPERATIONS QUALITY ASSURANCE RULES.

Not later than 30 days after the date of enactment of this Act, the Administrator shall issue a notice of proposed rulemaking to develop procedures to protect air carriers and their employees from civil enforcement actions under the program known as Flight Operations Quality Assurance. Not later than 1 year after the last day of the period for public comment provided for in the notice of proposed rulemaking, the Administrator shall issue a final rule establishing such procedures.

SEC. 506. SMALL AIRPORT CERTIFICATION.

Not later than 180 days after the date of enactment of this Act, the Administrator shall issue a notice of proposed rulemaking on implementing section 44706(a)(2) of title 49, United States Code, relating to issuance of airport operating certificates for small scheduled passenger air carrier operations. Not later than 1 year after the last day of the period for public comment provided for in the notice of proposed rulemaking, the Administrator shall issue a final rule on implementing such program.

SEC. 507. MARKING OF LIFE LIMITED AIRCRAFT PARTS.

(a) MARKING AUTHORITY.—Chapter 447 is amended by adding the following new section:

"§ 44725. Marking of life limited aircraft parts

"(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall conduct a rulemaking proceeding to determine the most effective way to permanently mark all life limited civil aviation parts. In accordance with that determination, the Administrator shall issue a rule to require the mandatory marking of all such parts that exceed their useful life.

"(b) DEADLINES.—In conducting the rulemaking proceeding under subsection (a), the Administrator shall—

"(1) not later than 180 days after the date of enactment of this section, issue a notice of proposed rulemaking; and

"(2) not later than 120 days after the close of the comment period on the proposed rule, issue a final rule.".

(b) CIVIL PENALTY.—Section 46301(a) is amended—

(1) in paragraph (1)(A) by striking "and 44719–44723" and inserting ", 44719–44723, and 44725"; and

(2) in paragraph (3)—

(A) in subparagraph (A) by striking "or" at the end;

(B) in subparagraph (B) by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following:

"(C) the failure to mark life limited aircraft parts in accordance of section 44725.".

(c) CONFORMING AMENDMENT.—The analysis for chapter 447 is amended by adding at the end the following:

"44725. Marking of life limited aircraft parts.".

TITLE VI—WHISTLEBLOWER PROTECTION

SEC. 601. PROTECTION OF EMPLOYEES PROVIDING AIR SAFETY INFORMATION.

(a) GENERAL RULE.—Chapter 421 is amended by adding at the end the following:

"SUBCHAPTER III—WHISTLEBLOWER PROTECTION PROGRAM

"§ 42121. Protection of employees providing air safety information

"(a) DISCRIMINATION AGAINST AIRLINE EMPLOYEES.—No air carrier or contractor or subcontractor of an air carrier may discharge an employee or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

"(1) provided, caused to be provided, or is about to provide or cause to be provided to the Federal Government information relating to air safety under this subtitle or any other law of the United States;

"(2) has filed, caused to be filed, or is about to file or cause to be filed a proceeding relating to air carrier safety under this subtitle or any other law of the United States;

"(3) testified or is about to testify in such a proceeding; or

"(4) assisted or participated or is about to assist or participate in such a proceeding.

"(b) DEPARTMENT OF LABOR COMPLAINT PROCEDURE.—

"(1) FILING AND NOTIFICATION.—A person who believes that he or she has been discharged or otherwise discriminated against by a person in violation of subsection (a) may, not later than 180 days after the date on which such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary of Labor shall notify the person named in the complaint and the Administrator of the Federal Aviation Administration of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person under paragraph (2).

"(2) INVESTIGATION; PRELIMINARY ORDER.—Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the person named in the complaint of an opportunity to submit to the Secretary of Labor a written response to the complaint and an opportunity to meet with a representative of the Secretary to present statements from witnesses, the Secretary of Labor shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify the complainant and the person alleged to have committed a violation of subsection (a) of the Secretary's findings. If the Secretary of Labor concludes that there is a reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary shall accompany the Secretary's findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 30 days after the date of notification of findings under this paragraph, either the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Such hearings shall be conducted expeditiously. If a hearing is not requested in such 30-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

"(3) FINAL ORDER.—

"(A) DEADLINE FOR ISSUANCE; SETTLEMENT AGREEMENTS.—Not later than 120 days after the date of conclusion of a hearing under paragraph (2), the Secretary of Labor shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary of Labor, the complainant, and the person alleged to have committed the violation.

"(B) REMEDY.—If, in response to a complaint filed under paragraph (1), the Secretary of Labor determines that a violation of subsection (a) has occurred, the Secretary of Labor shall order the person who committed such violation to—

"(i) take affirmative action to abate the violation;

"(ii) reinstate the complainant to his or her former position together with the compensation (including back pay), terms, conditions, and privileges associated with his or her employment; and

"(iii) provide compensatory damages to the complainant.

If such an order is issued under this paragraph, the Secretary of Labor, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' and expert witness fees) reasonably incurred, as determined by the Secretary of Labor, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

"(C) FRIVOLOUS COMPLAINTS.—If the Secretary of Labor finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary of Labor may award to the prevailing employer a reasonable attorney's fee not exceeding $5,000.

"(4) REVIEW.—

"(A) APPEAL TO COURT OF APPEALS.—Any person adversely affected or aggrieved by an order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review must be filed not later than 60 days after the date of the issuance of the order of the Secretary of Labor. Review shall conform to chapter 7 of title 5, United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

"(B) LIMITATION ON COLLATERAL ATTACK.—An order of the Secretary of Labor with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

"(5) ENFORCEMENT OF ORDER BY SECRETARY OF LABOR.—Whenever a person has failed to comply with an order issued under paragraph (3), the Secretary of Labor may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief and compensatory damages.

"(6) ENFORCEMENT OF ORDER BY PARTIES.—

"(A) COMMENCEMENT OF ACTION.—A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

"(B) ATTORNEY FEES.—The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such award is appropriate.

"(c) MANDAMUS.—Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28.

"(d) NONAPPLICABILITY TO DELIBERATE VIOLATIONS.—Subsection (a) shall not apply with respect to an employee of an air carrier who, acting without direction from such air carrier (or such air carrier's agent), deliberately causes a violation of any requirement relating to air carrier safety under this subtitle or any other law of the United States.

"(e) CONTRACTOR DEFINED.—In this section, the term 'contractor' means a company that performs safety-sensitive functions by contract for an air carrier.".

(b) CONFORMING AMENDMENT.—The analysis for such chapter is amended by adding at the end the following:

"SUBCHAPTER III—WHISTLEBLOWER PROTECTION PROGRAM

"42121. Protection of employees providing air safety information.".

SEC. 602. CIVIL PENALTY.

Section 46301(a)(1)(A) is amended by striking "subchapter II of chapter 421" and inserting "subchapter II or III of chapter 421".

TITLE VII—CENTENNIAL OF FLIGHT COMMISSION

SEC. 701. SHORT TITLE.

This title may be cited as the "Centennial of Flight Commemoration Act".

SEC. 702. FINDINGS.

Congress finds that—

(1) December 17, 2003, is the 100th anniversary of the first successful manned, free, controlled, and sustained flight by a power-driven, heavier-than-air machine;

(2) the first flight by Orville and Wilbur Wright represents the fulfillment of the age-old dream of flying;

(3) the airplane has dramatically changed the course of transportation, commerce, communication, and warfare throughout the world;

(4) the achievement by the Wright brothers stands as a triumph of American ingenuity, inventiveness, and diligence in developing new technologies, and remains an inspiration for all Americans;

(5) it is appropriate to remember and renew the legacy of the Wright brothers at a time when the values of creativity and daring represented by the Wright brothers are critical to the future of the Nation; and

(6) as the Nation approaches the 100th anniversary of powered flight, it is appropriate to celebrate and commemorate the centennial year through local, national, and international observances and activities.

SEC. 703. ESTABLISHMENT.

There is established a commission to be known as the Centennial of Flight Commission.

SEC. 704. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 7 members as follows:

(1) The Administrator of the Federal Aviation Administration (or the designee of the Administrator).

(2) The Director of the National Air and Space Museum (or the designee of the Director).

(3) The Administrator of the National Aeronautics and Space Administration (or the designee of the Administrator).

(4) The chairman of the First Flight Centennial Foundation of North Carolina (or the designee of the chairman).

(5) The chairman of the 2003 Committee of Ohio (or the designee of the chairman).

(6) The president of the American Institute of Aeronautics and Astronautics Foundation of Reston, Virginia (or the designee of the president).

(7) An individual of national stature who shall be selected by the members of the Commission designated under paragraphs (1) through (6).

(b) VACANCIES.—Any vacancy in the Commission shall be filled in the same manner in which the original designation was made.

(c) COMPENSATION.—

(1) PROHIBITION OF PAY.—Except as provided in paragraph (2), members of the Commission shall serve without pay or compensation.

(2) TRAVEL EXPENSES.—The Commission may adopt a policy for members of the Commission and related advisory panels to receive travel expenses, including per diem in lieu of subsistence. The policy may not exceed the levels established under sections 5702 and 5703 of title 5, United States Code. Members who are Federal employees shall not receive travel expenses if otherwise reimbursed by the Federal Government.

(d) QUORUM.—Three members of the Commission shall constitute a quorum.

(e) CHAIRPERSON.—The Commission member selected under subsection (a)(7) shall serve as Chairperson of the Commission. The Chairperson may not vote on matters before the Commission except in the case of a tie vote.

(f) ORGANIZATION.—Not later than 90 days after the date of enactment of this Act, the Commission shall meet and select a Chairperson, Vice Chairperson, and Executive Director.

SEC. 705. DUTIES.

(a) IN GENERAL.—The Commission shall—

(1) represent the United States and take a leadership role with other nations in recognizing the importance of aviation history in general and the centennial of powered flight in particular, and promote participation by the United States in such activities;

(2) encourage and promote national and international participation and sponsorships in commemoration of the centennial of powered flight by persons and entities such as—

(A) aerospace manufacturing companies;

(B) aerospace-related military organizations;

(C) workers employed in aerospace-related industries;

(D) commercial aviation companies;

(E) general aviation owners and pilots;

(F) aerospace researchers, instructors, and enthusiasts;

(G) elementary, secondary, and higher educational institutions;

(H) civil, patriotic, educational, sporting, arts, cultural, and historical organizations and technical societies;

(I) aerospace-related museums; and

(J) State and local governments;

(3) plan and develop, in coordination with the First Flight Centennial Commission, the First Flight Centennial Foundation of North Carolina, and the 2003 Committee of Ohio, programs and activities that are appropriate to commemorate the 100th anniversary of powered flight;

(4) maintain, publish, and distribute a calendar or register of national and international programs and projects concerning, and provide a central clearinghouse for, information and coordination regarding, dates, events, and places of historical and commemorative significance regarding aviation history in general and the centennial of powered flight in particular;

(5) provide national coordination for celebration dates to take place throughout the United States during the centennial year;

(6) assist in conducting educational, civic, and commemorative activities relating to the centennial of powered flight throughout the United States, especially activities that occur in the States of North Carolina and Ohio and that highlight the activities of the Wright brothers in such States; and

(7) publish popular and scholarly works related to the history of aviation or the anniversary of the centennial of powered flight.

(b) NONDUPLICATION OF ACTIVITIES.—The Commission shall attempt to plan and conduct its activities in such a manner that activities conducted pursuant to this title enhance, but do not duplicate, traditional and established activities of Ohio's 2003 Committee, North Carolina's First Flight Centennial Commission, and the First Flight Centennial Foundation.

SEC. 706. POWERS.

(a) ADVISORY COMMITTEES AND TASK FORCES.—

(1) IN GENERAL.—The Commission may appoint any advisory committee or task force that it determines to be necessary to carry out this title.

(2) FEDERAL COOPERATION.—To ensure the overall success of the Commission's efforts, the Commission may call upon various Federal departments and agencies to assist in and give support to programs of the Commission. Where appropriate, all Federal departments and agencies shall provide any assistance possible.

(3) PROHIBITION OF PAY OTHER THAN TRAVEL EXPENSES.—Members of an advisory committee or task force authorized by paragraph (1) shall not receive pay, but may receive travel expenses pursuant to the policy adopted by the Commission under section 704(c)(2).

(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this title.

(c) AUTHORITY TO PROCURE AND TO MAKE LEGAL AGREEMENTS.—

(1) IN GENERAL.—The Commission may procure supplies, services, and property, and make or enter into leases and other legal agreements in order to carry out this title.

(2) RESTRICTION.—A contract, lease, or other legal agreement made or entered into by the Commission may not extend beyond the date of the termination of the Commission.

(3) SUPPLIES AND PROPERTY POSSESSED BY COMMISSION AT TERMINATION.—Any supplies and property, except historically significant items, that are acquired by the Commission under this title and remain in the possession of the Commission on the date of the termination of the Commission shall become the property of the General Services Administration upon the date of termination.

(d) REQUESTS FOR OFFICIAL INFORMATION.—The Commission may request from any Federal department or agency information necessary to enable the Commission to carry out this title. The head of the Federal department or agency shall furnish the information to the Commission unless the release of the information by the department or agency to the public is prohibited by law.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as any other Federal agency.

(f) APPLICABILITY OF CERTAIN LAWS.—Except as otherwise expressly provided by this title, laws relating to the general operation

and management of Federal agencies shall apply to the Commission only to the extent such laws apply to the Smithsonian Institution.

SEC. 707. STAFF AND SUPPORT SERVICES.

(a) EXECUTIVE DIRECTOR.—There shall be an Executive Director appointed by the Commission. The Executive Director may be paid at a rate not to exceed the maximum rate of basic pay payable for the Senior Executive Service.

(b) STAFF.—The Commission may appoint and fix the pay of any additional personnel that it considers appropriate, except that an individual appointed under this subsection may not receive pay in excess of the maximum rate of basic pay payable for GS–14 of the General Schedule.

(c) INAPPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Executive Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, except as provided under subsections (a) and (b).

(d) STAFF OF FEDERAL AGENCIES.—Upon request by the Chairperson of the Commission, the head of any Federal department or agency may detail, on a nonreimbursable basis, any of the personnel of the department or agency to the Commission to assist the Commission to carry out its duties under this title.

(e) EXPERTS AND CONSULTANTS.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at a rate that does not exceed the daily equivalent of the annual rate of basic pay payable under level V of the Executive Schedule under section 5316 of such title.

(f) ADMINISTRATIVE SUPPORT SERVICES.—

(1) REIMBURSABLE SERVICES.—The Secretary of the Smithsonian Institution may provide to the Commission on a reimbursable basis any administrative support services that are necessary to enable the Commission to carry out this title.

(2) NONREIMBURSABLE SERVICES.—The Secretary may provide administrative support services to the Commission on a nonreimbursable basis when, in the opinion of the Secretary, the value of such services is insignificant or not practical to determine.

(g) COOPERATIVE AGREEMENTS.—The Commission may enter into cooperative agreements or grant agreements with other Federal agencies, State and local governments, and private interests and organizations that will contribute to public awareness of and interest in the centennial of powered flight and toward furthering the goals and purposes of this title.

(h) PROGRAM SUPPORT.—The Commission may receive program support from the nonprofit sector.

SEC. 708. CONTRIBUTIONS.

(a) DONATIONS.—

(1) IN GENERAL.—The Commission may accept donations of money, personal service, and historic materials relating to the implementation of its responsibilities under the provisions of this title.

(2) DONATED FUNDS AND SALES.—Any funds donated to the Commission or revenues from direct sales shall be used by the Commission to carry out this title. Funds donated to and accepted by the Commission under this section shall not be considered to be appropriated funds and shall not be subject to any requirements or restrictions applicable to appropriated funds.

(3) FUNDRAISING.—Any fundraising undertaken by the Commission shall be coordinated with fundraising undertaken at the State level, and coordinated with the First Flight Centennial Commission, the First Flight Centennial Foundation of North Carolina, and the 2003 Committee of Ohio.

(b) VOLUNTEER SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Commission may accept and use voluntary and uncompensated services as the Commission determines necessary.

(c) REMAINING FUNDS.—Any donated funds remaining with the Commission on the date of the termination of the Commission may be used to ensure proper disposition, as specified in the final report required under section 710(b), of historically significant property which was donated to or acquired by the Commission. Any donated funds remaining after such disposition shall be transferred to the Secretary of the Treasury for deposit into the general fund of the Treasury of the United States.

(d) SENSE OF CONGRESS.—It is the sense of Congress that, in raising or accepting funds from the private sector, the Commission should not compete against fundraising efforts by non-profit organizations that were initiated before the date of enactment of this Act and that are attempting to raise funds for nationally-significant commemorative projects related to the Wright brothers.

SEC. 709. EXCLUSIVE RIGHT TO NAME, LOGOS, EMBLEMS, SEALS, AND MARKS.

(a) IN GENERAL.—The Commission may devise any logo, emblem, seal, or descriptive or designating mark that is required to carry out its duties or that it determines is appropriate for use in connection with the commemoration of the centennial of powered flight.

(b) LICENSING.—The Commission shall have the sole and exclusive right to use, or to allow or refuse the use of, the name "Centennial of Flight Commission" on any logo, emblem, seal, or descriptive or designating mark that the Commission lawfully adopts.

(c) EFFECT ON OTHER RIGHTS.—No provision of this section may be construed to conflict or interfere with established or vested rights.

(d) USE OF FUNDS.—Funds donated to, or raised by, the Commission under section 708 and licensing royalties received pursuant to section 709 shall be used by the Commission to carry out the duties of the Commission specified by this title. If the Commission determines that such funds are in excess of the amount needed to carry out these duties, funds may be made available to State and local governments and private interests and organizations to contribute to public awareness of and interest in the centennial of powered flight. Funds disbursed under this section shall be required to be disbursed in accordance with a plan adopted unanimously by the voting members of the Commission.

(e) LIMITATION ON FUNDS COLLECTED.—Except as approved by a unanimous vote of the voting members of the Commission, funds donated to, or raised by, the Commission under section 708 and licensing royalties received pursuant to section 709 may not exceed $1,750,000 in a fiscal year.

SEC. 710. REPORTS.

(a) ANNUAL REPORT.—In each fiscal year in which the Commission is in existence, the Commission shall prepare and submit to Congress a report describing the activities of the Commission during the fiscal year. Each annual report shall also include—

(1) recommendations regarding appropriate activities to commemorate the centennial of powered flight, including—

(A) the production, publication, and distribution of books, pamphlets, films, and other educational materials;

(B) bibliographical and documentary projects and publications;

(C) conferences, convocations, lectures, seminars, and other similar programs;

(D) the development of exhibits for libraries, museums, and other appropriate institutions;

(E) ceremonies and celebrations commemorating specific events that relate to the history of aviation;

(F) programs focusing on the history of aviation and its benefits to the United States and humankind; and

(G) competitions, commissions, and awards regarding historical, scholarly, artistic, literary, musical, and other works, programs, and projects related to the centennial of powered flight;

(2) recommendations to appropriate agencies or advisory bodies regarding the issuance of commemorative coins, medals, and stamps by the United States relating to aviation or the centennial of powered flight;

(3) recommendations for any legislation or administrative action that the Commission determines to be appropriate regarding the commemoration of the centennial of powered flight; and

(4) an accounting of funds received and expended by the Commission in the fiscal year that the report concerns, including a detailed description of the source and amount of any funds donated to the Commission in the fiscal year.

(b) FINAL REPORT.—Not later than June 30, 2004, the Commission shall submit to the President and Congress a final report. The final report shall contain—

(1) a summary of the activities of the Commission;

(2) a final accounting of funds received and expended by the Commission;

(3) any findings and conclusions of the Commission; and

(4) specific recommendations concerning the final disposition of any historically significant items acquired by the Commission, including items donated to the Commission under section 708(a)(1).

SEC. 711. AUDIT OF FINANCIAL TRANSACTIONS.

(a) IN GENERAL.—

(1) AUDIT.—The Comptroller General of the United States shall audit the financial transactions of the Commission, including financial transactions involving donated funds, in accordance with generally accepted auditing standards.

(2) ACCESS.—In conducting an audit under this section, the Comptroller General—

(A) shall have access to all books, accounts, financial records, reports, files, and other papers, items, or property in use by the Commission, as necessary to facilitate the audit; and

(B) shall be afforded full facilities for verifying the financial transactions of the Commission, including access to any financial records or securities held for the Commission by depositories, fiscal agents, or custodians.

(b) REPORT.—Not later than September 30, 2004, the Comptroller General of the United States shall submit to the President and to Congress a report detailing the results of any audit of the financial transactions of the Commission conducted by the Comptroller General.

SEC. 712. ADVISORY BOARD.

(a) ESTABLISHMENT.—There is established a First Flight Centennial Federal Advisory Board.

(b) NUMBER AND APPOINTMENT.—The Board shall be composed of 19 members as follows:

(1) The Secretary of the Interior, or the designee of the Secretary.

(2) The Librarian of Congress, or the designee of the Librarian.

(3) The Secretary of the Air Force, or the designee of the Secretary.

(4) The Secretary of the Navy, or the designee of the Secretary.

(5) The Secretary of Transportation, or the designee of the Secretary.

(6) Six citizens of the United States, appointed by the President, who—

(A) are not officers or employees of any government (except membership on the Board shall not be construed to apply to the limitation under this clause); and

(B) shall be selected based on their experience in the fields of aerospace history, science, or education, or their ability to represent the entities enumerated under section 705(2).

(7) Four citizens of the United States, appointed by the majority leader of the Senate in consultation with the minority leader of the Senate.

(8) Four citizens of the United States, appointed by the Speaker of the House of Representatives in consultation with the minority leader of the House of Representatives. Of the individuals appointed under this subparagraph—

(A) one shall be selected from among individuals recommended by the representative whose district encompasses the Wright Brothers National Memorial; and

(B) one shall be selected from among individuals recommended by the representatives whose districts encompass any part of the Dayton Aviation Heritage National Historical Park.

(c) VACANCIES.—Any vacancy in the Advisory Board shall be filled in the same manner in which the original designation was made.

(d) MEETINGS.—Seven members of the Advisory Board shall constitute a quorum for a meeting. All meetings shall be open to the public.

(e) CHAIRPERSON.—The President shall designate 1 member appointed under subsection (b)(1)(F) as chairperson of the Advisory Board.

(f) MAILS.—The Advisory Board may use the United States mails in the same manner and under the same conditions as a Federal agency.

(g) DUTIES.—The Advisory Board shall advise the Commission on matters related to this title.

(h) PROHIBITION OF COMPENSATION OTHER THAN TRAVEL EXPENSES.—Members of the Advisory Board shall not receive pay, but may receive travel expenses pursuant to the policy adopted by the Commission under section 704(c)(2).

(i) TERMINATION.—The Advisory Board shall terminate upon the termination of the Commission.

SEC. 713. DEFINITIONS.

In this title, the following definitions apply:

(1) COMMISSION.—The term "Commission" means the Centennial of Flight Commission.

(2) FIRST FLIGHT.—The term "First Flight" means the first four successful manned, free, controlled, and sustained flights by a power-driven, heavier-than-air machine, which were accomplished by Orville and Wilbur Wright on December 17, 1903.

(3) CENTENNIAL OF POWERED FLIGHT.—The term "centennial of powered flight" means the anniversary year, from December 2002 to December 2003, commemorating the 100-year history of aviation beginning with the First Flight and highlighting the achievements of the Wright brothers in developing the technologies which have led to the development of aviation as it is known today.

(4) ADVISORY BOARD.—The term "Advisory Board" means the Centennial of Flight Federal Advisory Board.

SEC. 714. TERMINATION.

The Commission shall terminate not later than 60 days after the submission of the final report required by section 710(b).

SEC. 715. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title $250,000 for each of the fiscal years 1999 through 2004.

TITLE VIII—MISCELLANEOUS PROVISIONS

SEC. 801. CLARIFICATION OF REGULATORY APPROVAL PROCESS.

Section 106(f)(3)(B) is amended by adding at the end the following:

"(v) Not later than 10 days after the date of the determination of the Administrator under clause (i), the Administrator shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a written justification of the reasons for the determination. The justification shall include a citation to the item or items listed in clause (i) that is the authority on which the Administrator is relying for making the determination.".

SEC. 802. DUTIES AND POWERS OF ADMINISTRATOR.

Section 106(g)(1)(A) is amended by striking "40113(a), (c), and (d)," and all that follows through "45302–45304," and inserting "40113(a), 40113(c), 40113(d), 40113(e), 40114(a), and 40119, chapter 445 (except sections 44501(b), 44502(a)(2), 44502(a)(3), 44502(a)(4), 44503, 44506, 44509, 44510, 44514, and 44515), chapter 447 (except sections 44717, 44718(a), 44718(b), 44719, 44720, 44721(b), 44722, and 44723), chapter 449 (except sections 44903(d), 44904, 44905, 44907–44911, 44913, 44915, and 44931–44934), chapter 451, chapter 453, sections".

SEC. 803. PROHIBITION ON RELEASE OF OFFEROR PROPOSALS.

Section 40110 is amended by adding at the end the following:

"(d) PROHIBITION ON RELEASE OF OFFEROR PROPOSALS.—

"(1) GENERAL RULE.—Except as provided in paragraph (2), a proposal in the possession or control of the Administrator may not be made available to any person under section 552 of title 5, United States Code.

"(2) EXCEPTION.—Paragraph (1) shall not apply to any portion of a proposal of an offeror the disclosure of which is authorized by the Administrator pursuant to procedures published in the Federal Register. The Administrator shall provide an opportunity for public comment on the procedures for a period of not less than 30 days beginning on the date of such publication in order to receive and consider the views of all interested parties on the procedures. The procedures shall not take effect before the 60th day following the date of such publication.

"(3) PROPOSAL DEFINED.—In this subsection, the term 'proposal' means information contained in or originating from any proposal, including a technical, management, or cost proposal, submitted by an offeror in response to the requirements of a solicitation for a competitive proposal.".

SEC. 804. MULTIYEAR PROCUREMENT CONTRACTS.

Section 40111 is amended—

(1) by redesignating subsections (b) through (d) as subsections (c) through (e), respectively; and

(2) by inserting after subsection (a) the following:

"(b) TELECOMMUNICATIONS SERVICES.—Notwithstanding section 1341(a)(1)(B) of title 31, the Administrator may make a contract of not more than 10 years for telecommunication services that are provided through the use of a satellite if the Administrator finds that the longer contract period would be cost beneficial.".

SEC. 805. FEDERAL AVIATION ADMINISTRATION PERSONNEL MANAGEMENT SYSTEM.

(a) MEDIATION.—Section 40122(a)(2) is amended by adding at the end the following: "The 60-day period shall not include any period during which Congress has adjourned sine die.".

(b) RIGHT TO CONTEST ADVERSE PERSONNEL ACTIONS.—Section 40122 is amended by adding at the end the following:

"(g) RIGHT TO CONTEST ADVERSE PERSONNEL ACTIONS.—An employee of the Administration who is the subject of a major adverse personnel action may contest the action either through any contractual grievance procedure that is applicable to the employee as a member of the collective bargaining unit or through the Administration's internal process relating to review of major adverse personnel actions of the Administration, known as Guaranteed Fair Treatment.".

(c) APPLICABILITY OF MERIT SYSTEMS PROTECTION BOARD PROVISIONS.—Section 347(b) of the Department of Transportation and Related Agencies Appropriations Act, 1996 (109 Stat. 460) is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; and"; and

(3) by adding at the end the following:

"(8) sections 1204, 1211–1218, 1221, and 7701–7703, relating to the Merit Systems Protection Board.".

(d) APPEALS TO MERIT SYSTEMS PROTECTION BOARD.—Section 347(c) of the Department of Transportation and Related Agencies Appropriations Act, 1996 is amended to read as follows:

"(c) APPEALS TO MERIT SYSTEMS PROTECTION BOARD.—Under the new personnel management system developed and implemented under subsection (a), an employee of the Federal Aviation Administration may submit an appeal to the Merit Systems Protection Board and may seek judicial review of any resulting final orders or decisions of the Board from any action that was appealable to the Board under any law, rule, or regulation as of March 31, 1996.".

(e) COSTS AND BENEFITS OF MERIT SYSTEMS PROTECTION BOARD PROCEDURE.—

(1) STUDY.—The Inspector General of the Department of Transportation shall conduct a study of the costs and benefits to employees and the Federal Aviation Administration of the procedures of the Merit Systems Protection Board as compared to the guaranteed fair treatment procedures of the Federal Aviation Administration.

(2) SURVEY.—In conducting the study, the Inspector General shall conduct a survey of the employees of the Federal Aviation Administration who are not members of the union to determine which procedures such employees prefer.

(3) REPORT.—Not later than May 15, 1999, the Inspector General shall transmit to Congress a report on the results of the study

conducted under paragraph (1), including the results of a survey conducted under paragraph (2).

SEC. 806. GENERAL FACILITIES AND PERSONNEL AUTHORITY.

Section 44502(a) (as amended by section 114 of this Act) is further amended by adding at the end the following:

"(6) IMPROVEMENTS ON LEASED PROPERTIES.—The Administrator may make improvements to real property leased for an air navigation facility, regardless of whether the cost of making the improvements exceeds the cost of leasing the real property, if—

"(A) the property is leased for free or nominal rent;

"(B) the improvements primarily benefit the Government;

"(C) the improvements are essential for accomplishment of the mission of the Federal Aviation Administration; and

"(D) the interest of the Government in the improvements is protected.".

SEC. 807. IMPLEMENTATION OF ARTICLE 83 BIS OF THE CHICAGO CONVENTION.

Section 44701 is amended by—

(1) redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

"(e) BILATERAL EXCHANGES OF SAFETY OVERSIGHT RESPONSIBILITIES.—

"(1) IN GENERAL.—Notwithstanding the provisions of this chapter, the Administrator, pursuant to Article 83 bis of the Convention on International Civil Aviation and by a bilateral agreement with the aeronautical authorities of another country, may exchange with that country all or part of their respective functions and duties with respect to registered aircraft under the following articles of the Convention: Article 12 (Rules of the Air); Article 31 (Certificates of Airworthiness); or Article 32a (Licenses of Personnel).

"(2) RELINQUISHMENT AND ACCEPTANCE OF RESPONSIBILITY.—The Administrator relinquishes responsibility with respect to the functions and duties transferred by the Administrator as specified in the bilateral agreement, under the Articles listed in paragraph (1) for United States-registered aircraft described in paragraph (4)(A) transferred abroad and accepts responsibility with respect to the functions and duties under those Articles for aircraft registered abroad and described in paragraph (4)(B) that are transferred to the United States.

"(3) CONDITIONS.—The Administrator may predicate, in the agreement, the transfer of functions and duties under this subsection on any conditions the Administrator deems necessary and prudent, except that the Administrator may not transfer responsibilities for United States registered aircraft described in paragraph (4)(A) to a country that the Administrator determines is not in compliance with its obligations under international law for the safety oversight of civil aviation.

"(4) REGISTERED AIRCRAFT DEFINED.—In this subsection, the term 'registered aircraft' means—

"(A) aircraft registered in the United States and operated pursuant to an agreement for the lease, charter, or interchange of the aircraft or any similar arrangement by an operator that has its principal place of business or, if it has no such place of business, its permanent residence in another country; or

"(B) aircraft registered in a foreign country and operated under an agreement for the lease, charter, or interchange of the aircraft or any similar arrangement by an operator that has its principal place of business or, if it has no such place of business, its permanent residence in the United States.".

SEC. 808. PUBLIC AVAILABILITY OF AIRMEN RECORDS.

Section 44703 is amended—

(1) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively; and

(2) by inserting after subsection (b) the following:

"(c) PUBLIC INFORMATION.—

"(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding any other provision of law, the records of the contents (as prescribed in subsection (b)) of any airman certificate issued under this section shall be made available to the public after the 60th day following the date of enactment of the Airport Improvement Program Reauthorization Act of 1998.

"(2) ADDRESSES OF AIRMEN.—Before making the address of an airman available to the public under paragraph (1), the airman shall be given an opportunity to elect that the airman's address not be made available to the public.

"(3) DEVELOPMENT AND IMPLEMENTATION OF PROGRAM.—Not later than 30 days after the date of enactment of the Airport Improvement Program Reauthorization Act of 1998, the Administrator shall develop and implement, in cooperation with representatives of the aviation industry, a one-time written notification to airmen to set forth the implications of making the address of an airman available to the public under paragraph (1) and to carry out paragraph (2).".

SEC. 809. GOVERNMENT AND INDUSTRY CONSORTIA.

Section 44903 is amended by adding at the end the following:

"(f) GOVERNMENT AND INDUSTRY CONSORTIA.—The Administrator may establish at individual airports such consortia of government and aviation industry representatives as the Administrator may designate to provide advice on matters related to aviation security and safety. Such consortia shall not be considered Federal advisory committees.".

SEC. 810. PASSENGER MANIFEST.

Section 44909(a)(2) is amended by striking "shall" and inserting "should".

SEC. 811. COST RECOVERY FOR FOREIGN AVIATION SERVICES.

Section 45301 is amended—

(1) in subsection (a)(2) by inserting before the period "or to any entity obtaining inspection, testing, authorization, permit, rating, approval, review, or certification services outside the United States"; and

(2) in subsection (b)(1)(B) by moving the sentence beginning "Services" down 1 line and flush 2 ems to the left.

SEC. 812. TECHNICAL CORRECTIONS TO CIVIL PENALTY PROVISIONS.

Section 46301 is amended—

(1) in subsection (a)(1)(A) by striking "46302, 46303, or";

(2) in subsection (d)(7)(A) by striking "an individual" the first place it appears and inserting "a person"; and

(3) in subsection (g) by inserting "or the Administrator" after "Secretary".

SEC. 813. ENHANCED VISION TECHNOLOGIES.

(a) STUDY.—The Administrator shall conduct a study of the feasibility of requiring United States airports to install enhanced vision technologies to replace or enhance conventional landing light systems over the 10-year period following the date of completion of such study.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Administrator shall transmit to Congress a report on the results of the study conducted under subsection (a) with such recommendations as the Administrator considers appropriate.

(c) INCLUSION OF INSTALLATION AS AIRPORT DEVELOPMENT.—Section 47102 of title 49, United States Code, is amended—

(1) in paragraph (3)(B)—

(A) by striking "and" at the end of clause (v);

(B) by striking the period at the end of clause (vi) and inserting "; and"; and

(C) by inserting after clause (vi) the following:

"(vii) enhanced visual technologies to replace or enhance conventional landing light systems."; and

(2) by adding at the end the following:

"(21) ENHANCED VISION TECHNOLOGIES.—The term 'enhanced vision technologies' means laser guidance, ultraviolet guidance, infrared, and cold cathode technologies.".

(d) CERTIFICATION.—Not later than 180 days after the date of enactment of this Act, the Administrator shall transmit to Congress a schedule for certification of laser guidance equipment for use as approach lighting at United States airports and of cold cathode lighting equipment for use as runway and taxiway lighting at United States airports and as lighting at United States heliports.

SEC. 814. FOREIGN CARRIERS ELIGIBLE FOR WAIVER UNDER AIRPORT NOISE AND CAPACITY ACT.

Section 47528(b)(1) is amended in the first sentence by inserting "or foreign air carrier" after "air carrier".

SEC. 815. TYPOGRAPHICAL ERRORS.

(a) IN TITLE 49.—Title 49 is amended—

(1) in section 5108(f) by striking "section 552(f)" and inserting "section 552(b)".

(2) in section 15904(c)(1) by inserting "section" before "15901(b)".

(3) in section 49106(b)(1)(F) by striking "1996" and inserting "1986";

(4) in section 49106(c)(3) by striking "by the board" and inserting "to the board";

(5) in section 49107(b) by striking "subchapter II" and inserting "subchapter III"; and

(6) in section 49111(b) by striking "retention of" and inserting "retention by".

(b) CODIFICATION REPEAL TABLE.—The Schedule of Laws Repealed in section 5(b) the Act of November 20, 1997 (Public Law 105–102; 111 Stat. 2217), is amended by striking "1996" the first place it appears and inserting "1986".

(c) CODIFICATION REFERENCES.—Effective October 11, 1996, section 5(45)(A) of the Act of October 11, 1996 (Public Law 104–287, 110 Stat. 3393), is amended by striking "ENFORCEMENT;" and inserting "ENFORCEMENT:".

SEC. 816. ACQUISITION MANAGEMENT SYSTEM.

Section 348 of the Department of Transportation and Related Agencies Appropriations Act, 1996 (49 U.S.C. 106 note; 109 Stat. 460) is amended by striking subsection (c) and inserting the following:

"(c) CONTRACTS EXTENDING INTO A SUBSEQUENT FISCAL YEAR.—Notwithstanding subsection (b)(3), the Administrator may enter into contracts for procurement of severable services that begin in one fiscal year and end in another if (without regard to any option to extend the period of the contract) the contract period does not exceed 1 year.".

SEC. 817. INDEPENDENT STUDY OF FAA COSTS AND ALLOCATIONS.

(a) INDEPENDENT ASSESSMENT.—

(1) IN GENERAL.—The Inspector General of the Department of Transportation shall conduct the assessments described in this section. To conduct the assessments, the Inspector General may use the staff and resources of the Inspector General or contract with 1 or more independent entities.

(2) ASSESSMENT OF ADEQUACY AND ACCURACY OF FAA COST DATA AND ATTRIBUTIONS.—

(A) IN GENERAL.—The Inspector General shall conduct an assessment to ensure that the method for calculating the overall costs of the Federal Aviation Administration and attributing such costs to specific users is appropriate, reasonable, and understandable to the users.

(B) COMPONENTS.—In conducting the assessment under this paragraph, the Inspector General shall assess the following:

(i) The Federal Aviation Administration's cost input data, including the reliability of the Federal Aviation Administration's source documents and the integrity and reliability of the Federal Aviation Administration's data collection process.

(ii) The Federal Aviation Administration's system for tracking assets.

(iii) The Federal Aviation Administration's bases for establishing asset values and depreciation rates.

(iv) The Federal Aviation Administration's system of internal controls for ensuring the consistency and reliability of reported data.

(v) The Federal Aviation Administration's definition of the services to which the Federal Aviation Administration ultimately attributes its costs.

(vi) The cost pools used by the Federal Aviation Administration and the rationale for and reliability of the bases which the Federal Aviation Administration proposes to use in allocating costs of services to users.

(C) REQUIREMENTS FOR ASSESSMENT OF COST POOLS.—In carrying out subparagraph (B)(vi), the Inspector General shall—

(i) review costs that cannot reliably be attributed to specific Federal Aviation Administration services or activities (called "common and fixed costs" in the Federal Aviation Administration Cost Allocation Study) and consider alternative methods for allocating such costs; and

(ii) perform appropriate tests to assess relationships between costs in the various cost pools and activities and services to which the costs are attributed by the Federal Aviation Administration.

(D) REPORTS.—The Inspector General shall transmit to Congress an interim report containing the results of the assessment conducted under this paragraph not later than March 31, 1999, and a final report containing such results not later than December 31, 1999.

(3) COST EFFECTIVENESS.—

(A) IN GENERAL.—The Inspector General shall assess the progress of the Federal Aviation Administration in cost and performance management, including use of internal and external benchmarking in improving the performance and productivity of the Federal Aviation Administration.

(B) ANNUAL REPORTS.—Not later than December 31, 1999, and annually thereafter until December 31, 2003, the Inspector General shall transmit to Congress an updated report containing the results of the assessment conducted under this paragraph.

(C) INFORMATION TO BE INCLUDED IN FAA FINANCIAL REPORT.—The Administrator shall include in the annual financial report of the Federal Aviation Administration information on the performance of the Administration sufficient to permit users and others to make an informed evaluation of the progress of the Administration in increasing productivity.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,600,000 for fiscal year 1999.

SEC. 818. ELIMINATION OF BACKLOG OF EQUAL EMPLOYMENT OPPORTUNITY COMPLAINTS.

(a) HIRING OF ADDITIONAL PERSONNEL.—For fiscal year 1999, the Secretary of Transportation may hire or contract for such additional personnel as may be necessary to eliminate the backlog of pending equal employment opportunity complaints to the Department of Transportation and to ensure that investigations of complaints are completed not later than 180 days after the date of initiation of the investigation.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $2,000,000 for fiscal year 1999. Such sums shall remain available until expended.

SEC. 819. NEWPORT NEWS, VIRGINIA.

(a) AUTHORITY TO GRANT WAIVERS.—Notwithstanding section 16 of the Federal Airport Act (as in effect on May 14, 1947), the Secretary shall, subject to section 47153 of title 49, United States Code (as in effect on June 1, 1998), and subsection (b) of this section, waive with respect to airport property parcels that, according to the airport layout plan for Newport News/Williamsburg International Airport, are no longer required for airport purposes from any term contained in the deed of conveyance dated May 14, 1947, under which the United States conveyed such property to the Peninsula Airport Commission for airport purposes of the Commission.

(b) CONDITIONS.—Any waiver granted by the Secretary under subsection (a) shall be subject to the following conditions:

(1) The Peninsula Airport Commission shall agree that, in leasing or conveying any interest in the property with respect to which waivers are granted under subsection (a), the Commission will receive an amount that is equal to the fair lease value or the fair market value, as the case may be (as determined pursuant to regulations issued by the Secretary).

(2) Peninsula Airport Commission shall use any amount so received only for the development, improvement, operation, or maintenance of Newport News/Williamsburg International Airport.

SEC. 820. GRANT OF EASEMENT, LOS ANGELES, CALIFORNIA.

The City of Los Angeles Department of Airports may grant an easement to the California Department of Transportation to lands required to provide sufficient right-of-way to facilitate the construction of the California State Route 138 bypass, as proposed by the California Department of Transportation.

SEC. 821. REGULATION OF ALASKA AIR GUIDES.

The Administrator shall reissue the notice to operators originally published in the Federal Register on January 2, 1998, which advised Alaska guide pilots of the applicability of part 135 of title 14, Code of Federal Regulations, to guide pilot operations. In reissuing the notice, the Administrator shall provide for not less than 60 days of public comment on the Federal Aviation Administration action. If, notwithstanding the public comments, the Administrator decides to proceed with the action, the Administrator shall publish in the Federal Register a notice justifying the Administrator's decision and providing at least 90 days for compliance.

SEC. 822. PUBLIC AIRCRAFT DEFINED.

Section 40102(a)(37)(B)(ii) is amended—

(1) in subclause (I) by striking "or" at the end;

(2) in subclause (II) by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(III) transporting (for other than commercial purposes) government officials whose presence is required to inspect the scene of a major disaster or emergency.".

TITLE IX—NATIONAL PARKS AIR TOUR MANAGEMENT

SEC. 901. SHORT TITLE.

This title may be cited as the "National Parks Air Tour Management Act of 1998".

SEC. 902. FINDINGS.

Congress finds that—

(1) the Federal Aviation Administration has sole authority to control airspace over the United States;

(2) the Federal Aviation Administration has the authority to preserve, protect, and enhance the environment by minimizing, mitigating, or preventing the adverse effects of aircraft overflights of public and tribal lands;

(3) the National Park Service has the responsibility of conserving the scenery and natural and historic objects and wildlife in national parks and of providing for the enjoyment of the national parks in ways that leave the national parks unimpaired for future generations;

(4) the protection of tribal lands from aircraft overflights is consistent with protecting the public health and welfare and is essential to the maintenance of the natural and cultural resources of Indian tribes;

(5) the National Parks Overflights Working Group, composed of general aviation, commercial air tour, environmental, and Native American representatives, recommended that the Congress enact legislation based on the Group's consensus work product; and

(6) this title reflects the recommendations made by that Group.

SEC. 903. AIR TOUR MANAGEMENT PLANS FOR NATIONAL PARKS.

(a) IN GENERAL.—Chapter 401 of title 49, United States Code, is amended by adding at the end the following:

"§ 40125. Overflights of national parks

"(a) IN GENERAL.—

"(1) GENERAL REQUIREMENTS.—A commercial air tour operator may not conduct commercial air tour operations over a national park (including tribal lands) except—

"(A) in accordance with this section;

"(B) in accordance with conditions and limitations prescribed for that operator by the Administrator; and

"(C) in accordance with any applicable air tour management plan for the park.

"(2) APPLICATION FOR OPERATING AUTHORITY.—

"(A) APPLICATION REQUIRED.—Before commencing commercial air tour operations over a national park (including tribal lands), a commercial air tour operator shall apply to the Administrator for authority to conduct the operations over the park.

"(B) COMPETITIVE BIDDING FOR LIMITED CAPACITY PARKS.—Whenever an air tour management plan limits the number of commercial air tour operations over a national park during a specified time frame, the Administrator, in cooperation with the Director, shall issue operation specifications to commercial air tour operators that conduct such operations. The operation specifications shall include such terms and conditions as the Administrator and the Director find necessary for management of commercial air

tour operations over the park. The Administrator, in cooperation with the Director, shall develop an open competitive process for evaluating proposals from persons interested in providing commercial air tour operations over the park. In making a selection from among various proposals submitted, the Administrator, in cooperation with the Director, shall consider relevant factors, including—

"(i) the safety record of the person submitting the proposal or pilots employed by the person;

"(ii) any quiet aircraft technology proposed to be used by the person submitting the proposal;

"(iii) the experience of the person submitting the proposal with commercial air tour operations over other national parks or scenic areas;

"(iv) the financial capability of the company;

"(v) any training programs for pilots provided by the person submitting the proposal; and

"(vi) responsiveness of the person submitting the proposal to any relevant criteria developed by the National Park Service for the affected park.

"(C) NUMBER OF OPERATIONS AUTHORIZED.—In determining the number of authorizations to issue to provide commercial air tour operations over a national park, the Administrator, in cooperation with the Director, shall take into consideration the provisions of the air tour management plan, the number of existing commercial air tour operators and current level of service and equipment provided by any such operators, and the financial viability of each commercial air tour operation.

"(D) COOPERATION WITH NPS.—Before granting an application under this paragraph, the Administrator, in cooperation with the Director, shall develop an air tour management plan in accordance with subsection (b) and implement such plan.

"(3) EXCEPTION.—

"(A) IN GENERAL.—If a commercial air tour operator secures a letter of agreement from the Administrator and the superintendent for the national park that describes the conditions under which the commercial air tour operation will be conducted, then notwithstanding paragraph (1), the commercial air tour operator may conduct such operations over the national park under part 91 of title 14, Code of Federal Regulaions, if such activity is permitted under part 119 of such title.

"(B) LIMIT ON EXCEPTIONS.—Not more than 5 flights in any 30-day period over a single national park may be conducted under this paragraph.

"(4) SPECIAL RULE FOR SAFETY REQUIREMENTS.—Notwithstanding subsection (c), an existing commercial air tour operator shall apply, not later than 90 days after the date of enactment of this section, for operating authority under part 119, 121, or 135 of title 14, Code of Federal Regulations. A new entrant commercial air tour operator shall apply for such authority before conducting commercial air tour operations over a national park (including tribal lands). The Administrator shall act on any such application for a new entrant and issue a decision on the application not later than 24 months after it is received or amended.

"(b) AIR TOUR MANAGEMENT PLANS.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—The Administrator, in cooperation with the Director, shall establish an air tour management plan for any national park (including tribal lands) for which such a plan is not in effect whenever a person applies for authority to conduct a commercial air tour operation over the park. The air tour management plan shall be developed by means of a public process in accordance with paragraph (4).

"(B) OBJECTIVE.—The objective of any air tour management plan shall be to develop acceptable and effective measures to mitigate or prevent the significant adverse impacts, if any, of commercial air tours upon the natural and cultural resources, visitor experiences, and tribal lands.

"(2) ENVIRONMENTAL DETERMINATION.—In establishing an air tour management plan under this subsection, the Administrator and the Director shall each sign the environmental decision document required by section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) (including a finding of no significant impact, an environmental assessment, and an environmental impact statement) and the record of decision for the air tour management plan.

"(3) CONTENTS.—An air tour management plan for a national park—

"(A) may limit or prohibit commercial air tour operations;

"(B) may establish conditions for the conduct of commercial air tour operations, including commercial air tour operation routes, maximum or minimum altitudes, time-of-day restrictions, restrictions for particular events, maximum number of flights per unit of time, intrusions on privacy on tribal lands, and mitigation of adverse noise, visual, or other impacts;

"(C) may apply to all commercial air tour operations;

"(D) shall include incentives (such as preferred commercial air tour operation routes and altitudes and relief from flight caps and curfews) for the adoption of quiet aircraft technology by commercial air tour operators conducting commercial air tour operations over the park;

"(E) shall provide a system for allocating opportunities to conduct commercial air tours if the air tour management plan includes a limitation on the number of commercial air tour operations for any time period; and

"(F) shall justify and document the need for measures taken pursuant to subparagraphs (A) through (E) and include such justifications in the record of decision.

"(4) PROCEDURE.—In establishing an air tour management plan for a national park (including tribal lands), the Administrator and the Director shall—

"(A) hold at least one public meeting with interested parties to develop the air tour management plan;

"(B) publish the proposed plan in the Federal Register for notice and comment and make copies of the proposed plan available to the public;

"(C) comply with the regulations set forth in sections 1501.3 and 1501.5 through 1501.8 of title 40, Code of Federal Regulations (for purposes of complying with the regulations, the Federal Aviation Administration shall be the lead agency and the National Park Service is a cooperating agency); and

"(D) solicit the participation of any Indian tribe whose tribal lands are, or may be, overflown by aircraft involved in a commercial air tour operation over the park, as a cooperating agency under the regulations referred to in subparagraph (C).

"(5) JUDICIAL REVIEW.—An air tour management plan developed under this subsection shall be subject to judicial review.

"(6) AMENDMENTS.—The Administrator, in cooperation with the Director, may make amendments to an air tour management plan. Any such amendments shall be published in the Federal Register for notice and comment. A request for amendment of an air tour management plan shall be made in such form and manner as the Administrator may prescribe.

"(c) DETERMINATION OF COMMERCIAL AIR TOUR OPERATION STATUS.—In making a determination of whether a flight is a commercial air tour operation, the Administrator may consider—

"(1) whether there was a holding out to the public of willingness to conduct a sightseeing flight for compensation or hire;

"(2) whether a narrative that referred to areas or points of interest on the surface below the route of the flight was provided by the person offering the flight;

"(3) the area of operation;

"(4) the frequency of flights conducted by the person offering the flight;

"(5) the route of flight;

"(6) the inclusion of sightseeing flights as part of any travel arrangement package offered by the person offering the flight;

"(7) whether the flight would have been canceled based on poor visibility of the surface below the route of the flight; and

"(8) any other factors that the Administrator considers appropriate.

"(d) INTERIM OPERATING AUTHORITY.—

"(1) IN GENERAL.—Upon application for operating authority, the Administrator shall grant interim operating authority under this subsection to a commercial air tour operator for commercial air tour operations over a national park (including tribal lands) for which the operator is an existing commercial air tour operator.

"(2) REQUIREMENTS AND LIMITATIONS.—Interim operating authority granted under this subsection—

"(A) shall provide annual authorization only for the greater of—

"(i) the number of flights used by the operator to provide such tours within the 12-month period prior to the date of enactment of this section; or

"(ii) the average number of flights per 12-month period used by the operator to provide such tours within the 36-month period prior to such date of enactment, and, for seasonal operations, the number of flights so used during the season or seasons covered by that 12-month period;

"(B) may not provide for an increase in the number of commercial air tour operations conducted during any time period by the commercial air tour operator above the number that the air tour operator was originally granted unless such an increase is agreed to by the Administrator and the Director;

"(C) shall be published in the Federal Register to provide notice and opportunity for comment;

"(D) may be revoked by the Administrator for cause;

"(E) shall terminate 180 days after the date on which an air tour management plan is established for the park or the tribal lands;

"(F) shall promote protection of national park resources, visitor experiences, and tribal lands;

"(G) shall promote safe operations of the commercial air tour;

"(H) shall promote the adoption of quiet technology, as appropriate; and

"(I) shall allow for modifications of the operation based on experience if the modification improves protection of national park resources and values and of tribal lands.

"(e) EXEMPTIONS.—

"(1) IN GENERAL.—Except as provided by paragraph (2), this section shall not apply to—

"(A) the Grand Canyon National Park;

"(B) tribal lands within or abutting the Grand Canyon National Park; or

"(C) any unit of the National Park System located in Alaska or any other land or water located in Alaska.

"(2) EXCEPTION.—This section shall apply to the Grand Canyon National Park if section 3 of Public Law 100-91 (16 U.S.C. 1a-1 note; 101 Stat. 674-678) is no longer in effect.

"(f) DEFINITIONS.—In this section, the following definitions apply:

"(1) COMMERCIAL AIR TOUR OPERATOR.—The term 'commercial air tour operator' means any person who conducts a commercial air tour operation.

"(2) EXISTING COMMERCIAL AIR TOUR OPERATOR.—The term 'existing commercial air tour operator' means a commercial air tour operator that was actively engaged in the business of providing commercial air tour operations over a national park at any time during the 12-month period ending on the date of enactment of this section.

"(3) NEW ENTRANT COMMERCIAL AIR TOUR OPERATOR.—The term 'new entrant commercial air tour operator' means a commercial air tour operator that—

"(A) applies for operating authority as a commercial air tour operator for a national park; and

"(B) has not engaged in the business of providing commercial air tour operations over the national park (including tribal lands) in the 12-month period preceding the application.

"(4) COMMERCIAL AIR TOUR OPERATION.—The term 'commercial air tour operation' means any flight, conducted for compensation or hire in a powered aircraft where a purpose of the flight is sightseeing over a national park, within ½ mile outside the boundary of any national park, or over tribal lands, during which the aircraft flies—

"(A) below a minimum altitude, determined by the Administrator in cooperation with the Director, above ground level (except solely for purposes of takeoff or landing, or necessary for safe operation of an aircraft as determined under the rules and regulations of the Federal Aviation Administration requiring the pilot-in-command to take action to ensure the safe operation of the aircraft); or

"(B) less than 1 mile laterally from any geographic feature within the park (unless more than ½ mile outside the boundary).

"(5) NATIONAL PARK.—The term 'national park' means any unit of the National Park System.

"(6) TRIBAL LANDS.—The term 'tribal lands' means Indian country (as that term is defined in section 1151 of title 18) that is within or abutting a national park.

"(7) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Aviation Administration.

"(8) DIRECTOR.—The term 'Director' means the Director of the National Park Service.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 401 of title 49, United States Code, is amended by adding at the end the following:

"40125. Overflights of national parks.".

SEC. 904. ADVISORY GROUP.

(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act, the Administrator and the Director shall jointly establish an advisory group to provide continuing advice and counsel with respect to commercial air tour operations over and near national parks.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The advisory group shall be composed of—

(A) a balanced group of—

(i) representatives of general aviation;

(ii) representatives of commercial air tour operators;

(iii) representatives of environmental concerns; and

(iv) representatives of Indian tribes;

(B) a representative of the Federal Aviation Administration; and

(C) a representative of the National Park Service.

(2) EX-OFFICIO MEMBERS.—The Administrator (or the designee of the Administrator) and the Director (or the designee of the Director) shall serve as ex-officio members.

(3) CHAIRPERSON.—The representative of the Federal Aviation Administration and the representative of the National Park Service shall serve alternating 1-year terms as chairman of the advisory group, with the representative of the Federal Aviation Administration serving initially until the end of the calendar year following the year in which the advisory group is first appointed.

(c) DUTIES.—The advisory group shall provide advice, information, and recommendations to the Administrator and the Director—

(1) on the implementation of this title and the amendments made by this title;

(2) on commonly accepted quiet aircraft technology for use in commercial air tour operations over national parks (including tribal lands), which will receive preferential treatment in a given air tour management plan;

(3) on other measures that might be taken to accommodate the interests of visitors to national parks; and

(4) at request of the Administrator and the Director, safety, environmental, and other issues related to commercial air tour operations over a national park (including tribal lands).

(d) COMPENSATION; SUPPORT; FACA.—

(1) COMPENSATION AND TRAVEL.—Members of the advisory group who are not officers or employees of the United States, while attending conferences or meetings of the group or otherwise engaged in its business, or while serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(2) ADMINISTRATIVE SUPPORT.—The Federal Aviation Administration and the National Park Service shall jointly furnish to the advisory group clerical and other assistance.

(3) NONAPPLICATION OF FACA.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) does not apply to the advisory group.

SEC. 905. REPORTS.

(a) OVERFLIGHT FEE REPORT.—Not later than 180 days after the date of enactment of this Act, the Administrator shall transmit to Congress a report on the effects overflight fees are likely to have on the commercial air tour operation industry. The report shall include, but shall not be limited to—

(1) the viability of a tax credit for the commercial air tour operators equal to the amount of any overflight fees charged by the National Park Service; and

(2) the financial effects proposed offsets are likely to have on Federal Aviation Administration budgets and appropriations.

(b) QUIET AIRCRAFT TECHNOLOGY REPORT.—Not later than 2 years after the date of enactment of this Act, the Administrator and the Director shall jointly transmit a report to Congress on the effectiveness of this title in providing incentives for the development and use of quiet aircraft technology.

SEC. 906. EXEMPTIONS.

This title shall not apply to—

(1) any unit of the National Park System located in Alaska; or

(2) any other land or water located in Alaska.

SEC. 907. DEFINITIONS.

In this title, the following definitions apply:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Federal Aviation Administration.

(2) DIRECTOR.—The term "Director" means the Director of the National Park Service.

TITLE X—EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURE AUTHORITY

SEC. 1001. EXTENSION OF EXPENDITURE AUTHORITY.

(a) IN GENERAL.—Paragraph (1) of section 9502(d) of the Internal Revenue Code of 1986 (relating to expenditures from Airport and Airway Trust Fund) is amended—

(1) by striking "October 1, 1998" and inserting "October 1, 1999", and

(2) by inserting before the semicolon at the end of subparagraph (A) the following "or the Airport Improvement Program Reauthorization Act of 1998".

(b) LIMITATION ON EXPENDITURE AUTHORITY.—Section 9502 of such Code is amended by adding at the end the following new subsection:

"(f) LIMITATION ON TRANSFERS TO TRUST FUND.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no amount may be appropriated or credited to the Airport and Airway Trust Fund on and after the date of any expenditure from the Airport and Airway Trust Fund which is not permitted by this section. The determination of whether an expenditure is so permitted shall be made without regard to—

"(A) any provision of law which is not contained or referenced in this title or in a revenue Act, and

"(B) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this subsection.

"(2) EXCEPTION FOR PRIOR OBLIGATIONS.—Paragraph (1) shall not apply to any expenditure to liquidate any contract entered into (or for any amount otherwise obligated) before October 1, 1999, in accordance with the provisions of this section.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. SHUSTER) and the gentleman from Illinois (Mr. LIPINSKI), each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. SHUSTER).

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

Mr. Speaker, this is must-pass legislation because without it, there can be no Federal airport grants made. There are about 18,000 airports in the United States with about 3300 eligible for Federal AIP grants.

The General Accounting Office estimates that total airport needs are about $10 billion a year. Airport infrastructure is urgently needed because of

the tremendous success story of growth in aviation.

Before airline deregulation, we had about 230 million people, passengers flying in U.S. aviation commercially each year. Over the last 5 years, we have had enplanements increase by 27 percent today. Last year we had 655 million passengers, and the FAA predicts as we move into the first decade of the next century we will have over 1 billion, with a "B," passengers flying commercially in America.

If we do not accommodate this growth by investing in airport air traffic control infrastructure, safety margins are going to be reduced, and airport delays are going to increase. These delays hurt passengers, and they undermine the economic growth which is so vital to the future of our country.

The number of daily aircraft delays of 15 minutes or longer has already increased nearly 20 percent higher in 1996 than in 1995. Some airlines predict that in just another 16 years, aircraft delays will be such that the hub and spoke systems across America will collapse.

The FAA estimates that today's airline delays cost the industry approximately $2.5 billion a year in higher operating costs. Of course, that gets translated into higher consumer costs for tickets.

These delays and these costs are particularly troubling when we consider that approximately $10 billion a year is being paid into the Aviation Trust Fund by the traveling public, yet we are only spending about $5.6 billion of that.

Indeed, the problem here is very comparable to the problem that we faced in surface transportation, which we fixed this year, and that is, the money that was flowing from the gasoline tax and related taxes into the Highway Trust Fund was not being spent to improve highways and transit in America, as it should have been.

We face that same kind of a problem here in aviation. Indeed, it is an issue which we should deal with. However, we believe that the most appropriate approach is to have simply a one-year bill in aviation this year, even though we usually have a multi-year bill, have a one-year bill so that we can hold the necessary hearings and prepare ourselves to come back next year so we can address the issue of unlocking the Aviation Trust Fund just as we did the Highway Trust Fund so that the revenues being paid into it in good faith by the aviation traveling public will see that money that they are putting in, those user fees dedicated and spent to improving aviation in America, to improving aviation safety, aviation productivity, consumer efficiency.

For all those reasons, I believe we should vigorously support this legislation this year, recognizing that next year we will attempt to fix the problem of not being totally square with the aviation traveling public, not spending the money that they put in that Aviation Trust Fund as it should be spent. But that is an issue for us to come to grips with next year.

I would urge strong support for the passage of this one-year bill because it is in the interest of the American traveling public.

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

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

Mr. Speaker, I rise today in strong support of H.R. 4057, the Airport Improvement Reauthorization Act of 1998.

H.R. 4057 is a one-year reauthorization of the important Airport Improvement Program. The AIP is funded entirely by the Aviation Trust Fund and provides grants to local airports for needed safety, security, capacity and noise projects.

The capital development needs of our Nation's airports are great. It is estimated that between $6- and $10 billion per year is needed to fund all of our Nation's airport development needs. Yet despite the outstanding needs of our Nation's airports, huge unspent balances are allowed to accumulate in the Aviation Trust Fund.

In fact, the balance in the Aviation Trust Fund is expected to grow to almost $48 billion in the next 10 years. At the same time, the General Accounting Office reports that many airports will face substantial work keeping runways in generally good condition in the next 10 years.

We cannot allow our Nation's airports to deteriorate, while money collected from aviation users simply sits in the Aviation Trust Fund. For this reason, H.R. 4057 is only a one-year reauthorization bill. Next year, when there is more time, we will fight to make sure that the revenue in the Aviation Trust Fund is used for aviation. We will fight to put the trust back in the Aviation Trust Fund, the same way we fought to put the trust back in the Highway Trust Fund under TEA 21.

It is my hope that next year we will also work to increase the passenger facility charge. The PFC is also used to fund airport development projects, helping to offset the funding shortfalls of AIP. An increase in the PFC is needed to adequately meet our Nation's airport development needs.

Although H.R. 4057 does not include an increase in the PFC, it is still a very good bill. In addition to making several changes to the AIP program, H.R. 4057 contains many important safety and policy provisions.

For example, H.R. 4057 requires collision avoidance systems to be installed on large cargo aircraft by the year 2002.

□ 1115

A collision avoidance system, referred to as TCAS, is already required on passenger aircraft. In addition, most of the world's major aviation countries are requiring that all large aircraft, both passenger and cargo, be equipped with TCAS by the year 2000. By requiring TCAS or some other collision avoidance system on cargo aircraft, H.R. 4057 ensures that some 600 cargo aircraft that share the U.S. air space with passenger aircraft each day will now have the same ability to avoid midair collisions.

In addition, H.R. 4057 provides whistle-blower protection for airline employees. The bill provides whistle-blower protection for flight attendants, pilots, machinists and other airline employees who report safety violations to the Federal Aviation Administration. This will greatly improve airline safety because employees will no longer have to fear retaliation from their employer if they report safety violations to the FAA.

I could mention several other important provisions in H.R. 4057, but in the interest of time I simply want to stress that H.R. 4057 is a good, strong bill that is good for our Nation's airports and for our Nation's aviation infrastructure as a whole. I urge my colleagues to support this bill.

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

Mr. SHUSTER. Mr. Speaker, I yield such time as he may consume to the gentleman from Tennessee (Mr. DUNCAN), the distinguished chairman of our Subcommittee on Aviation.

Mr. DUNCAN. Mr. Speaker, I thank the gentleman from Pennsylvania, the chairman of the full committee, for yielding me this time, and I rise in strong support of H.R. 4057.

Let me first say that I really appreciate the outstanding leadership provided by the chairman of our committee, the gentleman from Pennsylvania (Mr. SHUSTER), who has always provided strong leadership on issues pertaining to aviation.

This bill before us is a product that enjoys support from both sides of the aisle. We have worked very closely with the ranking member of the Committee on Transportation and Infrastructure, the fine gentleman from Minnesota (Mr. OBERSTAR), and my good friend from Chicago, the ranking member of the Subcommittee on Aviation, the gentleman from Illinois (Mr. LIPINSKI), in crafting this very important legislation.

As has been stated already, H.R. 4057 is a simple 1-year reauthorization of the Airport Improvement Program and the FAA's Operations and Facilities Equipment accounts.

H.R. 4057 provides dedicated funding for airport security, and increases the number of military airports which can receive special AIP funds from 12 to 14, which was done at the request of several Members from the State of Florida.

It also increases the noise set-aside from 31 percent of the discretionary funds to 33 percent, which will be a significant increase in our efforts to combat noise at airports.

The bill makes runway incursion devices eligible for AIP funding and ensures that this is a higher priority.

It establishes a Centennial Flight Commission, at the request of our friend, the gentleman from North Carolina (Mr. WALTER JONES).

It requires, as the gentleman from Illinois (Mr. LIPINSKI) has mentioned, collision avoidance systems for cargo aircraft, primarily at the urging and recommendation of the gentleman from Illinois, who has worked so very hard on that particular issue.

It provides assistance for the Olympics and for the Special Olympics in Utah, transportation assistance, at the request of the gentleman from Utah (Mr. MERRILL COOK).

It has whistle-blower protection for airline employees and FAA employees for the first time, an issue that our friends the gentleman from New York (Mr. BOEHLERT) and the gentleman from South Carolina (Mr. CLYBURN) have worked on very, very hard.

It includes a deed restriction removal for the airport at Newport News, Virginia, at the request of one of our committee members, the gentleman from Virginia (Mr. BATEMAN).

It begins the elimination of the bogus parts problem, at the request of the gentleman from Oregon (Mr. DEFAZIO).

It has other provisions that I will not really go into at this time, but we did try to accommodate a great many Members who have made requests in this legislation.

As the gentleman from Pennsylvania (Mr. SHUSTER) said, this is a must-pass bill because the authorization for the AIP program expires on September 30th of this year, and without this authorization, no airports will be able to receive needed safety and security funding.

We have also included in this bill $5 million for the National Safe Skies Alliance, which will test and evaluate state-of-the-art security equipment, including explosive detection systems. The National Safe Skies Alliance will certainly produce results that eventually will improve the safety and security at airports all across this Nation.

H.R. 4057 includes a provision that seeks to promote safety and quiet in and around our national parks by establishing a process for developing air tour management plans. And this is a significant part of this legislation, Mr. Speaker, because we had groups from the environmental community and groups from the air tour community that started out very, very far apart, but they have compromised and worked together to come up with, I think, very innovative and far-reaching legislation that will ensure that the FAA has the sole authority to control airspace and that the National Park Service has the responsibility to manage the park resources, and that these two agencies under this legislation will work cooperatively in developing air tour management plans for our national parks.

This legislation covers virtually every national park in the country except those in Alaska and the Grand Canyon, for which there will be special accommodations. Air tours over the Grand Canyon are already covered by a 1987 law, and if that should ever be repealed, the Grand Canyon would be covered by this legislation.

I am proud to say that we have worked on a bipartisan basis both on the Subcommittee on Aviation and at the full committee level on all of these issues.

Mr. Speaker, let me say in closing that I believe the Aviation Trust Fund should receive the same budget treatment that this Congress has overwhelmingly approved for the Highway Trust Fund. This is a matter that has been briefly touched upon by both the chairman and the gentleman from Illinois.

The fact is that under the new aviation tax system, we are bringing in about $10 billion per year into the Aviation Trust Fund. Over a 5-year period, the Congressional Budget Office estimates that we will have a $40 billion cash surplus in the trust fund. Some experts predict that estimates for airport improvements across the country are about $10 billion per year, or $50 billion over that 5-year period.

The $1.7 billion appropriated for the AIP program is not enough to meet those needs. Air passenger traffic and air cargo traffic are both shooting way up every year to record levels, and the $1.2 billion collected from the passenger facility charge each year does not go very far or far enough for these expensive projects.

Although some members of the Committee on Transportation and Infrastructure support increasing the passenger facility service charge, and I agree that airports certainly need more financial assistance, this bill does not raise the current $3 PFC. But I also believe we should wait until next year so we can all work together to fundamentally change the way in which our aviation system is funded. The gentleman from Pennsylvania has recommended that we make next year the "year of aviation" in our committee, and I certainly believe that we will do that and that we should do that.

I believe the American people are paying their fair share of taxes into the aviation system, but I know that our government's budgeting process here is obviously very flawed and in need of change and is resulting in many shortcomings to those who are using our aviation system.

Finally, Mr. Speaker, let me salute the outstanding staff of the Subcommittee on Aviation, David Schaffer and Donna McLean. But I would like to take just a moment to salute my good friend Jim Coon, who has worked so hard on this legislation, and who will very shortly be leaving our subcommittee to move to a tremendous new opportunity with the Air Transport Association, and will terminate at that point a 16-year career on Capitol Hill, the last 10 of which Mr. Coon has been with me, first as my legislative director and then for almost 4 years now with the Subcommittee on Aviation.

Jim Coon is one of the finest men I have ever known in my life and one of the hardest working, and he has done a tremendous job both for me personally in my office and for the last few years with the Subcommittee on Aviation. I can tell my colleagues that this Congress and I personally will miss Jim Coon, and I just want him to know how much I appreciate all that he has done for me, for this committee, and for this country.

Mr. LIPINSKI. Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I thank the gentleman for yielding me this time, and I want to congratulate the chairman and the entire leadership of the committee and staff on this important legislation.

In the face of conflicting pressures and demands, the committee has succeeded in crafting a carefully balanced measure that will benefit the Nation's airports and our entire air transportation system. In particular, I would like to commend the chairman for the provision in this bill broadening the eligibility for terminal construction work using revenues from passenger facility charges. The provision will surely make it easier for airports to provide facilities for smaller air carriers seeking to offer competitive service.

I want to be certain that I am correct in my understanding of the way in which the committee intends for this provision to function.

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

Ms. EDDIE BERNICE JOHNSON of Texas. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. I will be happy to try to respond to the gentlewoman, Mr. Speaker.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I want to confirm that the committee intends for the FAA to allow an airport applicant to use this provision for either a stand-alone terminal structure or for that pro-rata portion of a terminal to be used by any air carrier having less than 50 percent of the scheduled passenger traffic at the airport.

Mr. SHUSTER. If the gentlewoman will continue to yield, that is correct.

For example, if 25 percent of a new terminal building is to be used by eligible carriers, all the costs associated with the gates and the boarding areas, and at least 25 percent of the building's total shell, including heating, ventilation, air conditioning, fuel lines and related construction costs, will be eligible for PFC funding under this provision.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I thank the chairman. It is gratifying to have his confirmation of my understanding of the intent of this provision.

Mr. SHUSTER. Mr. Speaker, I yield 3 minutes to the gentleman from Colorado (Mr. HEFLEY).

Mr. HEFLEY. Mr. Speaker, I thank the chairman for yielding me this time. I support the basic purpose of this bill. I think it is a good bill. I think it is a needed bill. And I hate to inject any kind of a negative note into it, but I must rise today on behalf of the people around Denver International Airport.

For several years now we have had a ban on the building of a sixth runway at DIA. This bill effectively lifts that ban. I have long felt that it is important to maintain the ban on the sixth runway until Denver and the FAA do all they can to relieve the noise problems of the people surrounding the airport.

These are not people who built their homes next to an airport. These are people who chose to live in outlying counties, some of them as many as 25, 30 miles away, Douglas County being one of them that I represent, because these are relatively quiet, rural settings. For many of the residents that was the number one reason for living in these communities.

But Denver decided they needed a new airport. They decided to put the airport far away from their own population. Now my constituents, and many others who never had a vote on whether to approve this new airport, are the ones paying the noise price that a big airport like this brings.

When we went to Denver to ask them to help us solve this problem, they said, "It is not our problem. We didn't consider this an Environmental Impact Statement. That is your problem. We are not going to worry about it."

Because of the ban on the sixth runway, we were able to bring Denver to the table. It gave us leverage to bring Denver to the table to help try to solve the problem. In fact, the city of Denver jointly funded a noise study with the surrounding communities, and that study shows that changes could be made to the airport's flight paths to reduce the noise problems. That study would never have been done if we had not had a ban on the additional runway.

This year should have been the culmination of our effort. With a compromise that we had worked out, and keeping the ban in place, we would have allowed Denver to proceed with the necessary environmental updates for the sixth runway so they would not have lost time. We would have kept Denver at the table, though, by having a ban on. With additional language instructing the FAA to address this problem, we would have had a real chance to solve the problem. Now, with the language in this bill, I am afraid it will be much more difficult to obtain relief for the people around DIA.

I know that the chairmen, the main committee chairman and the subcommittee chairman, they do not understand, probably, how difficult it has been to work with Denver on this situation and to get them to the table and to make them look at the problems that they have created for the surrounding counties.

□ 1130

We were able to do that, and I am very disappointed that the ban is lifted in this legislation. If you would have given us one more year, I think we would have gotten the problem solved and we would have all been supportive and there would not have been any problem.

I thank the gentleman from Tennessee (Mr. DUNCAN) and others for the efforts they have made to try to assist me in this matter.

This being said, however, I cannot allow this measure to pass the House floor without voicing my opposition to the DIA provision lifting the ban.

Mr. LIPINSKI. Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Mr. Speaker, the Denver International Airport has now been constructed for about 3 years, but it is like building an airport with one hand tied behind your back because we do not have a runway that can adequately handle international traffic and the international business development in Denver and the Front Range.

My esteemed senior colleague to the south says that there are problems with noise at the airport, and that is true. There are always noise issues around every airport, and Denver has done everything in their power to reduce the noise as much as possible.

I will point out to my colleague that the residents, many of whom live in the district of the gentleman from Colorado (Mr. BOB SCHAFFER), none that I know of who live in my colleague to the south's district, voted to approve the airport in the beginning. This was not an airport that was thrust upon them. Under the Colorado constitution, they had to vote to approve it.

Denver has worked assiduously and intends to continue to work assiduously to make sure that all noise problems associated with DIA are reduced to the greatest extent possible, if not eliminated.

I want to thank the gentleman from Pennsylvania (Mr. SHUSTER), the gentleman from Tennessee (Mr. DUNCAN), the gentleman from Minnesota (Mr. OBERSTAR), and the gentleman from Illinois (Mr. LIPINSKI) for their support in recognizing this and recognizing the fact that putting a ban on a sixth runway does not solve these noise issues but merely stunts the economic growth in the Front Range of Colorado.

I look forward to working with the Committee on Transportation and Infrastructure and with this committee in the future to make sure that the sixth runway is constructed, that it is adequately funded, and I also look forward to working with my colleagues from the rest of the Colorado delegation to make sure that we eliminate as much as possible any noise.

I will say that Denver and my office remain committed to making sure that the noise problems are eliminated as much as possible, and I look forward to getting on with the construction of this sixth runway.

Mr. SHUSTER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Speaker, I thank the gentleman for yielding time.

Mr. Speaker, on December 24, 1996, a Learjet with Pilot Johan Schwartz, who was 31, of Westport, Connecticut, and Patrick Hayes, 30, of Clinton, Connecticut, lost contact with the control tower at the Lebanon, New Hampshire Airport.

Despite efforts by the Federal Government, New Hampshire State and local authorities, and Connecticut authorities, a number of extremely well organized ground searches failed to locate the two gentlemen or the airplane. Their airplane did not have an ELT, an emergency locator transmitter device, and this plane has never been found. Countless time and money was spent trying to locate these two individuals and to locate the plane. This is because they did not have an ELT.

I would like to see provisions from H.R. 664 to require emergency locator transmitters, ELTs, on fixed wing civil aircraft included in H.R. 4057, the Airport Improvement Program Reauthorization Act. ELT provisions are included in section 504 of the Senate version of the bill, S. 2279, the National Air Transportation System Improvement Act, and I would look forward to working with the gentleman from Pennsylvania (Chairman SHUSTER) and the gentleman from Tennessee (Chairman DUNCAN) about the possibility of adding this important provision in the conference report.

The bottom line is, an ELT plays a vital role in search efforts, where timing is so critical in any rescue mission. These men may have been alive for a period of time, yet we could never find them. The cost of these devices ranges

from approximately $500 to $2,500, although less costly technology is now evolving.

I hope that this provision will be added in the conference report. I understand it is not in this bill. I do support the bill and look forward to voting for it, but hope in conference we can add an ELT provision.

The SPEAKER pro tempore (Mr. DICKEY). Before recognizing anyone else, the Chair would like to state that the gentleman from Pennsylvania (Mr. SHUSTER) has 3 minutes remaining, and the gentleman from Illinois (Mr. LIPINSKI) has 12 minutes remaining.

Mr. LIPINSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, I rise in support of this Airport Improvement Reauthorization Act.

I thank the chairman and the ranking member for crafting thoughtful and responsive legislation that will help revitalize the Federal Aviation Administration while reauthorizing Federal aviation programs, but I am concerned about provisions in the Senate bill that take us a step back and would bring controversy and invite opposition to this important legislation by increasing the number of flights to the four slot-controlled airports.

In the case of Washington National Airport, the Senate legislation would add an additional 24 slots to this congested airport and lift the perimeter rule, permitting half of those slots to fly beyond the current 1,250-mile perimeter restriction. A change in the perimeter rule would result in a cutback in locations currently served by National within the perimeter and adversely affect the development of the Washington area's three commercial airports.

Over time, short-range service to cities that generate less than $20 million in revenue would be displaced and the number of transcontinental flights operating out of Dulles, which has plenty of room for expansion, would decline. Thus, the substantial investment made at both National and Dulles by the taxpayers, the Federal Aviation Administration and the aviation community would become substantially devalued.

In 1986 the Washington region made a contract with the Congress that the Washington region would take over both the funding and operational responsibility for its airports. It was signed by President Reagan. The region fulfilled its part of the bargain. We came up with the money. We remodeled all of the airports. It is working fine.

Now Congress should not renege on its part of the bargain. And that is why I urge the chairman and ranking member of the Committee on Transportation and Infrastructure to remain firm and oppose the addition of any Senate language altering the number of flights or the current perimeter rule that governs the operation of Washington National Airport.

Mr. LIPINSKI. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida (Ms. BROWN).

Ms. BROWN of Florida. Mr. Speaker, first of all let me thank the full committee chairman, the gentleman from Pennsylvania (Mr. SHUSTER); the ranking member, the gentleman from Minnesota (Mr. OBERSTAR); the subcommittee chairman, the gentleman from Tennessee (Mr. DUNCAN); and the ranking member, the gentleman from Illinois (Mr. LIPINSKI), for their work in crafting this legislation and including elements that will be beneficial to all of our Nation's airports, including the ones in my home State of Florida.

I am pleased with the funding level in this bill. The capital improvement and safety costs associated with air service are enormous, especially for smaller regional airports. And the Federal Government, as well as State and local government, must be partners to ensure the safest, most efficient air service.

The aviation industry is critical to the economic well-being of Florida. Orlando will soon be hailing 30 million passengers a year, and 35 million passengers and 2.9 tons of cargo will be coming through Miami's International Airport, which is known as the "Hub of the Americas." Jacksonville is a key intermodal location for air service, shipping, and rail; and these all directly and indirectly support the military presence in north Florida.

We on the Committee on Transportation and Infrastructure all know the importance of the role aviation plays in our community and for our economy.

This is a good bill which will expand the military airport program and includes whistle blower protection for airline employees who provide information on safety violations.

Yesterday, I spoke to the Florida Airport Manager's Association, more than 700 people present in Miami at their annual conference, and they strongly support the AIP program and this bill.

I thank the committee's leadership for getting this bill to the floor and I urge my colleagues to support it.

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

I just want to say in closing that, as usual, working with the gentleman from Tennessee (Mr. DUNCAN), chairman of the subcommittee, has been a great pleasure. No one could be more cooperative, understanding, and tolerant than the chairman of the subcommittee or the full committee. It is a real joy to work with the gentleman from Tennessee (Mr. DUNCAN), not only on this bill but all the time, in regards to aviation matters. I also want to express my sincere appreciation to the gentleman from Pennsylvania (Mr. SHUSTER) for his interest in this legislation, and to the gentleman from Minnesota (Mr. OBERSTAR), the ranking member of the full committee.

In closing I would like to say that, as usual, the staff on both sides have done an outstanding job. The cooperation that is put forth by the gentleman from Tennessee (Mr. DUNCAN), that example is certainly picked up by the entire staff on the Subcommittee on Aviation, and they worked very closely together to produce what they believe is the best legislation for the American flying public.

I would like to say that I certainly do not know Jim Coon as well as the gentleman from Tennessee (Mr. DUNCAN) does. But in the opportunity I have had to get to know him, I have found him to be not only entirely professional in everything he does but really a down-to-earth, very nice gentleman, and I wish him well in his new position. I am sorry to lose him from the Subcommittee on Aviation. But, as I have said to others, we have to go on and enjoy life and better ourselves.

So let me just say this is a great bill. Let us hope that we get unanimous support for it.

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

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

I certainly join with these other distinguished leaders on our committee in wishing Mr. Coon the very best in his future. He certainly has performed in an outstanding fashion on our committee.

Mr. Speaker, I include for the RECORD the letters between the Committee on Transportation and Infrastructure and the Committee on Ways and Means concerning the committees' respective jurisdiction over H.R. 4057:

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE, HOUSE OF REPRESENTATIVES

Washington, DC, August 4, 1998.

Hon. BILL ARCHER,
Chairman, House Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR BILL: Thank you for your letter regarding the provisions in H.R. 4057, the Airport Improvement Program Reauthorization Act. This bill was reported on Monday, July 20, 1998, by the Committee on Transportation and Infrastructure.

There are several provisions which are of interest to your Committee, and I appreciate your willingness to expedite consideration of the legislation. We have, as you requested, included language supplied by your Committee regarding the aviation trust fund provisions. In addition, the provision in our bill encouraging innovative financing with Airport Improvement Program grants includes language which clearly does not modify the Internal Revenue Code.

Thank you for your continued cooperation on these matters. As you requested, your original letter and this response will be placed in the Record during consideration of the bill on the House Floor.

With kind regards, I remain,
Sincerely,

BUD SHUSTER,
Chairman.

COMMITTEE ON WAYS AND MEANS,
HOUSE OF REPRESENTATIVES,
Washington, DC, July 31, 1998.

Hon. BUD SHUSTER,
Chairman, House Committee on Transportation and Infrastructure, Rayburn House Office Building, Washington, DC.

DEAR BUD: I understand that on Monday, July 20, 1998, the Committee on Transportation and Infrastructure reported H.R. 4057, providing for a one-year reauthorization of the Airport Improvement Program.

As you know, the Trust Fund Code includes specific provisions within the jurisdiction of the Committee on Ways and Means which govern trust fund expenditure authority and which limit purposes for which trust fund moneys may be spent. Statutorily, the Committee on Ways and Means generally has limited expenditures by cross-referencing provisions of authorizing legislation. Currently, the Trust Fund Code provisions allow expenditures from the Airport and Airway Trust Fund before October 1, 1998. C-Similarly, the Trust Fund Code approves all expenditures from the Airport and Airway Trust Fund permitted under previously enacted authorization Acts, most recently the Federal Aviation Reauthorization Act of 1996, as in effect on the date of enactment of the 1996 Act.

I now understand that you are seeking to have H.R. 4057 considered by the House as early as next week. In addition, I have been informed that your Committee will seek a Manager's or Committee amendment to the bill which will include language I am supplying (attached) to address the necessary trust fund provisions.

The amendment would extend until October 1, 1999, the general expenditure authority and purposes of the Airport and Airway Trust Fund contained in section 9502(d) and would provide that, generally, expenditures from the Airport and Airway Trust Fund may occur only as provided in the Internal Revenue Code.

I note also that Section 106 of the bill would preclude the implementation of an innovative financing technique which gives rise to a direct or indirect federal guarantee of any airport debt instrument. Subject to narrow exceptions grandfathering programs in existence in 1984, the Internal Revenue Code prohibits the combination of tax-exemption on state and local bond interest and direct or indirect federal guarantees. Section 106 of HR 4057 does not modify this Code prohibition. Therefore, if the Department of Transportation guarantees an authorized innovative financing technique and it is combined with tax-exempt financing in any manner violating the Code prohibition, interest on the underlying bonds will become taxable, retroactive to the date of their issuance.

Based on this understanding, and in order to expedite consideration of this legislation, it will not be necessary for the Committee on Ways and Means to markup this legislation. This is being done with the further understanding that the Committee will be treated without prejudice as to its jurisdictional prerogatives on such or similar provisions in the future, and it should not be considered as precedent for consideration of matters of jurisdictional interest to the Committee on Ways and Means in the future.

Finally, I would appreciate your response to this letter, confirming this understanding with respect to H.R. 4057, and would ask that a copy of our exchange of letters on this matter be placed in the Record during considering of the bill on the Floor. Thank you for your cooperation and assistance on this matter. With best personal regards,

Sincerely,

BILL ARCHER,
Chairman.

Enclosure.

TITLE IX—EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURE AUTHORITY

SEC. 901. EXTENSION OF EXPENDITURE AUTHORITY.

(a) IN GENERAL.—Paragraph (1) of section 9502(d) of the Internal Revenue Code of 1986 (relating to expenditures from Airport and Airway Trust Fund) is amended—

(1) by striking "October 1, 1998" and inserting "October 1, 1999", and

(2) by inserting before the semicolon at the end of subparagraph (A) the following "or the Airport Improvement Program Reauthorization Act of 1998".

(a) LIMITATION ON EXPENDITURE AUTHORITY.—Section 9502 of such Code is amended by adding at the end the following new subsection:

"(f) LIMITATION ON TRANSFERS TO TRUST FUND.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no amount may be appropriated or credited to the Airport and Airway Trust Fund on an after the date of any expenditure from the Airport and Airway Trust Fund which is not permitted by this section. the determination of whether an expenditure is so permitted shall be made without regard to—

"(A) any provision of law which is not contained or referenced in this title or in a revenue Act, and

"(B) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this subsection.

"(2) EXCEPTION FOR PRIOR OBLIGATIONS.—Paragraph (1) shall not apply to any expenditure to liquidate any contract entered into (or for any amount otherwise obligated) before October 1, 1999, in accordance with the provisions of this section.".

Mr. ADAM SMITH of Washington. Mr. Speaker, I would like to take some time to talk about some of my concerns regarding H.R. 4057, the Airport Improvement Program Reauthorization Act. I recognize that this bill funds some very important and critical programs, including operation and maintenance of the air traffic control system, safety inspections, and other Federal Aviation Administration (FAA) activities. It does an adequate job ensuring that our airports and airways are safe and efficient.

Mr. Speaker, I've had personal experience with the FAA and the Airport Improvement Program (AIP) as a community activist, a state Senator, and now as a member of Congress. In fact, I grew up about a mile from the Seattle/Tacoma International Airport (SeaTac), so I know how people are affected by airports first hand.

The Port of Seattle has been attempting to expand SeaTac for more than nine years. Over those years, I've had several problems with the way the Port and the FAA have dealt with this proposed expansion project. I feel they have severely underestimated the environmental impacts the new runway would have on local communities, including the potential financial costs of implementation. They have also failed to adequately evaluate other potential problems, including increased traffic that would arise from construction and the increased noise expansion would have on local schools and neighborhoods. Overall, I strongly believe the FAA and the Port have shown a disregard for the concerns of the local citizens whom will have to bear the brunt of the negative results of this proposed expansion.

Considering my experience with this program, I believe there are three things that could have been included in the legislation that would have made it better for those that live and work around our counties' airports. First, I have concerns over the current executive branch dealing with pollution from aircraft. The principal agency in the federal government that deals with environmental impact is the Environmental Protection Agency (EPA); however, when it comes to pollution resulting from aircraft it is the FAA. This wasn't always the case. Previously, the Office of Noise Abatement and Control in the EPA was responsible for coordinating federal noise abatement activities, updating and developing new noise standards, and promoting research and education on the impacts of noise pollution. This office was eliminated in 1982. I believe the FAA has a strong disincentive for effectively handing aircraft pollution because their main function is to expand and promote aviation. On the other hand, the EPA is in a much better position to fairly analyze pollution from aircraft and thus effectively implement policy to deal with these impacts, because its chief objective is to protect people against dangerous environmental problems. I feel the bill should have transferred these powers from the FAA to EPA in order to properly study and better protect citizens in my district and others from aviation pollution.

Second, I would like to have seen the bill set aside more funds to directly compensate the public for the damage that it will have on their lives. A study has determined that the impact that the proposed 3rd runway would have on my constituents is around $4 billion, but the plan by the Ports includes only $50 million in mitigation costs. This is clearly unfair. The citizens of communities surrounding the airport would have to bear the brunt of mitigating the environmental problems surrounding the proposed project, despite having very little impute and decision making authority. I feel that the bill could have authorized more money for the use of directly compensating individuals impacted by new construction for areas like my district.

Third, I'm very concerned about the lack of congressional and local input in the decision making authority for approving FAA discretionary grants for new airport construction. While I understand the meaning of a discretionary program is that the federal agency has the discretion in determining whether to appropriate the funds, I believe the current system so substantially displaces legislative input that it trumps the spirit of the separation of powers of our three branches of government, which is a critical part of our representative democracy. The Port of Seattle and the FAA negotiated a Record of Decision in July of 1997, despite serious objections from myself and my constituents. Our system is designed to have

members of Congress represent the concerns and interests of their home districts and thus executive decisions that impact a certain group of people should only be done with the consideration of the opinions of the Member who represents those people. I do not feel that my concerns have not adequately been taken into consideration during this process, and I feel this is wrong.

Overall, I feel that the concerns of local citizens and thus Members of Congress who represent them are not sufficiently taken into consideration under the AIP, and will continue to advocate for changes to this program in the future. Therefore, I urge my colleagues to oppose this legislation.

Mr. HALL of Ohio. Mr. Speaker, I rise in support of H.R. 4057, the Airport Improvement Program Reauthorization Act of 1998, and call to the attention of my colleagues Title VII, the Centennial of Flight Commemoration Act. This title is a modified version of H.R. 2305, a bill I introduced with Mr. JONES of North Carolina and with the support of Mr. HOBSON of Ohio.

The measure creates a limited, seven-member federal commission to help plan and coordinate the national celebration of the 100th anniversary of the Wright brothers' historic first flight in 1903.

The commission is charged with coordinating celebration dates nationwide and maintaining a central clearinghouse for information on commemorative activities. It would also represent the United States in international commemorations for the Wright brothers.

The commission is similar to ones established by Congress to celebrate the anniversaries of the American Revolution, Constitution, discovery of America by Christopher Columbus, birth of Thomas Jefferson, and others.

H.R. 2305 is cosponsored by almost all the members of the Ohio and North Carolina delegations. This is fitting, because the Wright brothers carried out their famous flight in Kitty Hawk, North Carolina, and they lived and constructed their airplane in Dayton, Ohio.

Mr. Speaker, it is hard to imagine a technological achievement that affected our world more than the conquest of flight. The first flight by Orville and Wilbur Wright represents the fulfillment of the age-old dream of flying and it has dramatically changed the course of transportation, commerce, communication and warfare. It is therefore fitting that we honor the Wright brothers and their achievements in this fashion.

I wish to thank the chairman and ranking minority member of the Committee on Transportation and Infrastructure and the Subcommittee on Aviation for their support.

Mr. SHUSTER. Mr. Speaker, I urge passage of the bill, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. SHUSTER) that the House suspend the rules and pass the bill, H.R. 4057, as amended.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SHUSTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on H.R. 4057, as amended.

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

There was no objection.

CREDIT UNION MEMBERSHIP ACCESS ACT

Mr. LEACH. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 1151) to amend the Federal Credit Union Act to clarify existing law with regard to the field of membership of Federal credit unions, to preserve the integrity and purpose of Federal credit unions, to enhance supervisory oversight of insured credit unions, and for other purposes.

The Clerk read as follows:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Credit Union Membership Access Act".

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.

TITLE I—CREDIT UNION MEMBERSHIP

Sec. 101. Fields of membership.
Sec. 102. Criteria for approval of expansion of membership of multiple common-bond credit unions.
Sec. 103. Geographical guidelines for community credit unions.

TITLE II—REGULATION OF CREDIT UNIONS

Sec. 201. Financial statement and audit requirements.
Sec. 202. Conversion of insured credit unions.
Sec. 203. Limitation on member business loans.
Sec. 204. National Credit Union Administration Board membership.
Sec. 205. Report and congressional review requirement for certain regulations.

TITLE III—CAPITALIZATION AND NET WORTH OF CREDIT UNIONS

Sec. 301. Prompt corrective action.
Sec. 302. National credit union share insurance fund equity ratio, available assets ratio, and standby premium charge.
Sec. 303. Access to liquidity.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Study and report on differing regulatory treatment.
Sec. 402. Update on review of regulations and paperwork reductions.
Sec. 403. Treasury report on reduced taxation and viability of small banks.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The American credit union movement began as a cooperative effort to serve the productive and provident credit needs of individuals of modest means.

(2) Credit unions continue to fulfill this public purpose, and current members and membership groups should not face divestiture from the financial services institution of their choice as a result of recent court action.

(3) To promote thrift and credit extension, a meaningful affinity and bond among members, manifested by a commonality of routine interaction, shared and related work experiences, interests, or activities, or the maintenance of an otherwise well-understood sense of cohesion or identity is essential to the fulfillment of the public mission of credit unions.

(4) Credit unions, unlike many other participants in the financial services market, are exempt from Federal and most State taxes because they are member-owned, democratically operated, not-for-profit organizations generally managed by volunteer boards of directors and because they have the specified mission of meeting the credit and savings needs of consumers, especially persons of modest means.

(5) Improved credit union safety and soundness provisions will enhance the public benefit that citizens receive from these cooperative financial services institutions.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term "Administration" means the National Credit Union Administration;

(2) the term "Board" means the National Credit Union Administration Board;

(3) the term "Federal banking agencies" has the same meaning as in section 3 of the Federal Deposit Insurance Act;

(4) the terms "insured credit union" and "State-chartered insured credit union" have the same meanings as in section 101 of the Federal Credit Union Act; and

(5) the term "Secretary" means the Secretary of the Treasury.

TITLE I—CREDIT UNION MEMBERSHIP

SEC. 101. FIELDS OF MEMBERSHIP.

Section 109 of the Federal Credit Union Act (12 U.S.C. 1759) is amended—

(1) in the first sentence—

(A) by striking "Federal credit union membership shall consist of" and inserting "(a) IN GENERAL.—Subject to subsection (b), Federal credit union membership shall consist of"; and

(B) by striking ", except that" and all that follows through "rural district"; and

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

"(b) MEMBERSHIP FIELD.—Subject to the other provisions of this section, the membership of any Federal credit union shall be limited to the membership described in 1 of the following categories:

"(1) SINGLE COMMON-BOND CREDIT UNION.—1 group that has a common bond of occupation or association.

"(2) MULTIPLE COMMON-BOND CREDIT UNION.—More than 1 group—

"(A) each of which has (within the group) a common bond of occupation or association; and

"(B) the number of members of each of which (at the time the group is first included within the field of membership of a credit union described in this paragraph) does not exceed any numerical limitation applicable under subsection (d).

"(3) COMMUNITY CREDIT UNION.—Persons or organizations within a well-defined local community, neighborhood, or rural district.

"(c) EXCEPTIONS.—

"(1) GRANDFATHERED MEMBERS AND GROUPS.—

"(A) IN GENERAL.—Notwithstanding subsection (b)—

"(i) any person or organization that is a member of any Federal credit union as of the date of enactment of the Credit Union Membership Access Act may remain a member of the credit union after that date of enactment; and

"(ii) a member of any group whose members constituted a portion of the membership of any

Federal credit union as of that date of enactment shall continue to be eligible to become a member of that credit union, by virtue of membership in that group, after that date of enactment.

"(B) SUCCESSORS.—If the common bond of any group referred to in subparagraph (A) is defined by any particular organization or business entity, subparagraph (A) shall continue to apply with respect to any successor to the organization or entity.

"(2) EXCEPTION FOR UNDERSERVED AREAS.—Notwithstanding subsection (b), in the case of a Federal credit union, the field of membership category of which is described in subsection (b)(2), the Board may allow the membership of the credit union to include any person or organization within a local community, neighborhood, or rural district if—

"(A) the Board determines that the local community, neighborhood, or rural district—

"(i) is an 'investment area', as defined in section 103(16) of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4703(16)), and meets such additional requirements as the Board may impose; and

"(ii) is underserved, based on data of the Board and the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), by other depository institutions (as defined in section 19(b)(1)(A) of the Federal Reserve Act); and

"(B) the credit union establishes and maintains an office or facility in the local community, neighborhood, or rural district at which credit union services are available.

"(d) MULTIPLE COMMON-BOND CREDIT UNION GROUP REQUIREMENTS.—

"(1) NUMERICAL LIMITATION.—Except as provided in paragraph (2), only a group with fewer than 3,000 members shall be eligible to be included in the field of membership category of a credit union described in subsection (b)(2).

"(2) EXCEPTIONS.—In the case of any Federal credit union, the field of membership category of which is described in subsection (b)(2), the numerical limitation in paragraph (1) of this subsection shall not apply with respect to—

"(A) any group that the Board determines, in writing and in accordance with the guidelines and regulations issued under paragraph (3), could not feasibly or reasonably establish a new single common-bond credit union, the field of membership category of which is described in subsection (b)(1) because—

"(i) the group lacks sufficient volunteer and other resources to support the efficient and effective operation of a credit union;

"(ii) the group does not meet the criteria that the Board has determined to be important for the likelihood of success in establishing and managing a new credit union, including demographic characteristics such as geographical location of members, diversity of ages and income levels, and other factors that may affect the financial viability and stability of a credit union; or

"(iii) the group would be unlikely to operate a safe and sound credit union;

"(B) any group transferred from another credit union—

"(i) in connection with a merger or consolidation recommended by the Board or any appropriate State credit union supervisor based on safety and soundness concerns with respect to that other credit union; or

"(ii) by the Board in the Board's capacity as conservator or liquidating agent with respect to that other credit union; or

"(C) any group transferred in connection with a voluntary merger, having received conditional approval by the Administration of the merger application prior to October 25, 1996, but not having consummated the merger prior to October 25, 1996, if the merger is consummated not later than 180 days after the date of enactment of the Credit Union Membership Access Act.

"(3) REGULATIONS AND GUIDELINES.—The Board shall issue guidelines or regulations, after notice and opportunity for comment, setting forth the criteria that the Board will apply in determining under this subsection whether or not an additional group may be included within the field of membership category of an existing credit union described in subsection (b)(2).

"(e) ADDITIONAL MEMBERSHIP ELIGIBILITY PROVISIONS.—

"(1) MEMBERSHIP ELIGIBILITY LIMITED TO IMMEDIATE FAMILY OR HOUSEHOLD MEMBERS.—No individual shall be eligible for membership in a credit union on the basis of the relationship of the individual to another person who is eligible for membership in the credit union, unless the individual is a member of the immediate family or household (as those terms are defined by the Board, by regulation) of the other person.

"(2) RETENTION OF MEMBERSHIP.—Except as provided in section 118, once a person becomes a member of a credit union in accordance with this title, that person or organization may remain a member of that credit union until the person or organization chooses to withdraw from the membership of the credit union.".

SEC. 102. CRITERIA FOR APPROVAL OF EXPANSION OF MEMBERSHIP OF MULTIPLE COMMON-BOND CREDIT UNIONS.

Section 109 of the Federal Credit Union Act (12 U.S.C. 1759) is amended by adding at the end the following new subsection:

"(f) CRITERIA FOR APPROVAL OF EXPANSION OF MULTIPLE COMMON-BOND CREDIT UNIONS.—

"(1) IN GENERAL.—The Board shall—

"(A) encourage the formation of separately chartered credit unions instead of approving an application to include an additional group within the field of membership of an existing credit union whenever practicable and consistent with reasonable standards for the safe and sound operation of the credit union; and

"(B) if the formation of a separate credit union by the group is not practicable or consistent with the standards referred to in subparagraph (A), require the inclusion of the group in the field of membership of a credit union that is within reasonable proximity to the location of the group whenever practicable and consistent with reasonable standards for the safe and sound operation of the credit union.

"(2) APPROVAL CRITERIA.—The Board may not approve any application by a Federal credit union, the field of membership category of which is described in subsection (b)(2) to include any additional group within the field of membership of the credit union (or an application by a Federal credit union described in subsection (b)(1) to include an additional group and become a credit union described in subsection (b)(2)), unless the Board determines, in writing, that—

"(A) the credit union has not engaged in any unsafe or unsound practice (as defined in section 206(b)) that is material during the 1-year period preceding the date of filing of the application;

"(B) the credit union is adequately capitalized;

"(C) the credit union has the administrative capability to serve the proposed membership group and the financial resources to meet the need for additional staff and assets to serve the new membership group;

"(D) any potential harm that the expansion of the field of membership of the credit union may have on any other insured credit union and its members is clearly outweighed in the public interest by the probable beneficial effect of the expansion in meeting the convenience and needs of the members of the group proposed to be included in the field of membership; and

"(E) the credit union has met such additional requirements as the Board may prescribe, by regulation.".

SEC. 103. GEOGRAPHICAL GUIDELINES FOR COMMUNITY CREDIT UNIONS.

Section 109 of the Federal Credit Union Act (12 U.S.C. 1759) is amended by adding at the end the following new subsection:

"(g) REGULATIONS REQUIRED FOR COMMUNITY CREDIT UNIONS.—

"(1) DEFINITION OF WELL-DEFINED LOCAL COMMUNITY, NEIGHBORHOOD, OR RURAL DISTRICT.—The Board shall prescribe, by regulation, a definition for the term 'well-defined local community, neighborhood, or rural district' for purposes of—

"(A) making any determination with regard to the field of membership of a credit union described in subsection (b)(3); and

"(B) establishing the criteria applicable with respect to any such determination.

"(2) SCOPE OF APPLICATION.—The definition prescribed by the Board under paragraph (1) shall apply with respect to any application to form a new credit union, or to alter or expand the field of membership of an existing credit union, that is filed with the Board after the date of enactment of the Credit Union Membership Access Act.".

TITLE II—REGULATION OF CREDIT UNIONS

SEC. 201. FINANCIAL STATEMENT AND AUDIT REQUIREMENTS.

(a) IN GENERAL.—Section 202(a)(6) of the Federal Credit Union Act (12 U.S.C. 1782(a)(6)) is amended by adding at the end the following new subparagraphs:

"(C) ACCOUNTING PRINCIPLES.—

"(i) IN GENERAL.—Accounting principles applicable to reports or statements required to be filed with the Board by each insured credit union shall be uniform and consistent with generally accepted accounting principles.

"(ii) BOARD DETERMINATION.—If the Board determines that the application of any generally accepted accounting principle to any insured credit union is not appropriate, the Board may prescribe an accounting principle for application to the credit union that is no less stringent than generally accepted accounting principles.

"(iii) DE MINIMIS EXCEPTION.—This subparagraph shall not apply to any insured credit union, the total assets of which are less than $10,000,000, unless prescribed by the Board or an appropriate State credit union supervisor.

"(D) LARGE CREDIT UNION AUDIT REQUIREMENT.—

"(i) IN GENERAL.—Each insured credit union having total assets of $500,000,000 or more shall have an annual independent audit of the financial statements of the credit union, performed in accordance with generally accepted auditing standards by an independent certified public accountant or public accountant licensed by the appropriate State or jurisdiction to perform those services.

"(ii) VOLUNTARY AUDITS.—If a Federal credit union that is not required to conduct an audit under clause (i), and that has total assets of more than $10,000,000 conducts such an audit for any purpose, using an independent auditor who is compensated for his or her audit services with respect to that audit, the audit shall be performed consistent with the accountancy laws of the appropriate State or jurisdiction, including licensing requirements.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 202(a)(6)(B) of the Federal Credit Union Act (12 U.S.C. 1782(a)(6)(B)) is amended by striking "subparagraph (A)" and inserting "subparagraph (A) or (D)".

SEC. 202. CONVERSION OF INSURED CREDIT UNIONS.

Section 205(b) of the Federal Credit Union Act (12 U.S.C. 1785(b)) is amended—

(1) in paragraph (1), by striking "Except with the prior written approval of the Board, no insured credit union shall" and inserting "Except as provided in paragraph (2), no insured credit union shall, without the prior approval of the Board";

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following new paragraph:

"(2) CONVERSION OF INSURED CREDIT UNIONS TO MUTUAL SAVINGS BANKS.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), an insured credit union may convert to a mutual savings bank or savings association (if the savings association is in mutual form), as those terms are defined in section 3 of the Federal Deposit Insurance Act, without the prior approval of the Board, subject to the requirements and procedures set forth in the laws and regulations governing mutual savings banks and savings associations.

"(B) CONVERSION PROPOSAL.—A proposal for a conversion described in subparagraph (A) shall first be approved, and a date set for a vote thereon by the members (either at a meeting to be held on that date or by written ballot to be filed on or before that date), by a majority of the directors of the insured credit union. Approval of the proposal for conversion shall be by the affirmative vote of a majority of the members of the insured credit union who vote on the proposal.

"(C) NOTICE OF PROPOSAL TO MEMBERS.—An insured credit union that proposes to convert to a mutual savings bank or savings association under subparagraph (A) shall submit notice to each of its members who is eligible to vote on the matter of its intent to convert—

"(i) 90 days before the date of the member vote on the conversion;

"(ii) 60 days before the date of the member vote on the conversion; and

"(iii) 30 days before the date of the member vote on the conversion.

"(D) NOTICE OF PROPOSAL TO BOARD.—The Board may require an insured credit union that proposes to convert to a mutual savings bank or savings association under subparagraph (A) to submit a notice to the Board of its intent to convert during the 90-day period preceding the date of the completion of the conversion.

"(E) INAPPLICABILITY OF ACT UPON CONVERSION.—Upon completion of a conversion described in subparagraph (A), the credit union shall no longer be subject to any of the provisions of this Act.

"(F) LIMIT ON COMPENSATION OF OFFICIALS.—

"(i) IN GENERAL.—No director or senior management official of an insured credit union may receive any economic benefit in connection with a conversion of the credit union as described in subparagraph (A), other than—

"(I) director fees; and

"(II) compensation and other benefits paid to directors or senior management officials of the converted institution in the ordinary course of business.

"(ii) SENIOR MANAGEMENT OFFICIAL.—For purposes of this subparagraph, the term 'senior management official' means a chief executive officer, an assistant chief executive officer, a chief financial officer, and any other senior executive officer (as defined by the appropriate Federal banking agency pursuant to section 32(f) of the Federal Deposit Insurance Act).

"(G) CONSISTENT RULES.—

"(i) IN GENERAL.—Not later than 6 months after the date of enactment of the Credit Union Membership Access Act, the Administration shall promulgate final rules applicable to charter conversions described in this paragraph that are consistent with rules promulgated by other financial regulators, including the Office of Thrift Supervision and the Office of the Comptroller of the Currency. The rules required by this clause shall provide that charter conversion by an insured credit union shall be subject to regulation that is no more or less restrictive than that applicable to charter conversions by other financial institutions.

"(ii) OVERSIGHT OF MEMBER VOTE.—The member vote concerning charter conversion under this paragraph shall be administered by the Administration, and shall be verified by the Federal or State regulatory agency that would have jurisdiction over the institution after the conversion. If either the Administration or that regulatory agency disapproves of the methods by which the member vote was taken or procedures applicable to the member vote, the member vote shall be taken again, as directed by the Administration or the agency.".

SEC. 203. LIMITATION ON MEMBER BUSINESS LOANS.

(a) IN GENERAL.—The Federal Credit Union Act (12 U.S.C. 1701 et seq.) is amended by inserting after section 107 the following new section:

"SEC. 107A. LIMITATION ON MEMBER BUSINESS LOANS.

"(a) IN GENERAL.—On and after the date of enactment of this section, no insured credit union may make any member business loan that would result in a total amount of such loans outstanding at that credit union at any one time equal to more than the lesser of—

"(1) 1.75 times the actual net worth of the credit union; or

"(2) 1.75 times the minimum net worth required under section 216(c)(1)(A) for a credit union to be well capitalized.

"(b) EXCEPTIONS.—Subsection (a) does not apply in the case of—

"(1) an insured credit union chartered for the purpose of making, or that has a history of primarily making, member business loans to its members, as determined by the Board; or

"(2) an insured credit union that—

"(A) serves predominantly low-income members, as defined by the Board; or

"(B) is a community development financial institution, as defined in section 103 of the Community Development Banking and Financial Institutions Act of 1994.

"(c) DEFINITIONS.—As used in this section—

"(1) the term 'member business loan'—

"(A) means any loan, line of credit, or letter of credit, the proceeds of which will be used for a commercial, corporate or other business investment property or venture, or agricultural purpose; and

"(B) does not include an extension of credit—

"(i) that is fully secured by a lien on a 1- to 4-family dwelling that is the primary residence of a member;

"(ii) that is fully secured by shares in the credit union making the extension of credit or deposits in other financial institutions;

"(iii) that is described in subparagraph (A), if it was made to a borrower or an associated member that has a total of all such extensions of credit in an amount equal to less than $50,000;

"(iv) the repayment of which is fully insured or fully guaranteed by, or where there is an advance commitment to purchase in full by, any agency of the Federal Government or of a State, or any political subdivision thereof; or

"(v) that is granted by a corporate credit union (as that term is defined by the Board) to another credit union.

"(2) the term 'net worth'—

"(A) with respect to any insured credit union, means the credit union's retained earnings balance, as determined under generally accepted accounting principles; and

"(B) with respect to a credit union that serves predominantly low-income members, as defined by the Board, includes secondary capital accounts that are—

"(i) uninsured; and

"(ii) subordinate to all other claims against the credit union, including the claims of creditors, shareholders, and the Fund; and

"(3) the term 'associated member' means any member having a shared ownership, investment, or other pecuniary interest in a business or commercial endeavor with the borrower.

"(d) EFFECT ON EXISTING LOANS.—An insured credit union that has, on the date of enactment of this section, a total amount of outstanding member business loans that exceeds the amount permitted under subsection (a) shall, not later than 3 years after that date of enactment, reduce the total amount of outstanding member business loans to an amount that is not greater than the amount permitted under subsection (a).

"(e) CONSULTATION AND COOPERATION WITH STATE CREDIT UNION SUPERVISORS.—In implementing this section, the Board shall consult and seek to work cooperatively with State officials having jurisdiction over State-chartered insured credit unions.".

(b) STUDY AND REPORT.—

(1) STUDY.—The Secretary shall conduct a study of member business lending by insured credit unions, including—

(A) an examination of member business lending over $500,000 and under $50,000, and a breakdown of the types and sizes of businesses that receive member business loans;

(B) a review of the effectiveness and enforcement of regulations applicable to insured credit union member business lending;

(C) whether member business lending by insured credit unions could affect the safety and soundness of insured credit unions or the National Credit Union Share Insurance Fund;

(D) the extent to which member business lending by insured credit unions helps to meet financial services needs of low- and moderate-income individuals within the field of membership of insured credit unions;

(E) whether insured credit unions that engage in member business lending have a competitive advantage over other insured depository institutions, and if any such advantage could affect the viability and profitability of such other insured depository institutions; and

(F) the effect of enactment of this Act on the number of insured credit unions involved in member business lending and the overall amount of commercial lending.

(2) NCUA COOPERATION.—The National Credit Union Administration shall, upon request, provide such information as the Secretary may require to conduct the study required under paragraph (1).

(3) REPORT.—Not later than 12 months after the date of enactment of this Act, the Secretary shall submit a report to the Congress on the results of the study conducted under paragraph (1).

SEC. 204. NATIONAL CREDIT UNION ADMINISTRATION BOARD MEMBERSHIP.

Section 102(b) of the Federal Credit Union Act (12 U.S.C. 1752a(b)) is amended—

(1) by striking "(b) The Board" and inserting "(b) MEMBERSHIP AND APPOINTMENT OF BOARD.—

"(1) IN GENERAL.—The Board"; and

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

"(2) APPOINTMENT CRITERIA.—

"(A) EXPERIENCE IN FINANCIAL SERVICES.—In considering appointments to the Board under paragraph (1), the President shall give consideration to individuals who, by virtue of their education, training, or experience relating to a broad range of financial services, financial services regulation, or financial policy, are especially qualified to serve on the Board.

"(B) LIMIT ON APPOINTMENT OF CREDIT UNION OFFICERS.—Not more than 1 member of the

Board may be appointed to the Board from among individuals who, at the time of the appointment, are, or have recently been, involved with any insured credit union as a committee member, director, officer, employee, or other institution-affiliated party.".

SEC. 205. REPORT AND CONGRESSIONAL REVIEW REQUIREMENT FOR CERTAIN REGULATIONS.

A regulation prescribed by the Board shall be treated as a major rule for purposes of chapter 8 of title 5, United States Code, if the regulation defines, or amends the definition of—

(1) the term "immediate family or household" for purposes of section 109(e)(1) of the Federal Credit Union Act (as added by section 101 of this Act); or

(2) the term "well-defined local community, neighborhood, or rural district" for purposes of section 109(g) of the Federal Credit Union Act (as added by section 103 of this Act).

TITLE III—CAPITALIZATION AND NET WORTH OF CREDIT UNIONS

SEC. 301. PROMPT CORRECTIVE ACTION.

(a) IN GENERAL.—Title II of the Federal Credit Union Act (12 U.S.C. 1781 et seq.) is amended by adding at the end the following new section:

"SEC. 216. PROMPT CORRECTIVE ACTION.

"(a) RESOLVING PROBLEMS TO PROTECT FUND.—

"(1) PURPOSE.—The purpose of this section is to resolve the problems of insured credit unions at the least possible long-term loss to the Fund.

"(2) PROMPT CORRECTIVE ACTION REQUIRED.—The Board shall carry out the purpose of this section by taking prompt corrective action to resolve the problems of insured credit unions.

"(b) REGULATIONS REQUIRED.—

"(1) INSURED CREDIT UNIONS.—

"(A) IN GENERAL.—The Board shall, by regulation, prescribe a system of prompt corrective action for insured credit unions that is—

"(i) consistent with this section; and

"(ii) comparable to section 38 of the Federal Deposit Insurance Act.

"(B) COOPERATIVE CHARACTER OF CREDIT UNIONS.—The Board shall design the system required under subparagraph (A) to take into account that credit unions are not-for-profit cooperatives that—

"(i) do not issue capital stock;

"(ii) must rely on retained earnings to build net worth; and

"(iii) have boards of directors that consist primarily of volunteers.

"(2) NEW CREDIT UNIONS.—

"(A) IN GENERAL.—In addition to regulations under paragraph (1), the Board shall, by regulation, prescribe a system of prompt corrective action that shall apply to new credit unions in lieu of this section and the regulations prescribed under paragraph (1).

"(B) CRITERIA FOR ALTERNATIVE SYSTEM.—The Board shall design the system prescribed under subparagraph (A)—

"(i) to carry out the purpose of this section;

"(ii) to recognize that credit unions (as cooperatives that do not issue capital stock) initially have no net worth, and give new credit unions reasonable time to accumulate net worth;

"(iii) to create adequate incentives for new credit unions to become adequately capitalized by the time that they either—

"(I) have been in operation for more than 10 years; or

"(II) have more than $10,000,000 in total assets;

"(iv) to impose appropriate restrictions and requirements on new credit unions that do not make sufficient progress toward becoming adequately capitalized; and

"(v) to prevent evasion of the purpose of this section.

"(c) NET WORTH CATEGORIES.—

"(1) IN GENERAL.—For purposes of this section the following definitions shall apply:

"(A) WELL CAPITALIZED.—An insured credit union is 'well capitalized' if—

"(i) it has a net worth ratio of not less than 7 percent; and

"(ii) it meets any applicable risk-based net worth requirement under subsection (d).

"(B) ADEQUATELY CAPITALIZED.—An insured credit union is 'adequately capitalized' if—

"(i) it has a net worth ratio of not less than 6 percent; and

"(ii) it meets any applicable risk-based net worth requirement under subsection (d).

"(C) UNDERCAPITALIZED.—An insured credit union is 'undercapitalized' if—

"(i) it has a net worth ratio of less than 6 percent; or

"(ii) it fails to meet any applicable risk-based net worth requirement under subsection (d).

"(D) SIGNIFICANTLY UNDERCAPITALIZED.—An insured credit union is 'significantly undercapitalized'—

"(i) if it has a net worth ratio of less than 4 percent; or

"(ii) if—

"(I) it has a net worth ratio of less than 5 percent; and

"(II) it—

"(aa) fails to submit an acceptable net worth restoration plan within the time allowed under subsection (f); or

"(bb) materially fails to implement a net worth restoration plan accepted by the Board.

"(E) CRITICALLY UNDERCAPITALIZED.—An insured credit union is 'critically undercapitalized' if it has a net worth ratio of less than 2 percent (or such higher net worth ratio, not to exceed 3 percent, as the Board may specify by regulation).

"(2) ADJUSTING NET WORTH LEVELS.—

"(A) IN GENERAL.—If, for purposes of section 38(c) of the Federal Deposit Insurance Act, the Federal banking agencies increase or decrease the required minimum level for the leverage limit (as those terms are used in that section 38), the Board may, by regulation, and subject to subparagraph (B) of this paragraph, correspondingly increase or decrease 1 or more of the net worth ratios specified in subparagraphs (A) through (D) of paragraph (1) of this subsection in an amount that is equal to not more than the difference between the required minimum level most recently established by the Federal banking agencies and 4 percent of total assets (with respect to institutions regulated by those agencies).

"(B) DETERMINATIONS REQUIRED.—The Board may increase or decrease net worth ratios under subparagraph (A) only if the Board—

"(i) determines, in consultation with the Federal banking agencies, that the reason for the increase or decrease in the required minimum level for the leverage limit also justifies the adjustment in net worth ratios; and

"(ii) determines that the resulting net worth ratios are sufficient to carry out the purpose of this section.

"(C) TRANSITION PERIOD REQUIRED.—If the Board increases any net worth ratio under this paragraph, the Board shall give insured credit unions a reasonable period of time to meet the increased ratio.

"(d) RISK-BASED NET WORTH REQUIREMENT FOR COMPLEX CREDIT UNIONS.—

"(1) IN GENERAL.—The regulations required under subsection (b)(1) shall include a risk-based net worth requirement for insured credit unions that are complex, as defined by the Board based on the portfolios of assets and liabilities of credit unions.

"(2) STANDARD.—The Board shall design the risk-based net worth requirement to take account of any material risks against which the net worth ratio required for an insured credit union to be adequately capitalized may not provide adequate protection.

"(e) EARNINGS-RETENTION REQUIREMENT APPLICABLE TO CREDIT UNIONS THAT ARE NOT WELL CAPITALIZED.—

"(1) IN GENERAL.—An insured credit union that is not well capitalized shall annually set aside as net worth an amount equal to not less than 0.4 percent of its total assets.

"(2) BOARD'S AUTHORITY TO DECREASE EARNINGS-RETENTION REQUIREMENT.—

"(A) IN GENERAL.—The Board may, by order, decrease the 0.4 percent requirement in paragraph (1) with respect to a credit union to the extent that the Board determines that the decrease—

"(i) is necessary to avoid a significant redemption of shares; and

"(ii) would further the purpose of this section.

"(B) PERIODIC REVIEW REQUIRED.—The Board shall periodically review any order issued under subparagraph (A).

"(f) NET WORTH RESTORATION PLAN REQUIRED.—

"(1) IN GENERAL.—Each insured credit union that is undercapitalized shall submit an acceptable net worth restoration plan to the Board within the time allowed under this subsection.

"(2) ASSISTANCE TO SMALL CREDIT UNIONS.—The Board (or the staff of the Board) shall, upon timely request by an insured credit union with total assets of less than $10,000,000, and subject to such regulations or guidelines as the Board may prescribe, assist that credit union in preparing a net worth restoration plan.

"(3) DEADLINES FOR SUBMISSION AND REVIEW OF PLANS.—The Board shall, by regulation, establish deadlines for submission of net worth restoration plans under this subsection that—

"(A) provide insured credit unions with reasonable time to submit net worth restoration plans; and

"(B) require the Board to act on net worth restoration plans expeditiously.

"(4) FAILURE TO SUBMIT ACCEPTABLE PLAN WITHIN TIME ALLOWED.—

"(A) FAILURE TO SUBMIT ANY PLAN.—If an insured credit union fails to submit a net worth restoration plan within the time allowed under paragraph (3), the Board shall—

"(i) promptly notify the credit union of that failure; and

"(ii) give the credit union a reasonable opportunity to submit a net worth restoration plan.

"(B) SUBMISSION OF UNACCEPTABLE PLAN.—If an insured credit union submits a net worth restoration plan within the time allowed under paragraph (3) and the Board determines that the plan is not acceptable, the Board shall—

"(i) promptly notify the credit union of why the plan is not acceptable; and

"(ii) give the credit union a reasonable opportunity to submit a revised plan.

"(5) ACCEPTING PLAN.—The Board may accept a net worth restoration plan only if the Board determines that the plan is based on realistic assumptions and is likely to succeed in restoring the net worth of the credit union.

"(g) RESTRICTIONS ON UNDERCAPITALIZED CREDIT UNIONS.—

"(1) RESTRICTION ON ASSET GROWTH.—An insured credit union that is undercapitalized shall not generally permit its average total assets to increase, unless—

"(A) the Board has accepted the net worth restoration plan of the credit union for that action;

"(B) any increase in total assets is consistent with the net worth restoration plan; and

"(C) the net worth ratio of the credit union increases at a rate that is consistent with the net worth restoration plan.

"(2) RESTRICTION ON MEMBER BUSINESS LOANS.—Notwithstanding section 107A(a), an insured credit union that is undercapitalized may not make any increase in the total amount of member business loans (as defined in section 107A(c)) outstanding at that credit union at any one time, until such time as the credit union becomes adequately capitalized.

"(h) MORE STRINGENT TREATMENT BASED ON OTHER SUPERVISORY CRITERIA.—With respect to the exercise of authority by the Board under regulations comparable to section 38(g) of the Federal Deposit Insurance Act—

"(1) the Board may not reclassify an insured credit union into a lower net worth category, or treat an insured credit union as if it were in a lower net worth category, for reasons not pertaining to the safety and soundness of that credit union; and

"(2) the Board may not delegate its authority to reclassify an insured credit union into a lower net worth category or to treat an insured credit union as if it were in a lower net worth category.

"(i) ACTION REQUIRED REGARDING CRITICALLY UNDERCAPITALIZED CREDIT UNIONS.—

"(1) IN GENERAL.—The Board shall, not later than 90 days after the date on which an insured credit union becomes critically undercapitalized—

"(A) appoint a conservator or liquidating agent for the credit union; or

"(B) take such other action as the Board determines would better achieve the purpose of this section, after documenting why the action would better achieve that purpose.

"(2) PERIODIC REDETERMINATIONS REQUIRED.—Any determination by the Board under paragraph (1)(B) to take any action with respect to an insured credit union in lieu of appointing a conservator or liquidating agent shall cease to be effective not later than the end of the 180-day period beginning on the date on which the determination is made, and a conservator or liquidating agent shall be appointed for that credit union under paragraph (1)(A), unless the Board makes a new determination under paragraph (1)(B) before the end of the effective period of the prior determination.

"(3) APPOINTMENT OF LIQUIDATING AGENT REQUIRED IF OTHER ACTION FAILS TO RESTORE NET WORTH.—

"(A) IN GENERAL.—Notwithstanding paragraphs (1) and (2), the Board shall appoint a liquidating agent for an insured credit union if the credit union is critically undercapitalized on average during the calendar quarter beginning 18 months after the date on which the credit union became critically undercapitalized.

"(B) EXCEPTION.—Notwithstanding subparagraph (A), the Board may continue to take such other action as the Board determines to be appropriate in lieu of appointment of a liquidating agent if—

"(i) the Board determines that—

"(I) the insured credit union has been in substantial compliance with an approved net worth restoration plan that requires consistent improvement in the net worth of the credit union since the date of the approval of the plan; and

"(II) the insured credit union has positive net income or has an upward trend in earnings that the Board projects as sustainable; and

"(ii) the Board certifies that the credit union is viable and not expected to fail.

"(4) NONDELEGATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Board may not delegate the authority of the Board under this subsection.

"(B) EXCEPTION.—The Board may delegate the authority of the Board under this subsection with respect to an insured credit union that has less than $5,000,000 in total assets, if the Board permits the credit union to appeal any adverse action to the Board.

"(j) REVIEW REQUIRED WHEN FUND INCURS MATERIAL LOSS.—For purposes of determining whether the Fund has incurred a material loss with respect to an insured credit union (such that the inspector general of the Board must make a report), a loss is material if it exceeds the sum of—

"(1) $10,000,000; and

"(2) an amount equal to 10 percent of the total assets of the credit union at the time at which the Board initiated assistance under section 208 or was appointed liquidating agent.

"(k) APPEALS PROCESS.—Material supervisory determinations, including decisions to require prompt corrective action, made pursuant to this section by Administration officials other than the Board may be appealed to the Board pursuant to the independent appellate process required by section 309 of the Riegle Community Development and Regulatory Improvement Act of 1994 (or, if the Board so specifies, pursuant to separate procedures prescribed by regulation).

"(l) CONSULTATION AND COOPERATION WITH STATE CREDIT UNION SUPERVISORS.—

"(1) IN GENERAL.—In implementing this section, the Board shall consult and seek to work cooperatively with State officials having jurisdiction over State-chartered insured credit unions.

"(2) EVALUATING NET WORTH RESTORATION PLAN.—In evaluating any net worth restoration plan submitted by a State-chartered insured credit union, the Board shall seek the views of the State official having jurisdiction over the credit union.

"(3) DECIDING WHETHER TO APPOINT CONSERVATOR OR LIQUIDATING AGENT.—With respect to any decision by the Board on whether to appoint a conservator or liquidating agent for a State-chartered insured credit union—

"(A) the Board shall—

"(i) seek the views of the State official having jurisdiction over the credit union; and

"(ii) give that official an opportunity to take the proposed action;

"(B) the Board shall, upon timely request of an official referred to in subparagraph (A), promptly provide the official with—

"(i) a written statement of the reasons for the proposed action; and

"(ii) reasonable time to respond to that statement;

"(C) if the official referred to in subparagraph (A) makes a timely written response that disagrees with the proposed action and gives reasons for that disagreement, the Board shall not appoint a conservator or liquidating agent for the credit union, unless the Board, after considering the views of the official, has determined that—

"(i) the Fund faces a significant risk of loss with respect to the credit union if a conservator or liquidating agent is not appointed; and

"(ii) the appointment is necessary to reduce—

"(I) the risk that the Fund would incur a loss with respect to the credit union; or

"(II) any loss that the Fund is expected to incur with respect to the credit union; and

"(D) the Board may not delegate any determination under subparagraph (C).

"(m) CORPORATE CREDIT UNIONS EXEMPTED.—This section does not apply to any insured credit union that—

"(1) operates primarily for the purpose of serving credit unions; and

"(2) permits individuals to be members of the credit union only to the extent that applicable law requires that such persons own shares.

"(n) OTHER AUTHORITY NOT AFFECTED.—This section does not limit any authority of the Board or a State to take action in addition to (but not in derogation of) that required under this section.

"(o) DEFINITIONS.—For purposes of this section the following definitions shall apply:

"(1) FEDERAL BANKING AGENCY.—The term 'Federal banking agency' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

"(2) NET WORTH.—The term 'net worth'—

"(A) with respect to any insured credit union, means retained earnings balance of the credit union, as determined under generally accepted accounting principles; and

"(B) with respect to a low-income credit union, includes secondary capital accounts that are—

"(i) uninsured; and

"(ii) subordinate to all other claims against the credit union, including the claims of creditors, shareholders, and the Fund.

"(3) NET WORTH RATIO.—The term 'net worth ratio' means, with respect to a credit union, the ratio of the net worth of the credit union to the total assets of the credit union.

"(4) NEW CREDIT UNION.—The term 'new credit union' means an insured credit union that—

"(A) has been in operation for less than 10 years; and

"(B) has not more than $10,000,000 in total assets.".

(b) CONSERVATORSHIP AND LIQUIDATION AMENDMENTS TO FACILITATE PROMPT CORRECTIVE ACTION.—

(1) CONSERVATORSHIP.—Section 206(h) of the Federal Credit Union Act (12 U.S.C. 1786(h)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (D), by striking "or" at the end;

(ii) in subparagraph (E), by striking the period at the end and inserting a semicolon; and

(iii) by adding at the end the following new subparagraphs:

"(F) the credit union is significantly undercapitalized, as defined in section 216, and has no reasonable prospect of becoming adequately capitalized, as defined in section 216; or

"(G) the credit union is critically undercapitalized, as defined in section 216."; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking "In the case" and inserting "Except as provided in subparagraph (C), in the case"; and

(ii) by adding at the end the following new subparagraph:

"(C) In the case of a State-chartered insured credit union, the authority conferred by subparagraphs (F) and (G) of paragraph (1) may not be exercised unless the Board has complied with section 216(l).".

(2) LIQUIDATION.—Section 207(a) of the Federal Credit Union Act (12 U.S.C. 1787(a)) is amended—

(A) in paragraph (1)(A), by striking "himself" and inserting "itself"; and

(B) by adding at the end the following new paragraph:

"(3) LIQUIDATION TO FACILITATE PROMPT CORRECTIVE ACTION.—The Board may close any credit union for liquidation, and appoint itself or another (including, in the case of a State-chartered insured credit union, the State official having jurisdiction over the credit union) as liquidating agent of that credit union, if—

"(A) the Board determines that—

"(i) the credit union is significantly undercapitalized, as defined in section 216, and has no reasonable prospect of becoming adequately capitalized, as defined in section 216; or

"(ii) the credit union is critically undercapitalized, as defined in section 216; and

"(B) in the case of a State-chartered insured credit union, the Board has complied with section 216(l).".

(c) CONSULTATION REQUIRED.—In developing regulations to implement section 216 of the Federal Credit Union Act (as added by subsection (a) of this section), the Board shall consult with

the Secretary, the Federal banking agencies, and the State officials having jurisdiction over State-chartered insured credit unions.

(d) DEADLINES FOR REGULATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Board shall—

(A) publish in the Federal Register proposed regulations to implement section 216 of the Federal Credit Union Act (as added by subsection (a) of this section) not later than 270 days after the date of enactment of this Act; and

(B) promulgate final regulations to implement that section 216 not later than 18 months after the date of enactment of this Act.

(2) RISK-BASED NET WORTH REQUIREMENT.—

(A) ADVANCE NOTICE OF PROPOSED RULEMAKING.—Not later than 180 days after the date of enactment of this Act, the Board shall publish in the Federal Register an advance notice of proposed rulemaking, as required by section 216(d) of the Federal Credit Union Act, as added by this Act.

(B) FINAL REGULATIONS.—The Board shall promulgate final regulations, as required by that section 216(d) not later than 2 years after the date of enactment of this Act.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), section 216 of the Federal Credit Union Act (as added by this section) shall become effective 2 years after the date of enactment of this Act.

(2) RISK-BASED NET WORTH REQUIREMENT.—Section 216(d) of the Federal Credit Union Act (as added by this section) shall become effective on January 1, 2001.

(f) REPORT TO CONGRESS REQUIRED.—When the Board publishes proposed regulations pursuant to subsection (d)(1)(A), or promulgates final regulations pursuant to subsection (d)(1)(B), the Board shall submit to the Congress a report that specifically explains—

(1) how the regulations carry out section 216(b)(1)(B) of the Federal Credit Union Act (as added by this section), relating to the cooperative character of credit unions; and

(2) how the regulations differ from section 38 of the Federal Deposit Insurance Act, and the reasons for those differences.

(g) CONFORMING AMENDMENTS.—

(1) AMENDMENTS RELATING TO ENFORCEMENT OF PROMPT CORRECTIVE ACTION.—Section 206(k) of the Federal Credit Union Act (12 U.S.C. 1786(k)) is amended—

(A) in paragraph (1), by inserting "or section 216" after "this section" each place it appears; and

(B) in paragraph (2)(A)(ii), by inserting ", or any final order under section 216" before the semicolon.

(2) CONFORMING AMENDMENT REGARDING APPOINTMENT OF STATE CREDIT UNION SUPERVISOR AS CONSERVATOR.—Section 206(h)(1) of the Federal Credit Union Act (12 U.S.C. 1786(h)(1)) is amended by inserting "or another (including, in the case of a State-chartered insured credit union, the State official having jurisdiction over the credit union)" after "appoint itself".

(3) AMENDMENT REPEALING SUPERSEDED PROVISION.—Section 116 of the Federal Credit Union Act (12 U.S.C. 1762) is repealed.

SEC. 302. NATIONAL CREDIT UNION SHARE INSURANCE FUND EQUITY RATIO, AVAILABLE ASSETS RATIO, AND STANDBY PREMIUM CHARGE.

(a) IN GENERAL.—Section 202 of the Federal Credit Union Act (12 U.S.C. 1782) is amended—

(1) by striking subsection (b) and inserting the following:

"(b) CERTIFIED STATEMENT.—

"(1) STATEMENT REQUIRED.—

"(A) IN GENERAL.—For each calendar year, in the case of an insured credit union with total assets of not more than $50,000,000, and for each semi-annual period in the case of an insured credit union with total assets of $50,000,000 or more, an insured credit union shall file with the Board, at such time as the Board prescribes, a certified statement showing the total amount of insured shares in the credit union at the close of the relevant period and both the amount of its deposit or adjustment of deposit and the amount of the insurance charge due to the Fund for that period, both as computed under subsection (c).

"(B) EXCEPTION FOR NEWLY INSURED CREDIT UNION.—Subparagraph (A) shall not apply with respect to a credit union that became insured during the reporting period.

"(2) FORM.—The certified statements required to be filed with the Board pursuant to this subsection shall be in such form and shall set forth such supporting information as the Board shall require.

"(3) CERTIFICATION.—The president of the credit union or any officer designated by the board of directors shall certify, with respect to each statement required to be filed with the Board pursuant to this subsection, that to the best of his or her knowledge and belief the statement is true, correct, complete, and in accordance with this title and the regulations issued under this title.";

(2) in subsection (c)(1)(A), by striking clause (iii) and inserting the following:

"(iii) PERIODIC ADJUSTMENT.—The amount of each insured credit union's deposit shall be adjusted as follows, in accordance with procedures determined by the Board, to reflect changes in the credit union's insured shares:

"(I) annually, in the case of an insured credit union with total assets of not more than $50,000,000; and

"(II) semi-annually, in the case of an insured credit union with total assets of $50,000,000 or more.";

(3) in subsection (c), by striking paragraphs (2) and (3) and inserting the following:

"(2) INSURANCE PREMIUM CHARGES.—

"(A) IN GENERAL.—Each insured credit union shall, at such times as the Board prescribes (but not more than twice in any calendar year), pay to the Fund a premium charge for insurance in an amount stated as a percentage of insured shares (which shall be the same for all insured credit unions).

"(B) RELATION OF PREMIUM CHARGE TO EQUITY RATIO OF FUND.—The Board may assess a premium charge only if—

"(i) the Fund's equity ratio is less than 1.3 percent; and

"(ii) the premium charge does not exceed the amount necessary to restore the equity ratio to 1.3 percent.

"(C) PREMIUM CHARGE REQUIRED IF EQUITY RATIO FALLS BELOW 1.2 PERCENT.—If the Fund's equity ratio is less than 1.2 percent, the Board shall, subject to subparagraph (B), assess a premium charge in such an amount as the Board determines to be necessary to restore the equity ratio to, and maintain that ratio at, 1.2 percent.

"(3) DISTRIBUTIONS FROM FUND REQUIRED.—

"(A) IN GENERAL.—The Board shall effect a pro rata distribution to insured credit unions after each calendar year if, as of the end of that calendar year—

"(i) any loans to the Fund from the Federal Government, and any interest on those loans, have been repaid;

"(ii) the Fund's equity ratio exceeds the normal operating level; and

"(iii) the Fund's available assets ratio exceeds 1.0 percent.

"(B) AMOUNT OF DISTRIBUTION.—The Board shall distribute under subparagraph (A) the maximum possible amount that—

"(i) does not reduce the Fund's equity ratio below the normal operating level; and

"(ii) does not reduce the Fund's available assets ratio below 1.0 percent.

"(C) CALCULATION BASED ON CERTIFIED STATEMENTS.—In calculating the Fund's equity ratio and available assets ratio for purposes of this paragraph, the Board shall determine the aggregate amount of the insured shares in all insured credit unions from insured credit unions certified statements under subsection (b) for the final reporting period of the calendar year referred to in subparagraph (A).";

(4) in subsection (c), by adding at the end the following new paragraph:

"(4) TIMELINESS AND ACCURACY OF DATA.—In calculating the available assets ratio and equity ratio of the Fund, the Board shall use the most current and accurate data reasonably available."; and

(5) by striking subsection (h) and inserting the following:

"(h) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) AVAILABLE ASSETS RATIO.—The term 'available assets ratio', when applied to the Fund, means the ratio of—

"(A) the amount determined by subtracting—

"(i) direct liabilities of the Fund and contingent liabilities for which no provision for losses has been made, from

"(ii) the sum of cash and the market value of unencumbered investments authorized under section 203(c), to

"(B) the aggregate amount of the insured shares in all insured credit unions.

"(2) EQUITY RATIO.—The term 'equity ratio', when applied to the Fund, means the ratio of—

"(A) the amount of Fund capitalization, including insured credit unions' 1 percent capitalization deposits and the retained earnings balance of the Fund (net of direct liabilities of the Fund and contingent liabilities for which no provision for losses has been made); to

"(B) the aggregate amount of the insured shares in all insured credit unions.

"(3) INSURED SHARES.—The term 'insured shares', when applied to this section, includes share, share draft, share certificate, and other similar accounts as determined by the Board, but does not include amounts exceeding the insured account limit set forth in section 207(c)(1).

"(4) NORMAL OPERATING LEVEL.—The term 'normal operating level', when applied to the Fund, means an equity ratio specified by the Board, which shall be not less than 1.2 percent and not more than 1.5 percent.".

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall become effective on January 1 of the first calendar year beginning more than 180 days after the date of enactment of this Act.

SEC. 303. ACCESS TO LIQUIDITY.

Section 204 of the Federal Credit Union Act (12 U.S.C. 1784) is amended by adding at the end the following new subsections:

"(f) ACCESS TO LIQUIDITY.—The Board shall—

"(1) periodically assess the potential liquidity needs of each insured credit union, and the options that the credit union has available for meeting those needs; and

"(2) periodically assess the potential liquidity needs of insured credit unions as a group, and the options that insured credit unions have available for meeting those needs.

"(g) SHARING INFORMATION WITH FEDERAL RESERVE BANKS.—The Board shall, for the purpose of facilitating insured credit unions' access to liquidity, make available to the Federal reserve banks (subject to appropriate assurances of confidentiality) information relevant to making advances to such credit unions, including the Board's reports of examination.".

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. STUDY AND REPORT ON DIFFERING REGULATORY TREATMENT.

(a) STUDY.—The Secretary shall conduct a study of—

(1) the differences between credit unions and other federally insured financial institutions, including regulatory differences with respect to regulations enforced by the Office of Thrift Supervision, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Administration; and

(2) the potential effects of the application of Federal laws, including Federal tax laws, on credit unions in the same manner as those laws are applied to other federally insured financial institutions.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit a report to the Congress on the results of the study required by subsection (a).

SEC. 402. UPDATE ON REVIEW OF REGULATIONS AND PAPERWORK REDUCTIONS.

Not later than 1 year after the date of enactment of this Act, the Federal banking agencies shall submit a report to the Congress detailing their progress in carrying out section 303(a) of the Riegle Community Development and Regulatory Improvement Act of 1994, since their submission of the report dated September 23, 1996, as required by section 303(a)(4) of that Act.

SEC. 403. TREASURY REPORT ON REDUCED TAXATION AND VIABILITY OF SMALL BANKS.

The Secretary shall, not later than 1 year after the date of enactment of this Act, submit a report to the Congress containing—

(1) recommendations for such legislative and administrative action as the Secretary deems appropriate, that would reduce and simplify the tax burden for—

(A) insured depository institutions having less than $1,000,000,000 in assets; and

(B) banks having total assets of not less than $1,000,000,000 nor more than $10,000,000,000; and

(2) any other recommendations that the Secretary deems appropriate that would preserve the viability and growth of small banking institutions in the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Iowa (Mr. LEACH) and the gentleman from New York (Mr. LAFALCE) each will control 20 minutes.

The Chair recognizes the gentleman from Iowa (Mr. LEACH).

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

□ 1145

Mr. Speaker, before the House today is the Senate amendment to H.R. 1151, the Credit Union Membership Access Act. If the House concurs in the Senate amendment, a step I strongly encourage, this important legislation will be cleared for the President for his expected signature, thereby ensuring that millions of Americans will not be forced out of the financial institution of their choice.

This body originally approved the credit union bill on April 1 by a vote of 411–8 and the Senate last week acted by vote of 92–6. This legislation is in response to a 5–4 Supreme Court decision earlier this year which overturned the National Credit Union Administration's interpretation of the 1934 Federal Credit Union Act on what the appropriate common bond should be for Federal credit unions. If the Supreme Court decision were to stand, not only could millions of credit union members be kicked out of their financial institution, but the safety and soundness of the entire credit union system would have been jeopardized.

The Senate amendment generally incorporates the House approach to the credit union issue, especially as it relates to the common bond issue, but there are four major differences between the House and the Senate versions. First, the Senate amendment does not impose community reinvestment-like requirements on State and federally chartered credit unions. The House version would have. Second, the Senate amendment limits the total amount of member business loans to approximately 12 percent of a credit union's assets. The House bill would have frozen current NCUA restrictions on commercial lending for one year. Third, the Senate amendment expands upon the prompt corrective action provisions contained in the House bill, which generally would have called on the regulator to issue regulations comparable to those imposed on banks and thrifts under the FDIC Act. The Senate version provides somewhat greater detail. Finally, the Senate amendment struck the House provisions limiting the economic benefit directors or officers could receive from a conversion of the credit union to a stock form of company. These Senate changes, while not in all instances improvements to the House position, are generally acceptable given that the broad approach of the House has been maintained.

The Supreme Court case was brought by the banking industry because of a perceived difference in the regulatory and tax treatment of credit unions. There is particular angst among bankers that this legislation does not repeal the tax exempt status of credit unions. However, this issue was not broached in the Supreme Court and the Banking Committee from which this bill originated has no jurisdiction over Federal tax laws. Beyond this, this Congress has little appetite for imposing new taxes. But taxes aside, the competitive regulatory playing field between banks and credit unions is pretty well evened out under this legislation. For instance, the new capital standards and prompt corrective regulatory requirements imposed on credit unions under this bill are similar to those imposed on banks and will ensure the continued safety and soundness of operation of credit unions.

In a financial services world where the big are getting bigger from the top down, consumers are increasingly showing their desire to maintain the option of being served by community-controlled institutions, whether they be community banks, savings and loans or credit unions.

It is therefore critical that this Congress do everything in its power to ensure that smaller, community-controlled institutions are provided the means to compete and prosper in the marketplace.

Credit unions, just one part on the cooperative movement side which have so advantaged American society, represent democracy at work in the marketplace. In protecting them, in legitimizing them, this legislation deserves support. I would strongly suggest a "yes" vote on accepting the Senate amendment. I would also strongly urge that the President sign this important legislation.

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

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

Mr. Speaker, in February, the Supreme Court challenged the Congress to answer a difficult policy question, whether to uphold the narrow interpretation of the 60-year-old Federal Credit Union Act or expand the scope of the act to permit credit unions to serve a broader segment of the American public. Today we are giving a definitive answer to that question. I am pleased to say the answer is a resounding "yes" to credit union expansion, "yes" to preserving the membership rights of all current credit union members, and "yes" to making credit union services available to even greater numbers of American families.

The Senate-passed bill we are considering today incorporates virtually every single one of the key elements of the bipartisan compromise that we passed on April 1 in the House of Representatives with an overwhelming 411–8 vote. First and foremost it protects the membership of every current credit union member and every group within a credit union. It also permits common bonds credit unions to continue to expand their field of membership by including new occupation and association based groups. The bill limits this expansion, however, first by requiring the creation of new separate common bond credit unions wherever feasible; secondly, by limiting the size of new groups to under 3,000 members; and, third, by requiring that these smaller groups be included within a credit union that is located within reasonable proximity to the group, thus reinforcing a geographic common bond. This proximity requirement is extremely important, one that I insisted upon, to ensure that we could maintain to the maximum extent feasible the closest practicable geographic common bond. These core elements of this legislation, I am proud to say, follow the basic outline of a set of proposals I circulated last November to encourage discussion of a compromise on the field of membership issue. And like my original proposal, this legislation balances expansion of credit union membership with preservation of the traditional credit union values of common bond and common community.

While this legislation answers the question raised by the court and resolves several other key credit union

issues, it does include two Senate changes that House Members should be aware of. It deletes House language reaffirming the credit union's obligation to serve persons of modest means within their field of membership. Let me emphasize that this House provision only restated a long-understood obligation of credit unions to serve all potential members, and it attempted to provide greater parity in regulatory treatment between credit unions and other financial institutions. The provision should not have been dropped, but the regulators should enforce its existing law, understanding that we simply attempted to reaffirm existing law.

A second change in the Senate amendment is the weakening of current regulatory and voting requirements for credit union conversions to mutual savings institutions. Currently a credit union cannot convert its charter without an affirmative vote of the majority of all its members. The Senate changed this to require only a majority of the members who participate in a conversion vote. The Senate made no provision to assure adequate and effective notice for a conversion vote. Thus under the Senate provision, it is conceivable for a small fraction of a credit union's membership either by manipulation or inadequate notice to convert a credit union and deprive the overwhelming majority of members of their ownership rights and credit union services. This is an inappropriate change that could without very strict regulation and supervision facilitate the slow undoing of our credit union system. I intend to work with the gentleman from Iowa (Mr. LEACH) to address this issue within another context, and I call for the maximum reasonable regulation and supervision permissible by the regulator.

While these aspects of the bill continue to concern me, they are clearly outweighed by the significant improvements the bill makes in the Credit Union Act and by the need for immediate action to resolve the pressing issues raised by the Supreme Court. I believe this is one of the most important bills Congress will consider this year, an important victory for the credit unions and most importantly a tremendous victory for the American consumers.

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

Mr. LEACH. Mr. Speaker, I yield 2 minutes to the honorable gentleman from Ohio (Mr. LATOURETTE) whose leadership on this issue has been unparalleled. It is his bill and to him a principal amount of the credit for its being brought to the floor is due.

Mr. LATOURETTE. I thank the gentleman for yielding me this time. Mr. Speaker, today's floor activity brings to conclusion hopefully a long journey for H.R. 1151, the Credit Union Membership Access Act, although I suppose in legislative or dog years it is rather a quick journey. For that I take to the floor today and I want to thank a number of people, the gentleman from Georgia (Mr. GINGRICH), the Speaker of the House, for getting behind this bill, the gentleman from Iowa (Mr. LEACH) for his guidance and leadership throughout the course of this legislative process, the gentleman from New York (Mr. LAFALCE), the gentlewoman from New Jersey (Mrs. ROUKEMA) and also the gentleman from Minnesota (Mr. VENTO) for all of their hard work, and without a doubt the original cosponsor of this bill the gentleman from Pennsylvania (Mr. KANJORSKI).

In the early part of the year, those were lonely times. Although we were aided by powerful allies on both sides of the aisle, the minority whip the gentleman from Michigan (Mr. BONIOR) on his side and such powerhouses on our side as the gentleman from New York (Mr. SOLOMON), the chairman of the Committee on Rules, and the gentleman from Louisiana (Mr. LIVINGSTON), the chairman of the Committee on Appropriations, it was a long process.

Credit unions should also be thankful for the quick action, Mr. Speaker, taken by the more deliberative body on the other side of the Capitol which has a history of not moving as quickly as it has in this particular instance. I am particularly thankful to the chairman of the Senate Banking Committee. Although the rules of the House prohibit me from naming him by name, I would suggest that his surname rhymes with "tomato."

Although every bill has blemishes, Mr. Speaker, upon which each of us might wish to apply some astringent, H.R. 1151 in its current form is a good bill that needs to move forward before the end of this session. The reason that baseball is America's pastime is that it has no clock. It is over when the 27th out is recorded. Football and basketball have a clock. The clock is ticking on this session of the Congress. We need to get this bill on the President's desk. The millions of depositors and share account owners of credit unions need this matter resolved today.

Concerns about CRA type requirements and charter conversions can be addressed in other legislation. The gentleman from New York (Mr. LAFALCE) has already so eloquently addressed that in his statement. But today is the day, Mr. Speaker, that Clarence the angel who helped George Bailey in It's A Wonderful Life should get his wings and credit union members across this country should get relief.

Mr. LAFALCE. Mr. Speaker, I yield 3½ minutes to the distinguished gentleman from Pennsylvania (Mr. KANJORSKI), the principal author of the original version of H.R. 1151.

Mr. KANJORSKI. Mr. Speaker, in order to ensure that provisions of this legislation are understood and future lawsuits are prevented, I would like to engage in a colloquy with my distinguished colleague from Iowa.

Is it the gentleman's understanding that the definition of a single common bond credit union does not preclude a credit union from having subgroups in its field of membership as long as the subgroups share the same common bond of association or occupation?

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

Mr. KANJORSKI. I yield to the gentleman from Iowa.

Mr. LEACH. The gentleman is correct. The definition of a single common bond credit union does not preclude subgroups, but all such subgroups must have the same common bond of occupation or association.

Mr. KANJORSKI. The bill includes language grandfathering persons and groups which were members of a credit union or eligible for membership in a credit union prior to the Supreme Court decision. Is it my understanding that these grandfather provisions apply to community credit unions as well as to multi-group and single group credit unions?

Mr. LEACH. That is correct. Let me just add one thought, that I want to thank the gentleman personally for his leadership on this issue. He played a very extraordinary role.

Mr. KANJORSKI. I thank the gentleman. I have a colloquy I would like to engage in with my colleague from New York. It is my understanding that if a business sells off or spins off an operating unit or subsidiary, both current and future employees of the operating unit or subsidiary remain eligible for membership in a credit union, is that correct?

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

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

Mr. LAFALCE. That is my understanding, yes, I believe the gentleman is correct. The definition of a single common bond credit union does not preclude subgroups, but all such subgroups must have the same common bond of occupation or association. Furthermore, nothing in H.R. 1151 was intended to preclude new employees of companies that have been spun off from a credit union's original sponsoring group from becoming eligible for membership in the original parent company's credit union.

Mr. KANJORSKI. Mr. Speaker, I rise today to thank all of my colleagues and most especially the gentleman from Ohio (Mr. LATOURETTE). It is very seldom in this House that through the participation in the process of legislation, one forms a friendship and a common bond and not unlike a friendship I developed with a colleague many years ago in first coming to this House, I have found the beginning of that type

of friendship with the gentleman from Ohio. I cherish it, I cherish the process and the experience we have had.

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I also want to thank the chairman of the committee, the gentleman from Iowa (Mr. LEACH), the ranking member, the gentleman from New York (Mr. LAFALCE), the subcommittee chairman, the gentlewoman from New Jersey (Mrs. ROUKEMA), and the ranking member, the gentleman from Minnesota (Mr. VENTO). With all these individuals, and many more, it was their work product that brought this legislation forth today.

It would be remiss of me also not to make mention of the chairman and ranking member of the Senate. They took our text basically as their markup vehicle, worked from it and kept 75 percent of it, and the portions they added were good portions except for the two minor parts that the gentleman from New York (Mr. LAFalce) identified, and we will work with him in the future to correct them.

Finally, Madam Speaker, the people who really should be thanked the most are the 70 million members of the credit movement across this country. Truly in a very cooperative effort they came together, contacted their representatives in this body and the Senate, and prevailed upon them to pass this enlightening legislation. I would say it was a victory of David over Goliath. Indeed it proves that a cooperative effort in America can win, and I would like to apologize to Abraham Lincoln, but I would like to say that today in the spirit of credit unions, it is of the people, by the people and for the people, that they, through this legislation, shall not perish from the earth.

Mr. Speaker, in order to expedite consideration of this important legislation, it is being considered today under suspension of the rules, which limits total debate time to 20 minutes on each side of the aisle. As a result, it is not possible to address all of the issues we would like to address if we had additional time.

I have already expressed my deep appreciation and thanks to my colleague from Ohio (Mr. LATOURETTE) who had the courage to join me in sponsoring this legislation when many of our colleagues thought we were titling against windmills.

I have also expressed my appreciation to the distinguished Chairman of the Committee, (Mr. LEACH) who was at all times fair, courteous and supportive. I also want to thank the ranking Democratic Member (Mr. LAFALCE), the Chairwoman of the Financial Institutions Subcommittee (Mrs. ROUKEMA), the ranking Democratic Member of the Subcommittee (Mr. VENTO), and all of their staffs, who worked long and hard to help produce the bipartisan legislation we are considering today. All of their leadership is greatly appreciated.

Also making a major contribution today's bill is Assistant Secretary of the Treasury Rick Carnell who helped perfect the title of the bill strengthening capital requirements for credit unions, the credit union share insurance fund, and the authority of the National Credit Union Administration to take prompt corrective action against troubled credit unions.

National Credit Union Administration Chairman Norm D'Amours, and the members of the board, also provided their unwavering support for our legislation.

The members of the other body, particularly the chairman and ranking Democratic member of the Banking Committee, must also be commended for acting so promptly on the House-passed bill, and for making only a few changes in it.

And last, and certainly not least, I want to thank the millions of Americans across our national who took the time to explain to their Congressmen and Senators how important their credit union was to them.

It is their hard work that made this victory possible.

It is their hard work that demonstrates what being a member of a voluntary, not-for-profit, cooperative means.

It is their hard work that demonstrates the strength of the cooperative movement.

Mr. Speaker, the court decision we overturn today threatened financial accounts held by tens of millions of average American working families. It also jeopardized the safety and soundness of thousands of credit unions and the National Credit Union Share Insurance Fund.

In my home state of Pennsylvania alone the safety and soundness of 367 credit unions serving nearly two million members and their family were endangered by the court decision.

In addition, if allowed to stand the court decision would have discriminated against the employees of small businesses who would have been effectively denied the right to choose a credit union for their financial services. Yet employees of small businesses are among the persons of small means most likely to benefit from credit union membership.

Mr. Speaker, as the co-author of the Credit Union Membership Access Act, there are a number of technical provisions contained in it which need elaboration, particularly since there will be no formal conference report on the bill.

One amendment added by the other body provides a specific retroactive exception from the multiple common bond requirements for a specific voluntary merger that was in progress when the court decision took effect.

I want to make it clear that in granting this specific retroactive exception from the multiple common bond requirements we are not in any way diminishing the existing authority of the National Credit Union authority under section 205 of the Federal Credit Union Act to grant or withhold approval for voluntary mergers of credit unions.

All of the federal banking regulators, including the National Credit Union Administration, have broad authority to approve and disapprove mergers of institutions under their jurisdiction, and this legislation is not intended to obstruct that authority in any way.

Another important provision in this bill explicitly authorizes multiple group credit unions to include underserved areas in their field of membership. This is a provision which incorporates the principles of legislation originally introduced by the gentleman from Texas (Mr. FROST).

Providing service to underserved areas, which are defined in the bill and by NCUA regulations, helps all credit unions fulfill their mandate to serve persons of small means. It is integral to the spirit of the credit union movement.

By including explicit language authorizing multiple group credit unions to include underserved areas in their field of membership, we are not in any way restricting the ability of the National Credit Union Administration to allow community and single group credit unions to include underserved areas in their fields of membership.

Precluding community credit unions from serving underserved areas would be contrary to their reason for existence.

Similarly, precluding single group credit unions from serving underserved areas makes no sense and would only add paperwork and regulatory burden for both credit unions and the NCUA since virtually any single group credit union can apply to add an additional group to its field of membership, thus becoming a multiple group credit union. Single group credit unions are a subset of multiple group credit unions and it was never intended, and would make no sense, for multiple group credit unions to have this authority, and for single group credit unions not to have similar authority.

In the area of member business loans, the Senate amendments also provide an important exception to the limitation on member business loans for credit unions that are chartered for the purpose of, or have a history of, primarily making member business loans to their members as determined by the National Credit Union Administration.

Under the bill the NCUA has broad authority to determine whether a credit union is chartered for the purpose of, or has a history of primarily making, member business loans to its members. This broad authority is important because member business loans need not be the largest category of loans in order for a credit union to qualify for this exception.

Member business lending merely needs to constitute a significant portion of the portfolio or a significant number of loans in order for the NCUA to determine that a credit union is eligible for this exception.

Secretary of the Treasury Robert Rubin has confirmed to us that member business loans by credit unions are not a safety and soundness problem. Quite to the contrary, member business loans are an important authority for community credit unions, and all credit unions, as they attempt to meet all of the credit needs of their members and their communities. More competition in this area, where many persons of small means have difficulty obtaining credit, must be encouraged by the Congress and the National Credit Union Administration.

Finally, Mr. Chairman, there are two changes made by the Senate amendment which I hope we will be able to revisit at some point in the future. By a relatively narrow margin the other body voted to delete from bill provisions strengthening the obligation of credit unions to meet the financial services needs of persons of modest means. This deletion

was unfortunate because this provision in the House bill helped to keep credit unions focused on their primary purpose.

Similarly, I was extremely disappointed by the deletion of the provisions drafted by Chairman LEACH designed to prevent insider self-dealing when a credit union converts to a mutual savings bank and from a mutual savings bank to a stock institution. This same amendment also greatly weakened the safeguards that exist in current law to prevent quickie conversions without approval by a reasonable, and informed, proportion of the membership.

These changes open the door to the kind of fraud and abuse that we saw all too often during the savings and loan debacle. I hope that federal and state banking regulators will use their oversight authority over any proposed conversions to ensure that consumers are not defrauded and insiders are not enriched. I also look forward to working with the Chairman and ranking Democratic member to correct these provisions in future legislation.

Mr. LEACH. Madam Speaker, I yield 2 minutes to the gentleman from New York (Mr. SOLOMON), our distinguished chairman of the Committee on Rules.

Mr. SOLOMON. Madam Speaker, I thank the gentleman from Iowa for yielding me this time, and I certainly salute him for his stewardship over this legislation; and I want to salute the gentleman from Ohio (Mr. LATOURETTE) and the gentleman from Pennsylvania (Mr. KANJORSKI) for having the courage to introduce this legislation, first of all, and then drive this legislation through the Congress. It was a time when many, in my opinion rather arrogantly, tried to keep this legislation from even reaching the floor, and I was pleased to assist these two fine gentlemen in making sure that that did not happen.

Madam Speaker, following the Supreme Court's February ruling relating to membership in the Nation's credit unions this issue has been among the most pressing this Congress has had to address in many years, and I am pleased that the Congress has acted in a bipartisan fashion to preserve current and future memberships in credit unions. Credit union members have looked to this Congress for a long time now to end any uncertainty which may have resulted from the Supreme Court decision. This legislation guarantees that millions of credit union members, including me and probably you, Madam Speaker, will not be turned away from their credit unions.

And, Madam Speaker, these cooperative organizations count some 70 million Americans as members. There are over 200,000 members in the Hudson Valley of New York State alone, where I happen to reside and represent.

As chairman of the House Committee on Rules, I am often suspicious of the other body and its lack of rules, but in this case, Madam Speaker, the other body I think has improved the legislation. The Senate has produced a consensus product which removes the unfair CRA-like provisions but puts restrictions on business lending, and that is as it should be. And, Madam Speaker, compromise is critical in this legislative process, and I believe that this legislation is an appropriate and fair compromise, and I hope Members will come over and unanimously support it. It is a good piece of legislation.

Mr. LAFALCE. Madam Speaker, I yield 2 minutes to the distinguished gentleman from Minnesota (Mr. VENTO), the ranking Democrat on the Subcommittee on Financial Institutions and Consumer Credit.

Mr. VENTO. Madam Speaker, I thank the gentleman for yielding this time to me and for his work on this measure, as well as the chairman, the gentleman from Iowa (Mr. LEACH), and of course congratulate the principal sponsors, the gentleman from Ohio (Mr. LATOURETTE) and the gentleman from Pennsylvania (Mr. KANJORSKI) for their marshaling of effort and their willingness to work with others to bring us to hopefully final passage and sending this to President's desk today.

This is an urgent problem. This spring, when the court case came out, I think all of us were aware that there had been a back and forth disagreement about what the meaning of the 1934 law is. But what worked in the 1930's in terms of credit unions, and other financial institutions, for that matter, does not fit the needs of the 1990's, of this decade 60 years later. We need to modernize our financial institution laws.

Now there is obviously this law, and the effect of the court decision affected up to 20 million members of credit unions who would have been adversely impacted in terms of having to change memberships, and divest and go through that process. So it became of paramount importance that we act quickly to eliminate any uncertainty because these lines of credit are fundamental to our economy.

As was mentioned by our chairman of the Committee on Rules, 70 million credit union members are a viable part of providing for the services and the needs of people across this Nation, especially in locations that are often remote, often not served by other financial service entities. In fact, of course, people have a strong affection for any of those that are able to give them credit because they, of course, facilitate our successful attainment of ownership of cars, of being able to provide a college education, being able to do many of the things that we need through credit extension in our mixed economy today.

This bill is a fine work product. I regret that the Community Reinvestment Act provisions, or similar provisions that were put on in the House, were taken off. But frankly most of the other work that we achieved in the House in terms of the Committee on Banking and Financial Services and the principal Members, the gentlewoman from New Jersey (Mrs. ROUKEMA) who also worked with us there, is retained in this, so they used our foundation. We are happy to send it along and to have this good measure serve the needs of the people of this country.

Mr. LEACH. Madam Speaker, I yield 2 minutes to the gentlewoman from New Jersey (Mrs. ROUKEMA), our distinguished chairman of the Subcommittee on Financial Institutions and Consumer Credit.

Mrs. ROUKEMA. Madam Speaker, I think I will make three direct points:

First, I think this is a good example of how this Congress can work forthrightly and diligently and on a bipartisan basis to deal with a pressing economic issue and avoid partisan bickering, and I want to commend all my colleagues for that. We have really worked hard on this.

Secondly, there are 20 million credit union members at thousands of credit unions across the country that have been wondering since late February this year whether or not they would be thrown out of their credit unions. We got to say here, at last, we are protecting those innocent people. I am proud to say that the bill makes it very clear that they can remain in the institution of their choice, and that is very important.

And then, too, we are putting, and it is important to me, in place many of the Treasury Department's recommendations on safety and soundness. These changes are extremely important. Credit unions will have prompt corrective action applied to them, and that means that bank-like capital and net worth requirements will be applied to credit unions. That is very important.

In addition, large credit unions will be required to have annual audits performed by licensed CPAs, just like banks and savings associations have. Other safety and soundness provisions improvements are important and are made to the share insurance fund which will ensure the solvency and safety of the fund for years to come.

Finally, Madam Speaker, I want to recognize that the CRA provisions were lifted from the credit union bill, and I think that was the correct choice. No question about that. I do look forward to attempting to provide small community banks and savings associations with similar relief at the appropriate time, but this is not the time today.

We are commending the work of this Congress and the other body for all those millions and millions of credit union people.

I rise today in strong support of this Credit Union bill.

I want to make 3 points.

First, we have worked forthrightly and diligently to work in a bi-partisan way to deal with

this pressing economic issue and avoided partisan bickering.

Secondly, we are protecting innocent people. 20 million credit union members at 3,600 Federal Credit unions have been wondering since late February of this year whether they will be thrown out of their credit union. I am proud to say that this bill makes it clear that they can remain members of their financial institution of choice.

Thirdly, we are putting in place many of the Treasury Department's recommendations on safety and soundness. These changes are extremely important. Credit Unions will have prompt corrective action applied to them—this means that bank like capital and net worth requirements will be applied to credit unions. In addition, large credit unions will be required to have annual audits performed by licensed CPAs just like large banks and savings associations. Other safety and soundness improvements are made to the share insurance fund which will ensure the solvency and safety of the fund for years to come. These new requirements, along with the limits on commercial lending, will assure that credit unions are safe in the years to come. The Senate improved the bill in this area.

Finally, Madam Speaker, I recognize some members and groups may be disappointed with the final product. I know that some are upset that the CRA provisions were lifted from the Credit Unions. I believe that was the correct choice, and look forward to attempting to provide small community banks and savings associations with similar relief at the appropriate time. In addition, I would have liked to see tighter restrictions on the expansion of multiple common bond credit unions. I believe that we should promote the formation of new credit unions whenever possible as opposed to permitting large, multiple common bond credit unions to expand. That is the correct public policy.

Madam Speaker, I know that we have made an honest attempt to be fair in this legislation. I urge my colleagues to support this bill.

Mr. LAFALCE. Madam Speaker, I yield 2 minutes to the distinguished Independent gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. Madam Speaker, first I want to congratulate the gentleman from Iowa (Mr. LEACH) and the ranking member, the gentleman from New York (Mr. LAFALCE) for their very hard work on this important legislation.

As a member of the Committee on Banking and Financial Services and an original cosponsor of this bill, I rise in strong support of H.R. 1151, legislation which will nullify a recent Supreme Court decision by ensuring that Federal credit unions can serve multiple groups and that no current credit union members will be forced out of their accounts.

Large corporate banks have been trying for years to shut out their credit union competition. In recent years they have filed 19 separate lawsuits in 12 States, and now five Supreme Court Justices say the law is on their side. Very simply, we must change the law and ensure that Americans have choices in banking, and today we will do just that.

At a time of increasing bank fees, ATM surcharges, high credit card fees, increasing minimum balance requirements and the loss of many locally-owned banks to large, multi-billion dollar corporate institutions, credit unions today are more important than they have ever been. I have been a long-time supporter of credit unions because they are managed by their members and not by a high-priced board of directors. Credit unions, therefore, are more concerned about the financial needs of their own membership and not the profits of the owners of the institution. Credit union profits do not go to pay high executive salaries; they are directed back to customers in the form of lower fees and higher rates of return.

In Vermont, where 170,000 people are members of credit unions and where the membership has played a very, very active role in determining that this legislation will be passed, credit unions provide important benefits such as lower loan rates, lower minimum balances, free ATM use and free credit cards.

Madam Speaker, it is incumbent upon Congress to pass this important legislation, and I urge all of our Members to support it.

Mr. LEACH. Madam Speaker, I yield 2 minutes to the distinguished gentleman from Texas (Mr. ARCHER), chairman of the Committee on Ways and Means.

Mr. ARCHER. I thank the gentleman for yielding this time to me, Madam Speaker, and I reluctantly rise in opposition to this bill.

I voted for the first bill that came through the House, and I am not here to in any way criticize the detailed compromises made with the Senate, but what I am here to state as, I think, a fatal flaw in this bill is it is scored as losing $150 million in revenue over the next 5 years which is not paid for. We are supposed to operate under rules that no suspension can be brought on the floor if it involves over $100 million. This $150 million of scored revenue loss is the result of expansion of credit unions operating on a tax-free basis and therefore costing revenue to the Treasury. It has been used already, this money has been used already to pay for the health bill that passed this House. It redounds to our score card on Ways and Means as a tax loss, and therefore on the score card will reduce the amount of revenue that we have already used to offset the health care bill.

Madam Speaker, this is not the way this House should do business, and I must oppose this bill so that it can come back in a form where it is appropriately paid for.

Mr. LAFALCE. Madam Speaker, I yield 2 minutes to the gentleman from New York (Mr. HINCHEY).

Mr. HINCHEY. Madam Speaker, I, too, want to strongly support H.R. 1151, the Credit Union Membership Act of which I am an original prime sponsor.

The credit union movement has distinguished itself over the years by providing its members with good quality, low cost financial services. As nonprofit cooperatives managed by their members, credit unions excel at providing the services families and small businesses need most. Study after study shows that from home mortgages to student loans to start-up financing for small businesses, credit unions beat the competition in terms of service and customer satisfaction.

Credit unions have also taken the lead in communities that are all but ignored by the banking industry. In many distressed urban and rural areas a community development credit union is often the only conventional financial institution to be found. In my district a group of public housing tenants formed a credit union when they were unable to interest a bank in their financial goals. We need to encourage these types of institutions to bring more low-income individuals into the financial mainstream.

The credit union movement deserves much of the praise for this legislation. Like everyone here, I heard from people in my district who are passionate about their credit unions, not just the officers and directors and employees, but the men and women and families and businesses who are affiliated with these institutions. Not only did they take the time to call and write, but they also came here to Washington and to my district offices to tell me in person how important their credit unions are to them.

So, Madam Speaker, on behalf of the 3.3 million New Yorkers who are credit union members, I urge the suspension of the rules and the passage of H.R. 1151.

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Mr. LEACH. Madam Speaker, I yield myself 1 minute.

Madam Speaker, I would simply respond to a previous intervention. Let me just say the CBO has estimated a revenue loss of $143 million for this bill, but it is important to note that there will be a $510 million increase in revenues to the credit union fund. But because of budget rules, the $510 million cannot be used as an offset to this revenue loss. Instead, the $143 million revenue loss must be absorbed through other tax accounts under the budget rules.

I will say in the Senate, the Senate balanced this revenue loss with their IRS reform bill. We have formally by letter informed the Committee on Ways and Means of this circumstance, but I recognize it does produce certain difficulties for the distinguished chairman of the Committee on Ways and Means.

All I can say is this is not a surprise. It has been dealt with appropriately in the Senate, it has been flagged here in the House, and there is an offset of approximately three times the revenue loss, but it occurs in another account of the Federal budget.

Mr. LAFALCE. Madam Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. KENNEDY) in opposition to the bill.

Mr. KENNEDY of Massachusetts. Madam Speaker, I rise today as a strong supporter of nonprofits, as a strong supporter of credit unions, but a strong opponent of this bill.

The truth of the matter is that the politics that went on in the formation of this bill would make the bankers, the insurance industry and all of the special interests that normally come before the Committee on Banking salivate. They went into the back room of the Senate and they knocked out all of the provisions that are supposed to protect the consumer, particularly the poor consumer.

These credit unions come into our offices and pretend they are taking care of the poor. They pretend that the Congress established them to go into underserved areas, where bankers would not go. The fact of the matter is, if you look at their records, the credit unions have an abominable record of lending to the poor, the worst record of any of the banks, of any of the S&L's. They have a worse record in lending to people of color, the minorities, blacks.

In the Navy Credit Union, the Navy, which prides itself on bringing in minorities into the Nation's service, you are 11 times more likely coming from the same neighborhood with the same income levels to be turned down for a home mortgage loan if the color of your skin was black versus if it was white.

The truth of the matter is the credit unions ought to be held to the Community Reinvestment Act. We could not get that through. But what we could get through is the fact that they would have to publicly report exactly what their record of lending to the minority communities and the low income communities have been. It is 5.4 percent today, with the information we get, much lower than any of the other financial services industries that we collect data on, and 16.5 percent in terms of the minority community loans.

Madam Speaker, these numbers are an indictment of an industry that comes before each and every Member of Congress, parades before us a bunch of little folks that have deposits in credit unions, and then tells us there is a terrible attack taking place on credit unions by the big banks and insurance companies, so therefore we should give them everything they want.

That is not how it is supposed to work. We are supposed to stand for some principles. And if these folks that run these credit unions, particularly the very large ones, which are much bigger than many banks, think they can just come in and roll right over the Congress of the United States, roll right over the United States Senate, have everybody come marching on up here saying what a great job they do, and sweep under the rug how they treat the poor, how they treat minorities, we ought to be ashamed of ourselves.

We have to stand up every once in awhile and try to do what is right. We are not asking the credit unions to lose money. What we are saying is that if somebody who is a member of that credit union comes in and the color of their skin happens to be black, they ought to be treated the same way as somebody who is a member of that credit union whose color of their skin happens to be white, and that does not happen in today's America. It ought to happen. We ought to defeat this bill. We ought to stand up to the credit unions and do what is right.

Mr. LEACH. Madam Speaker, I yield 2 minutes to my distinguished colleague, the gentleman from Texas (Mr. PAUL).

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

Madam Speaker, today I rise in support of this bill. I do not support legislation casually here, and have thought this through. I voted against this bill the first time it went through, and I was one of a few. But it is a better bill now than it was before.

I am a supporter of the free market, and I do not believe you can achieve equity by raising taxes and putting more regulations on those who do not have regulations and who do not have taxes.

For this reason, I argued the case that instead of equity being achieved by taxing credit unions or making it more difficult for them to survive with more regulations, the best thing we should do now is talk about at least the smaller banks that compete with credit unions, to lower their taxes, get rid of their taxes and get rid of the regulation.

Precisely because we dealt with the CRA function in the Senate is the reason that I can support this bill. CRA does great deal of harm to the very people who claim they want CRA to be in the bill. CRA attacks the small, marginal bank that is operating in communities that have poor people in them. But if you compel them to make loans that are not prudent and to make loans that are risky, you are doing precisely the opposite of what we should do for these companies.

We should work to lower taxes, not only on the credit unions, and lower regulations. We must do the same thing for the banks. We must lower the taxes and get rid of these regulations in order for the banks to remain solvent and that we do not have to bail the banks out like we have in the past. But the regulations do not achieve this.

This is a bill that I think really comes around to achieving and taking care of a problem and protecting everybody interested. But I am quite convinced that this is still not a fair bill, a fair approach, because we have not yet done enough for our community bankers. We must eventually apply these same principles of less regulations and less taxes to the small banker. Then we will provide a greater service to the people that are their customers, and we will certainly be allowing the poor people a greater chance to achieve a loan.

Since I strongly support the expansion of the field of membership for credit unions and was the first one in this congress to introduce multiple common bonds for credit unions in the Financial Freedom Act, H.R. 1121, I am happy to speak in support of the passage of H.R. 1151 here today. Having argued forcefully against the imposition of new regulations imposed upon credit unions, I congratulate the senate for not increasing the regulatory burden on credit unions in an attempt to "level the playing field" with banks and other financial institutions.

A better approach is to lead the congress toward lower taxes and less regulation—on credit unions, banks and other financial institutions. H.R. 1151, The Credit Union Membership Access Act, as amended by the senate, takes us one step in the right direction of less government regulation restricting individual choice. We must continue on the path of fewer regulations and lower taxes.

These regulations add to the costs of operations of financial institutions. This cost is passed on to consumers in the form of higher interest rates and additional fees. These regulations impose a disproportionate burden on smallers institutions, stifles the possibility of new entrants into the financial sector, and contributes to a consolidation and fewer market participants of the industry. Consumers need additional choices, not congressionally-imposed limits on choices.

The estimated, aggregate cost of bank regulation (noninterest expenses) on commercial banks was $125.9 billion in 1991, according to The Cost of Bank Regulation: A Review of the Evidence, Board of Governors of the Federal Reserve System (Staff Study 171 by Gregory Elliehausen, April 1998). It reports that studies estimate that this figure amounts to 12 percent to 13 percent of noninterest expenses. These estimates only include a fraction of the "most burdensome" regulations that govern the industry, it adds, "The total cost of all regulation can only be larger . . . The basic conclusion is similar for all of the studies of economies of scale: Average compliance costs for regulations are substantially greater for banks at low levels of output than for banks at moderate or high levels of output," the Staff Study concludes.

Smaller banks face the highest compliance cost in relation to total assets, equity capital and net income before taxes, reveals Regulatory Burden: The Cost to Community Banks, a study prepared for the Independent Bankers

Association of America by Grant Thornton, January 1993. For each $1 million in asset, banks under $30 million in assets incur almost three times the compliance cost of banks between $30–65 million in assets. This regulation almost quadruples costs on smaller institutions to almost four times when compared to banks over $65 million in assets. These findings are consistent for both equity capital and net income measurements, according to the report.

We need to work together now to reduce the regulatory burden on all financial institutions. The IBAA study identified the Community Reinvestment Act as the most burdensome regulation with the estimated cost of complying with CRA exceeding the next most burdensome regulation by approximately $448 million or 77%. Respondents to the IBAA study rated the CRA as the least beneficial and useful of the thirteen regulatory areas surveyed. We need to reduce the most costly, and least beneficial and useful regulation on the banks.

Let's all work together now, credit unions, banks and other financial institutions, to reduce their regulatory burden. Credit unions have demonstrated that fewer regulations contribute to lower costs passed on to consumers and greater consumer choice. Let's extend that model for banks and other financial institutions.

Mr. LAFALCE. Madam Speaker, I yield 1 minute to the gentleman from California (Mr. FILNER).

Mr. FILNER. Madam Speaker, I rise today also to herald the final passage of H.R. 1151, the Credit Union Membership Access Act. Our vote today for H.R. 1151 is a vote of confidence in the 71 million Americans who are member-owners of more than 11,000 credit unions throughout the Nation.

I do not often differ with the gentleman from Massachusetts, but I represent a fairly low income district in Southern California, 75 percent of which are people of color. My district supports the credit unions. They are working in our neighborhoods and supporting our neighborhoods.

I want to praise the grassroots efforts of millions of credit union members for rising to the defense of their credit unions and fighting the battle until it was won. This bill is needed to protect them, and it provides guidance on how they can expand.

We are guaranteeing credit union members, every day workers in our Nation, the ability to choose low-cost higher returns and greater convenience. With final passage, we will be giving credit union members, everyday Americans who believe in democracy, the victory they so richly deserve.

Marla, this one's for you.

Mr. LEACH. Madam Speaker, I yield 1 minute to the distinguished gentleman from New York (Mr. QUINN).

Mr. QUINN. Madam Speaker, I want to congratulate the gentleman from Iowa (Mr. LEACH), and my good friend, the gentleman from Buffalo (Mr. LAFALCE), on their work on this, and I want to speak about this great American success story that we heard about this morning, the Nation's credit unions.

Of course, credit unions are far different from banks. They are democratically owned and primarily engaged in consumer loans, and, Madam Speaker, I believe it is this simplicity that is the secret to their success.

Credit unions are not in the business to buy other banks, they are not there to sell insurance or to acquire commercial affiliates. More importantly, they are not for profit. Credit unions have all of the revenues funneled back into the members for low cost loans.

I am a proud sponsor of the Credit Union Membership Access Act to preserve credit unions in their current status. The many differences between credit unions and banks are what make credit unions so valuable. Even bankers admit that there is a certain percentage of the population that banks cannot serve. Low wage workers oftentimes cannot afford high bank fees or loan rates. Without credit unions, these people would be forced to turn to check cashers or to pawn brokers or any number of different kinds of facilities.

I know that my district in western New York, thousands of people have come to rely on credit unions. I have constituents tell me all the time how much they mean to them, and many claim they would not be able to afford their own home, a loan to start a new business, or, in my case, attend college. It is clear to me credit unions are critical for thousands of Americans, and I urge Congress to help credit unions play an important role, now and in the future.

Mr. LAFALCE. Madam Speaker, I yield 1¼ seconds to the gentleman from Michigan (Mr. DINGELL), the distinguished ranking member of the Committee on Commerce.

Mr. DINGELL. Madam Speaker, I rise to, first of all, commend the leadership on both sides, the distinguished gentleman from Iowa and the distinguished gentleman from New York, for this legislation.

I rise to offer my unequivocal support for the legislation, and also to praise credit unions, which are dedicated to the communities and the people they serve. These institutions provide low-cost consumer credit to American families and small businesses, and they provide a fine opportunity for the American people to work together for their own common good. I urge support of H.R. 1151.

As a freshman Congressman in 1934, my dad worked on the Federal Credit Union Act. The committee in its report on that legislation, which happened in one of the darkest times in American financial history, said this: That the credit unions have, and I now quote, "come through the depression without failures, when the banks have failed so notably, is a tribute to the worth of cooperative credit."

That is as clear today as it was then. Credit unions are a vital part of our community and our Nation. They serve the people, and they serve them well.

Strong consumer support for credit unions does not surprise me. Over the past year, people have come to me at town hall meetings, pancake breakfasts and other events, and said to me, "Congressman, you have to help the credit unions, because they work for us."

While some of the provisions in the House bill are different than I would have had, H.R. 1151 is a good bill. It will help credit unions continue to provide high-quality low-cost services to the members and to the communities which have made them so popular with the families across America.

I urge support of the legislation, and I commend my colleagues who have worked on it.

Mr. LEACH. Madam Speaker, I yield 30 seconds to the gentleman from New York (Mr. LAFALCE).

Mr. LAFALCE. Madam Speaker, I thank the gentleman very much for this time.

Madam Speaker, I want to take this opportunity to thank the chairman, to thank majority and minority Members, to thank the majority and minority staff. This has been truly a bipartisan, a collegial effort.

I think we have an excellent bill before us today. It is not 100 percent that either the chairman or I would like, but it is pretty close. I would have preferred that we had a slightly different process of going to conference with the Senate, but there were circumstances which made that difficult, and it was expedient to obtain final passage before the recess. I certainly understand the judgment that was made.

I hope that we can go forward in a similar fashion on other legislation, whether it is the IMF legislation, whether it is the financial services modernization. I hope in financial services modernization we will not receive something from the Senate the day before we are about to leave, so that we have to consider that on a take-it-or-leave-it basis also. But I look forward on all of these issues to working with the chairman, as we have on this particular bill.

Mr. LEACH. Madam Speaker, I yield myself the balance of my time.

Madam Speaker, I thank the gentleman from New York (Mr. LAFALCE). Let me just say a couple comments about the process. For a deliberative body, we have moved quickly on this legislation. Within two weeks of the Supreme Court ruling, our Committee on Banking and Financial Services had a comprehensive hearing on the subject. Two weeks later we marked up a bill, and one week later brought it to

the floor. Once the Senate has acted, we have responded again within a two week time frame.

This is testament, I believe, to cooperation between the parties, as the gentleman from New York (Mr. LAFALCE) has mentioned. I think it is very important that I particularly extend my appreciation to the gentleman from Ohio (Mr. LATOURETTE), the gentleman from Pennsylvania (Mr. KANJORSKI), the gentleman from New York (Mr. LAFALCE) and the gentleman from Minnesota (Mr. VENTO), who have played just an extraordinarily critical role in the legislation. But this is not abstract legislation.

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It is, most of all, a testament to the role of credit unions in American society and the allegiance which they have obtained.

What we have here is an industry that has served its members, served its members well. It has brought services at a competitive rate to people who have controlled their own financial destiny in ways they never have been able to before. It has also brought competition to other kinds of private sector institutions that are not part of the cooperative movement.

This is a very fundamental role of cooperatives, to serve members and people who are nonmembers, because of the competition that is implicit within this particular kind of cooperative structure.

Finally, I would also stress that this body should above all respect choice, the choice of the individual Americans. Approaches that are designed to deny choice to the individual American in finance, to force Americans by default into institutions that may be beyond their control, is a mistake.

What the credit union movement symbolizes is an option for the average American, an option that is a community-controlled circumstance, an option that has served the public historically exceptionally well. I am confident it will in the future. I am proud of this legislation. I believe it is common sense. I also believe that it is deeply legitimizing of a movement that deserves every aspect of legitimacy that it can muster. I urge my colleagues to support this legislation, and I also urge the President to promptly sign it.

Ms. KAPTUR. Madam Speaker, I rise in support of H.R. 1151, the Credit Union Membership Act.

This has truly been a classic "David-versus-Goliath" confrontation between widely different interests. The "Davids" in this instance are the thousands of not-for-profit small credit unions throughout the nation, such as Little Flower Parish Federal Credit Union in Toledo. Little Flower has 1,700 members, with total assets of $5 million. I'm proud to be one of those members.

This is a confrontation that pits member-owned credit unions that are not-for-profit cooperatives against banks that often place the interests of shareholders and profits over and above the need of consumers and communities. With higher fees becoming more prevalent and banking options shrinking for many consumers, there can be little doubt that credit unions have helped to keep banks in check by being viable financial alternatives for millions of Americans. America's consumers will now be guaranteed more options and alternatives when it comes to conducting their financial business and transactions.

As was stated in an editorial in the Toledo Blade earlier this year, "Credit unions are about local folks helping local folks." I'll continue to support the "local folks" who place community and family over profits only and will continue to fully support America's credit unions and the rights of all Americans to join and belong to their local credit union.

Madam Speaker, H.R. 1151 is right for all Americans.

Mr. CUNNINGHAM. Madam Speaker, I rise once again in support of the Credit Union Membership Access Act (H.R. 1151). While the Senate has made a couple of minor changes to the legislation the House passed earlier this year, the substance of this legislation remains the same.

H.R. 1151 will reverse the February 25, 1998, Supreme Court ruling (AT&T Family Federal Credit Union et al. v. First National Bank & Trust Co.) which sent shockwaves through this nation's 70 million credit union members. That decision threatened the future financial safety of our nation's credit unions. The 51st District in California, which I represent, is served by more than 230 different credit unions with more than 305,000 members. By passing this legislation, we will ensure that not a single credit union member will lose their choice of financial service provider.

This legislation affirms the commitment of this Republican Congress to keep a healthy, competitive financial service industry in America. I call on all my colleagues to join me in support of credit union members and to vote for H.R. 1151, with the Senate Amendments.

Mr. BENTSEN. Madam Speaker, I rise today in support of H.R. 1151, the Credit Union Membership Access Act. This legislation is necessary to ensure that credit unions can continue to accept new members and consumers continue to have the freedom to select the financial institutions of their choice. I am pleased that Congress has acted so quickly to reverse the February Supreme Court decision ruling that credit unions were illegally allowed to form bonds between unrelated groups.

As a member of the House Banking Committee, where this legislation originated, I am pleased that Congress has acted in a prudent manner to ensure that credit unions can continue to accept new members. For many consumers, credit unions offer low-cost, well-managed financial institutions to serve their needs including checking and savings accounts. I believe that many Texans will benefit from this legislation.

This legislation would overturn this Supreme Court ruling and allow credit unions to serve all consumers. This measure would establish three different types of credit unions, including single common bond, multiple common-bond, and community credit unions. Single common bond credit unions would be formed around one single company. Multiple common-bond credit unions would include groups of up to 3,000 that are in "reasonable proximity" to each other. Larger groups could also join multiple common-bond credit unions, as could persons in under served areas, through a formal review process at the National Credit Union Association (NCUA), the federal agency responsible for overseeing credit unions. Community credit unions would be based on a distinct community.

This measure would also limit the amount that credit unions can provide for commercial business loans to their members. The bill includes a provision to limit commercial business loans to 12.25% of the credit union's assets. Any credit unions that currently exceed these limits would have three years to come into compliance. For any undercapitalized credit unions, new loans would be restricted until their capital levels are increased to proper levels.

This legislation would also provide important new protections to ensure that credit unions are financially sound. These provisions include a requirement that credit unions larger than $10 million in assets must prepare a financial statement based upon generally accepted accounting principles and that credit unions larger than $500 million or more in assets must have an independent audit of their financial statements. This legislation also establishes new credit union capital requirements that would determine the financial status of credit unions. The legislation also requires that the National Credit Union Share Insurance Fund (NCUSIF), the federal deposit insurance fund for credit unions, must maintain a minimum of 1.2 percent of insured deposits in order to save for future losses at credit unions. If the NCUSIF drops below this level, this legislation would require the NCUA to increase assessments to reach this level.

As a supporter of the House version of this bill on April 1, 1998, I am pleased that the Senate has also acted to approve this bill. The bill being considered today would resolve this matter and ensure that credit unions can continue to grow and prosper. I urge my colleagues to support this critical banking legislation.

Mr. LAFALCE. Madam Speaker, in February the Supreme Court challenged Congress to answer a difficult policy question—whether to uphold its narrow interpretation of the 60-year-old Federal Credit Union Act or overturn the Court and expand the scope of the Act to permit credit unions to serve a broader segment of the American public.

Today, we are giving a definitive answer to that question. I'm pleased to say the answer is a resounding "yes" to credit union expansion, "yes" to preserving the membership rights of all current credit union members, and "yes" to making credit union services available to even greater numbers of American families.

The Senate-passed bill we are considering today incorporates virtually every single key element of the bipartisan compromise that passed the House on April 1st with an overwhelming 411-to-8 vote. First and foremost, it protects the membership of every current credit union member and every group within a

credit union. It also permits common bond credit unions to continue to expand their field of membership by including new occupation and association-based groups. The bill limits this expansion, however—first, by requiring the creation of new, separate common-bond credit unions wherever feasible; second, by limiting the size of new groups to under 3,000 members; and third, by requiring that these small groups be included within a credit union that is located within reasonable proximity to the group—thus reinforcing a geographic "common bond".

This "proximity" requirement is extremely important, and I insisted on its inclusion in the bill to ensure that we maintain, to the maximum extent practicable, the closest feasible geographic common bond. It was my intent in offering this provision that NCUA give a conservative interpretation to the term "reasonable proximity", allowing credit unions located in a larger city to incorporate only common bonds groups located within nearby sections of that city. This would mean, for example in my own Congressional district, that a credit union located in Rochester could incorporate an eligible common bond within the Rochester area. It should not be able to incorporate groups in outlying counties or in a nearby city such as Buffalo, except in instances where there is no local credit union capable of expanding its services to serve these groups. Similarly, credit unions based in smaller cities or towns, like Lockport or Niagara Falls in my district, also should be able to incorporate new groups only from within, or in close proximity to, those jurisdictions. However they should also have priority in serving local groups ahead of any credit union based outside the area. This is an area where NCUA will not to provide detailed guidance to credit unions.

The core elements of this legislation, I'm proud to say, follow the basic outline of a set of proposals I circulated last November to encourage discussion of a compromise on the field of membership issue. Like my original proposal, this legislation balances expansion of credit union membership with preservation of the traditional credit union values of common bond and community.

While this legislation adequately answers the questions raised by the Court and resolves several over key credit union issues, it includes two Senate changes that House Members should be aware of. It deletes House language reaffirming the credit unions' obligation to serve persons of modest means within their field of membership. Let me emphasize that this House provision only restated a long-understood obligation in current law that credit unions must serve all potential members, and it attempted to provide greater parity in regulatory treatment between credit unions and other financial institutions. This provision should not have been dropped. I strongly encourage NCUA to continue enforcing current law with the understanding that this legislation merely attempted to reaffirm and clarify this existing obligation . . . it does not negate or eliminate it.

A second change in the Senate amendments is the weakening of current regulatory and voting requirements for credit union conversions to mutual savings institutions. Currently, a credit union can not convert its charter without an affirmative vote of a majority of its members. The Senate changed this to require only a majority of the members who participate in a conversion vote. The Senate made no provision to assure adequate and effective notice for conversion vote. Thus, under the Senate provision it is entirely possible for a small fraction of a credit union's membership, either by manipulation or inadequate notice, to convert a credit union and deprive the overwhelming majority of members of their ownership rights and credit union services. This is an inappropriate change that could, without very strict regulation and supervision, facilitate the slow undoing of our credit union system. I intend to work with Chairman LEACH to address this issue within another context. In the meantime, I urge NCUA to exercise the maximum feasible regulation of credit union conversions permissible under this legislation.

While these aspects of the bill continue to concern me, they are outweighed by the significant improvements the bill makes in the Credit Union Act and by the need for immediate action to resolve the pressing issues raised by the Supreme Court. I believe this is one of the most important bills Congress will consider this year. It is an important victory for the credit unions and, most important, it is a tremendous victory for American consumers.

I am proud of the significant work and bipartisan cooperation that went into the development of this legislation. It is good public policy. I urge the House to suspend the rules and adopt H.R. 1151.

Mr. THOMPSON. Madam Speaker, I rise today in support of the final passage of H.R. 1151, the "Credit Union Membership Access Act." I was proud to be an early co-sponsor of the original House version of this bill, and I am glad to see the final product we will send to the President's desk includes most of the provisions in that bill.

Last year the Supreme Court ruled the members of a federal credit union must be organized on the basis of a common occupational bond, which threatened the viability of federal credit unions across the nation. This suit was filed by one of the largest banks in the nation out of fear that credit unions were encroaching on business services which traditionally have been offered by banks. I find this fear irrational, especially when one takes into account the overall characteristics of the two industries. For example, the $5.4 trillion U.S. banking industry grew by more than $300 billion last year, an amount almost as great as the total assets of all American credit unions combined. Moreover, the average credit union has less than $28 million in assets—less than one sixteenth the size of the average banking institution.

The bill we are voting on today expressly protects the structure of all existing credit unions and permits future credit unions to gather members from multiple groups. Despite the previous disagreements between the banking and credit union industries, I believe this design will permit both credit unions and banks to continue to prosper by correcting the flaws in existing law the Supreme Court has unearthed. Most importantly, the bill will ensure each working American is free to obtain services from whatever type of financial institution he or she considers best.

I am pleased to join with my colleagues on both sides of the aisle in support of the Credit Union Membership Access Act, and I look forward to watching the President sign it into law.

Mr. DAVIS of Illinois. Madam Speaker I rise today to express my concerns regarding H.R. 1155, The Credit Union Membership Access Act, as amended by the Senate on July 27, 1998. While I recognize the important and necessary role credit unions play in our economy, it is my understanding that their creation was expressly premised upon the dire need to serve low-income communities and groups. It was out of recognition of this unique obligation that I worked to preserve the tax-exempt status for credit unions. The inclusion of an express requirement that credit unions serve economically disadvantaged groups appears to be a consistent, if not superfluous, corollary to these originally stated goals. Unfortunately, changing times has not ushered in an era where the need for financial institutions that serve underserved communities has dissipated.

In fact, the need to provide financial services to low-income communities is as compelling today as it has ever been. There are endless accounts of individuals with limited financial means who have been unable to purchase a home, unable to buy a car, unable to by other necessities of life simply because they cannot find financing in the private sector. Obviously, it is proper and fitting to require credit unions—who receive a subsidy from the government by virtue of their tax-exempt status—to serve these underserved communities and groups.

It is quite ironic that the rationales offered in debate on the House floor in support of H.R. 1151 were based upon the unique obligation credit unions have to serve lower-income groups. Yet, this version of H.R. 1151 deletes any express requirement that credit unions serve these communities or groups. This irony is further underscored by the fact that it has been an unwritten policy of the National Credit Union Administration that credit unions must significantly endeavor to serve low-income groups. Nevertheless, I am hopeful that this unwritten policy will continue.

Mr. VENTO. Madam Speaker, I rise today in support of this urgently needed legislation for current credit unions and their members who have been jeopardized by the Supreme Court's decision in February. The House passed this bill in April and the other body finally sent our bill back to us last week with some changes.

This bill will protect the ten to twenty million credit union members that could be affected by the Supreme Court ruling this past Spring. H.R. 1151 as passed by the House earlier and now as passed by the Senate with amendment should also assist future credit unions and their members by providing additional statutory direction that can hopefully immunize the credit union industry from future law suits.

Following the lead provided by our good work in the House Banking Committee, the Senate made limited and mostly positive amendments to H.R. 1151. I support the changes made to the Prompt Corrective Action provisions of the bill along with the strengthening of the capital standards for credit unions. I am concerned, however, and want

to note here for the record that the Community Reinvestment Act (CRA)-like requirements were stricken from the bill. These were a positive addition to the bill and one that I believe would have served credit unions and their members well. The loss of this provision, however, should not jeopardize the work of the NCUA in providing some kind of community service test in regulation for credit unions that are community based by their very name. Such a regulatory test, focused on actual performance in their own community is important when credit unions form in order to serve specific communities and is a fair test of the strength of a community credit union's charter. Despite my reservations about the loss of the CRA-like provision, I recognize the importance of acting and acting now to resolve the membership issues for credit unions and do not want to hold up the good in pursuit of the better.

Madam Speaker, credit unions are a vital part of so many communities, neighborhoods, workplaces and towns across this great land. They provide needed financial services sometimes in special locations and places where affordable, good services and credit is scarce. For all of those communities and members, Congress needs to modernize the 1934 credit union law and field of membership definitions which certainly do not fit the socio-economic reality of the 1990's. Credit unions have been in a straight-jacket even before the February court ruling because of the caution their regulator had to take in light of all the court actions.

We have reached a point when credit union law must move credit unions from the strict interpretation of the "common bond" and "field of membership" law so that the economic realities of the world of business and employment today: divestitures, mergers or closings of businesses, doesn't result in the double whammy of the loss of financial services through credit unions. The model that served in the 1980's does not fit the 1990's anymore than the laws governing other financial institutions fit.

By creating a new mechanism for adding so-called select employee groups, basically allowing multiple common-bond credit unions, we are revamping and facilitating the federal credit union law and empowering credit unions to adapt to the 1990's market place. Once law, the provisions of H.R. 1151 will provide clear direction to the National Credit Union Administration (NCUA) including a 3,000 field of membership guideline and a reasonable proximity test. It also affords the regulator with flexibility to accommodate groups that may not meet this test but that would find it difficult to form a single-bond credit union of their own.

We will now have a significantly strengthened regulatory foundation for credit unions, the regulator and the insurance fund by adding capital and net worth requirements to be established by the National Credit Union Administration. The NCUA will be empowered with important prompt corrective action powers, like those that have been established to govern the banks and thrifts. These important safety and soundness provisions should not be overlooked.

The Senate has added a further limitation on member business loans, based on a net worth for a well-capitalized credit union so that total member loans for business purposes would be limited to 12.25%. Importantly, however, exceptions are provided along with a three year transition period for credit unions who do not immediately comply and special exception for credit unions established for such expressed purpose as fits the entity activities. For example commercially, fisherman loans for their enterprise remain an appropriate activity.

Madam Speaker and Members of this House, we need to pass this bill today so that this corrective legislation with regards to credit unions can make its way to the President as soon as possible and become law.

Credit unions have been faced by the same competitive pressures, changing technology, and the evolution in products and services that other financial institutions are facing. In order to meet the challenges of the 21st Century, credit union law, regulation and operation must modernize and grow responsibly. I urge my Colleagues to support H.R. 1151, the Credit Union Membership Access Act.

Mrs. MINK of Hawaii. Madam Speaker, today is a great day for credit unions and the concept of grassroots movements in this nation. With this bill, H.R. 1151, we are beating back efforts of the big banks to limit access to non-profit, community-oriented credit unions.

With the unanimous support this bill received in the House, I have no doubt that this Senate version will pass today, and very soon the President will sign it into law.

H.R. 1151 is necessary because in February of this year, credit unions were dealt a severe blow by the Supreme Court, which upheld a ruling prohibiting the practice of multiple-group federal credit unions. In multiple-group credit unions, membership can consist of more than one distinct group so long as each group has its own common bond. This practice maintains the long standing practice of a credit union that its members have a common bond, yet allow credit union membership to continue to grow and thrive in our communities throughout the nation.

H.R. 1151, overturns the Supreme Court ruling and allows credit unions to expand membership outside of their original group, as along as new members share common bond with each other.

This is a particular victory for smaller communities and organizations that cannot maintain a credit union on their own. This bill will allow them to join existing credit unions. This is especially important in the rural areas of my state where groups may be too small to start their own credit union. Financial institution options are often limited in rural communities; this bill will help assure that individuals and families in rural communities have access to credit union alternatives.

I was told that without this bill up to 69 of Hawaii's 113 credit unions could have been affected by the Court decision to limit credit union membership.

Credit Unions are unique financial institutions built upon the idea of members in a community helping one another. It is the concept that collectively we can do more for each other than on our own. We need to preserve this unique nature of credit unions and support membership access to our credit unions.

I urge my colleagues to join me in supporting the Credit Union Membership Access Bill. Let's send this bill to the President today!

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

The SPEAKER pro tempore (Mrs. EMERSON). The question is on the motion offered by the gentleman from Iowa (Mr. LEACH) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 1151.

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

A motion to reconsider was laid on the table.

SENSE OF CONGRESS THAT ELIMINATION OF TRADE RESTRICTIONS ON IMPORTATION OF U.S. AGRICULTURAL PRODUCTS SHOULD BE TOP PRIORITY

Mr. CRANE. Madam Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 213) expressing the sense of the Congress that the European Union is unfairly restricting the importation of United States agricultural products and the elimination of such restrictions should be a top priority in trade negotiations with the European Union, as amended.

The Clerk read as follows:

H. CON. RES. 213

Whereas on a level playing field, United States producers are the most competitive suppliers of agricultural products in the world;

Whereas United States agricultural exports reached a level of $57,000,000,000 in 1997, compared to a total United States merchandise trade deficit of $198,000,000,000;

Whereas the future well-being of the Unites States agricultural sector depends, to a large degree, on the elimination of trade barriers and the development of new export opportunities throughout the world;

Whereas increased United States agricultural exports are critical to the future of the agricultural, rural, and overall economy of the United States;

Whereas the opportunities for increased agricultural exports are undermined by unfair subsidies provided by trading partners of the United States, and by various tariff and nontariff trade barriers imposed on highly competitive United States agricultural products;

Whereas the Foreign Agricultural Service estimates that United States agricultural exports are reduced by $4,700,000,000 annually due to the unjustifiable imposition of sanitary and phytosanitary measures that deny or limit market access to United States products;

Whereas Asian markets account for more than 40 percent of United States agricultural exports worldwide, but the financial crisis in Asia has caused a severe drop in demand for U.S. agricultural products and a consequent drop in world commodity prices;

Whereas multilateral trade negotiations under the auspices of the World Trade Organization and the Asia Pacific Economic Cooperation Forum and trade negotiations for a Free Trade Area of the Americas represent significant opportunities to reduce and

eliminate tariff and nontariff trade barriers on agricultural products;

Whereas negotiations for country accessions to the World Trade Organization, particularly China, present important opportunities to reduce and eliminate these barriers;

Whereas the United States is currently engaged in a number of outstanding trade disputes regarding agricultural trade;

Whereas disputes with the European Union regarding agriculture matters involve the most intractable issues between the United States and the European Union, including—

(1) the failure to finalize a veterinary equivalency program, which jeopardizes an estimated $3,000,000,000 in trade in livestock products between the United States and the European Union;

(2) the ruling by the World Trade Organization that the European Union has no scientific basis for banning the importation of beef produced in the United States using growth promoting hormones, and that the European Union must remove by May 13, 1999, its import ban on beef produced using growth promoting hormones;

(3) the failure to use science, as in the beef hormone case, which raises concerns about the European Union fulfilling its obligations under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures;

(4) the promulgation by the European Union of regulations regarding the use of specified risk materials for livestock products which have a disputed scientific basis and which serve to impede the importation of United States livestock products, despite the fact that no cases of bovine spongisorm encephalopathy (mad cow disease) have been documented in the United States;

(5) the ruling by the World Trade Organization in favor of the United States that the European import regime restricting the importation of bananas violates numerous disciplines established by the General Agreement on Tariffs and Trade and the General Agreement on Trade in Services, and that the European Union must be in full compliance with the decision of the World Trade Organization by January 1, 1999;

(6) the hindering of trade in products grown with the benefit of biogenetics through a politicized approval process that is nontransparent and lacks a basis in science; and

(7) continuing disputes regarding European Union subsidies for dairy and canned fruit, and a number of impediments with respect to wine: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) many nations, including the European Union, unfairly restrict the importation of United States agricultural products;

(2) the restrictions imposed on United States agricultural exports are among the most vexing problems facing United States exporters;

(3) the elimination of restrictions imposed on United States agricultural exports should be a top priority of any current or future trade negotiation;

(4) the President should develop a trade agenda which actively addresses agricultural trade barriers in multilateral and bilateral trade negotiations and steadfastly pursues full compliance with dispute settlement decisions of the World Trade Organization;

(5) in such negotiations, the United States should seek to obtain competitive opportunities for United States exports of agricultural products in foreign markets substantially equivalent to the competitive opportunities afforded to foreign exports in United States markets, and to achieve fairer and more open conditions of trade;

(6) because of the significance of the issues concerning agricultural trade with the European Union, the United States Trade Representative should not engage in any trade negotiation with the European Union if the Trade Representative determines that such negotiations would undermine the ability of the United States to achieve a successful result in the World Trade Organization negotiations on agriculture set to begin in December 1999; and

(7) the President should consult with the Congress in a meaningful and timely manner concerning trade negotiations in agriculture.

The SPEAKER pro tempore (Mrs. EMERSON). Pursuant to the rule, the gentleman from Illinois (Mr. CRANE) and the gentleman from California (Mr. MATSUI) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. CRANE).

GENERAL LEAVE

Mr. CRANE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on House Concurrent Resolution 213, as amended.

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

There was no objection.

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

Madam Speaker, as amended by the Committee on Ways and Means, House Concurrent Resolution 213 calls on the President to first develop a trade agenda which actively addresses agricultural trade barriers and trade negotiations; secondly, seek competitive opportunities for U.S. exporters that are substantially equivalent to those opportunities foreign products enjoy in the U.S. market; and finally, aggressively pursue full compliance by our trading partners with dispute settlement decisions of the World Trade Organization.

The United States possesses the most efficient and competitive agriculture sectors in the world. Agricultural goods accounted $93.1 billion in total two-way trade during 1997, up 40 percent or $26.6 billion, from 1992. U.S. agricultural exports alone stood at about $56 billion in 1997. However, this number is projected to fall by about $4 billion in 1998.

My own State of Illinois is the third largest agricultural exporting State, shipping nearly $4 billion in agricultural exports abroad, or 6.7 percent of the U.S. total in 1996. The largest export categories, feed, grain, and soybeans, accounted for over 75 percent of Illinois' agricultural exports in 1996.

The resolution notes that agricultural markets in Asia, accounting for more than 40 percent of U.S. agricultural exports worldwide, have been severely affected in a negative way by the Asian financial crisis. Because of this economic downturn, combined with the fact that domestic food consumption is projected to remain relatively stable, the further elimination of trade barriers and development of new export opportunities is essential to the economic health of U.S. agricultural producers.

The Administration's inaction on the fast track issue means we are missing opportunities every day to improve the well-being and future security of U.S. farmers and ranchers. House Concurrent Resolution 213 makes the point that disputes regarding agricultural matters involve the most difficult and intractable intractable issues between the U.S. And our largest trade and investment partner, the European union.

For example, Europe continues to maintain an import ban on beef produced using growth-promoting hormones, despite the fact that WTO has ruled that there is no scientific basis for this ban and that it must be removed by May 13, 1999. House Concurrent Resolution 213 underscores the fact that Congress fully expects that Europe will come into compliance with its international obligations by this date, at the latest.

In another important ruling for U.S. interests, the WTO determined that the convoluted licensing and quota system restricting the importation of bananas into the EU violates numerous provisions of the WTO and must be brought under compliance by January 1 of 1999.

Full implementation of these WTO decisions against the EU will show the world whether Europeans are committed to the credibility and long-term viability of the WTO dispute settlement system. This resolution underscores the importance that this body places on aggressively pursuing trade negotiations to eliminate trade barriers to American agricultural exports.

It calls upon the President to develop a trade agenda that puts a priority on addressing these barriers in negotiations under the auspices of the World Trade Organization and the Asia-Pacific Economic Cooperation Forum, and trade negotiations for a Free Trade Agreement of the Americas.

I hope my colleagues will give their unanimous support to the important objective of achieving additional market opportunities for U.S. agricultural exports, and I urge a yes vote on House Concurrent Resolution 213.

Madam Speaker, I reserve the balance of my time.

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

Madam Speaker, I rise in support of House Concurrent Resolution 213. This resolution reflects the importance of agricultural to our Nation's economy, and the fact that the elimination of foreign restrictions to our agricultural exports must be a top priority in trade negotiations.

American farmers are the most competitive suppliers in the world. They exported over $57 billion worth of agricultural goods last year, an increase of nearly one-third since 1992. Yet, old barriers and the continuing creation of new ones affecting agricultural trade are some of the most recognized problems U.S. exporters face. They are also among the most challenging for U.S. trade negotiators to resolve.

Among the most important agricultural trade issues are the implementation of dispute settlement decisions under the WTO, elimination of export subsidies, achieving transparency in foreign regulatory policies, opening up foreign market access, and ensuring that our farmers can export goods produced with safe advanced techniques, such as biotechnology.

The need to address these issues has become urgent in light of the impact of the financial crisis reducing demands for U.S. agricultural exports in Asia. These exports account for over 40 percent of our agricultural exports worldwide. The negotiations on agriculture scheduled to begin next year in the WTO, as well as negotiations in the APEC and for the Free Trade Area of the Americas, offer important opportunities to reduce and eliminate the various barriers to trade and agricultural goods.

As noted in the resolution, disputes regarding market access under existing trade agreements involve the most difficult issues between the United States and our second largest agricultural export market, the European Union. Europe has not yet lifted its import ban on beef products with growth hormones, nor implemented changes in its banana import regime to comply with their obligations under the WTO.

European regulations lack the sound scientific basis for impeding U.S. exports of livestock products and products grown with the benefit of biogenetics. We continue to have disputes over European subsidies for dairy, canned fruits, and there are numerous impediments for American wine exports.

Madam Speaker, agricultural exports are critical to the future health of America's farms and our overall economy. Foreign government compliance with the existing trade agreement commitments and the opening of new market opportunities through trade negotiations are essential.

I might just add that I am a supporter of the fast track legislation, although I have not been contacted formally by anyone on the other side of the aisle in terms of the intention of bringing this issue up in September of this year.

The administration, as we know, supports fast track. They put a great effort into it last year. But since we are reopening the whole discussion on language on the whole issue of agriculture, which I think makes a lot of sense, we also ought to look at "necessary and appropriate," that language, and we ought to look at labor and the environment as well.

If we want to maximize our votes on both sides of the aisle, and right now I do not believe there are the votes to pass fast track, then we should renegotiate this and look at a realistic way, frankly, of trying to get a consensus. But if we all become stubborn, we stiffen our backs, we are going to face the same thing we did last November 14; that is, defeat of this legislation.

We cannot afford to take this to the floor and defeat it. If that should happen, that would have more of a danger in terms of our leadership in the area of agriculture and also free trade, so it is my hope that both parties would begin to look at this in terms of trying to work a consensus, not trying to just push something through.

Madam Speaker, I reserve the balance of my time.

Mr. CRANE. Madam Speaker, I yield 3 minutes to our distinguished colleague, the gentleman from my home State of Illinois (Mr. EWING), who was author of the original resolution that we have under consideration today.

Mr. EWING. Madam Speaker, my personal thanks goes to the gentleman from Illinois (Chairman CRANE) and to the gentleman from California (Mr. MATSUI) for their support of this resolution, and to the gentleman from Texas (Chairman ARCHER) for seeing that this piece of legislation is brought to the floor. I am very appreciative. I think it is very important. I think it sets a pattern for all of us and for American agriculture.

The resolution is really very straightforward. It expresses the sense of Congress that liberalization of trade and agriculture should be a top priority in any negotiation between the U.S. and European Union on a trade agreement.

Agriculture has a unique role in our export economy. While the total U.S. trade position has been in deficit since 1971, U.S. agricultural exports have consistently been in surplus. Millions of Americans find their employment because of our agricultural exports. About 40 percent of American agricultural commodities are exported.

The European Union has an agricultural policy, though, that is one of the most archaic in the world. The Common Agricultural Policy and free market capitalism really are mutually exclusive. They spend billions of dollars subsidizing their agriculture products and exports. This, of course, disrupts our ability to trade with the European community.

In April of this year, the European Union proposed a new trans-Atlantic marketplace which would create a free trade agreement between the European community and the U.S. Amazingly, the proposed framework left out agriculture as one of the areas which would be negotiated.

The gentleman from Texas (Chairman ARCHER) imposed this resolution when he proposed an amendment which said, we will not just apply this to the European community but to all of our trading partners. I wholeheartedly adopt and accept his amendment.

The passage of the Freedom to Farm Act in 1996 set the policy that we must help our farmers be more reliant on the marketplace and less on big government solutions. Congress cannot on one hand say, look to the marketplace, and with the other hand allow access to markets to be slammed shut. If the U.S. is unable to pry open foreign markets and be seen as a reliable supplier of agricultural products, calls for a return to farm payments and subsidies are inevitable.

□ 1245

We must guarantee our farmers access to foreign markets and fair and equitable treatment in those markets. I am proud to be a sponsor of this resolution in the House and ask Members to vote yes to express our commitment to protecting our farmers.

Mr. MATSUI. Madam Speaker, I yield such time as he may consume to the gentleman from Arkansas (Mr. BERRY).

Mr. BERRY. Madam Speaker, I rise in support of this bill. I also rise in support of America's hard working farmers. The farmers in Arkansas are facing a crisis. Troubles are coming at them from all directions.

In our State we have drought, flooding, disease, low prices and no traditional safety net. Then we add in unfair competition, and they are at the end of their rope.

I come here today to ask my colleagues to join me to help them through this, and all America's farmers. House Concurrent Resolution 213 sends a message to the Europeans that we believe that huge export subsidies and restrictive trade barriers are unfair and should be ended. The American farmer is having to compete with the combined treasuries of the European Union. It is unwise to pump billions of dollars into inefficient farm practices to create produce which is inexpensive enough to compete in the international marketplace. This is what the European Union does.

Two big problems this creates are, it keeps their farmers from developing better farm practices, and it makes it impossible for our farmers to have a fair opportunity to sell their goods internationally. America exports 30 percent of its farm products despite the tough competition created by the subsidized European produce. Two years ago we changed our farm programs to make trade the safety net for America's farmers. The farmers in America

are the most efficient in the world. Only if they have open access to foreign markets will trade be an adequate replacement for our old farm programs.

Normal trade relations, fast track and IMF, all of these should be done, and also the stabilization of the Asian economies, and they are all imperative to the U.S. farmer. So is leveling the playing field so our highly efficient farmers can succeed.

I urge my colleagues to support this bill and support fair trade.

Mr. CRANE. Madam Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. PORTMAN).

Mr. PORTMAN. Madam Speaker, I thank the gentleman for yielding me the time. I thank the gentleman from California (Mr. MATSUI) and the gentleman from Illinois (Mr. EWING) for bringing this resolution to the floor today.

It is very important that Congress go on record in the strongest possible terms that we have got to knock down agriculture barriers around the world.

The United States is committed to free and fair trade. In fact, we have not only the largest market in the world but in many respects the most open market in the world. Yet we see around the world that there are many countries that do not offer the same kind of treatment to our products. We have got to insist that other countries around the world, particularly in the developed world and particularly the European Union, open up their markets and comply with basic international rules that are found in the General Agreement on Tariffs and Trade, GATT, also the General Agreement on Trade and Services, and we must also insist that these other countries around the world fully comply with the decisions of the WTO.

I am particularly pleased that the House will now be on record today specifically objecting to the EU noncompliance with the clear WTO rulings against the European Union's banana regime and against their beef hormone policy.

We also are on record today urging that the President continue to steadfastly pursue full compliance with WTO dispute settlement decisions on these two matters. Again, I want to commend the chairman, the gentleman from California (Mr. MATSUI) and others for bringing this to the floor, for highlighting this issue, and for continuing to put pressure on the Europeans to do the right thing, to open their markets in a fair way to our products.

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

Mr. CRANE. Madam Speaker, I yield 2 minutes to the gentleman from Nebraska (Mr. BEREUTER), chairman of the Subcommittee on Asia and the Pacific of the Committee on International Relations.

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

I want to commend the two gentlemen from Illinois (Mr. CRANE) and (Mr. EWING) and the gentleman from California (Mr. MATSUI) for bringing this important resolution to the floor. I am in strong support of it.

It is extremely important for two reasons: First, it puts on notice those foreign countries that restrict access to U.S. agricultural exports that the United States will simply not continue to tolerate formal or disguised barriers to U.S. agriculture imports. Though the United States agriculture trade surplus totaled nearly $57 billion in 1997, it should have been at least 5 billion more. Because countries like China restrict our meat, wheat and citrus imports and the European Union hides behind pseudo phytosanitary and sanitary barriers to U.S. agricultural imports, we, our farmers, that is, are cost a lot of money, about 5 billion at least.

Madam Speaker, Ambassador Carla Hills, former USTR, and President George Bush nearly imposed hundreds of millions of dollars in additional tariffs on European gourmet products sold in the United States because the European Union would not agree to reduce export subsidies under the Uruguay Round trade negotiations. That near trade war ultimately led to the Blair House agricultural trade accord and eventually the creation of the World Trade Organization.

Ambassador Hills and the President, President Bush, proved, through their proposed 301 trade action, that trade liberalization often only occurs when tough trade sanctions are taken or credibly threatened. It is an important lesson that Ambassador Barshefsky followed in her intellectual property rights action against the People's Republic of China, and it is a lessen we may have to revisit again.

Currently many foreign countries necessarily cling to protectionist policies in agriculture while reducing trade barriers in other sectors. The United States, as one of the world's most competitive agricultural exporters, cannot stand by while foreign countries deny our farmers the ability to sell their products.

Therefore, Madam Speaker, this resolution is also important because it tells the USTR that it must use all conceivable remedies to open foreign markets to U.S. agriculture exports.

Madam Speaker, this Member rises in strong support of H. Con. Res. 213 and this Member would like to commend the two distinguished gentlemen from Illinois (Chairman CRANE and Chairman EWING) and the gentleman from California (Mr. MATSUI) for bringing this important resolution to the floor.

H. Con. Res. 213 is extremely important for two reasons. First, it puts on notice those foreign countries that restrict access to U.S. agricultural exports that the United States will simply not continue to tolerate formal or disguised barriers to U.S. agricultural imports. Though the United States agricultural trade surplus totalled approximately $57 billion in 1997, it should have been at least $5 billion more because countries like China restrict our meat, wheat, and citrus imports and the European Union hides behind pseudo phytosanitary and sanitary barriers to U.S. agricultural imports. Their actions cost American farmers approximately $5 billion in annual sales.

Madam Speaker, Ambassador Carla Hills, the former USTR, and President George Bush nearly imposed hundreds of millions in additional tariffs on European gourmet products sold in the United States because the European Union would not agree to reduce export subsidies under the Uruguay Round trade negotiations. That near trade war ultimately led to the Blair House agricultural trade accord and eventually the creation of the World Trade Organization. Ambassador Hills and President Bush proved through their proposed 301 trade action that trade liberalization often only occurs when tough trade sanctions are taken or credibly threatened. It is an important lesson that Ambassador Barshefsky followed in her intellectual property action against the People's Republic of China, and it is a lesson that we may have to revisit again.

Currently, many foreign countries necessarily cling to protectionist policies in agriculture while reducing trade barriers in other sectors. The United States, as one of the world's most competitive agricultural exporters, cannot stand by while foreign countries deny our farmers the ability to sell their products.

Therefore, Mr. Speaker, this resolution is also important because it tells the United States Trade Representative that it must use all conceivable remedies to open foreign markets to U.S. agricultural exports. That includes not "cherry picking," or negotiating trade liberalization in individual sectors, while undermining our ability to have a cross-sectoral, multilateral trade negotiation that drastically reduces barriers to agricultural trade. It also includes recognizing that we must use access to our own market as leverage to gain market access for U.S. agricultural exports worldwide. We cannot, for example, continue to see the European Union ignore science and impose its attitudes on hormones as a phoney barrier against beef exports from my state and our Nation.

This Member urges the United States Trade Representative to negotiate forcefully on behalf of U.S. agriculture as we approach the 1999 agricultural negotiations through the World Trade Organization.

This Member urges his colleagues to support H. Con. Res. 213.

Mr. CRANE. Madam Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. WATKINS), another distinguished colleague on the Committee on Ways and Means.

Mr. WATKINS. Madam Speaker, in my 16 years of service in the United States Congress, I have never spoken twice one day after the other on the floor of the House. I rise to speak today because of the crisis of the American farmer and rancher. It is one that is

caused by the closing of markets in Asia, where we normally export 45 percent of our agriculture exports.

We find also that the European Union is subsidizing their internal as well as their external markets by some 75 percent of their budget. Freedom to farm should mean also freedom to the markets.

Today we have also another crisis, and that is the most severe drought since the dust bowl days or 1934 and unless the weather changes the worst drought in the history of our country come September or come October. We have a survival problem on the farm. I urge President Clinton, Agriculture Secretary Dan Glickman, and this Congress to provide additional emergency drought relief funds for feed and hay assistance. I am delighted to be here supportive of this sense of the Congress, because for 20 months, since I have been back in Congress, I have pounded the table, I have talked about the unfair trade barrier of growth hormones with the European Union. They have literally stopped the market of United States beef and, think about the crisis. Our cattle people having to go to market because they do not have grass, hay or feed. The drought has wiped them out. They have to sell large numbers cheap on the domestic market. They cannot sell overseas. They are in an unfair situation.

I know the agony and the pain of the American cattleman because I was there in the drought of 1956. I was there selling cattle for 10 cents a pound. I know what they are going through. We must do everything we can. We must have the will to help the American farmer be able to stay on the farm and the cattlemen be able to continue to produce.

I was in Europe, and one of the Agriculture ministers said to me, we will pay whatever the price to maintain their domestic agriculture food basket. They will, because they went hungry twice, once in World War I and once in World War II. We must have the will if we are going to maintain the American agriculture for the National Security of our country.

Mr. MATSUI. Madam Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. TRAFICANT).

Mr. TRAFICANT. Madam Speaker, I hate to come to the floor and oppose these bills, and I am certainly not going to oppose this resolution.

It bothers me when I oppose two of the finest Members of the House, the gentleman from Illinois (Mr. CRANE), the gentleman from California (Mr. MATSUI). But so help me, I disagree with our trade policy.

I believe our trade policy is now a national security problem, and no one is looking at it. Our trade deficits continue to explode. Our negative balance of payments at record levels. And everybody idealistically pushing a button that I believe in all practical purposes is not working.

Quite frankly, many of our competitors simply do not open their markets. China, Europe, Japan, every President since Nixon threatened Japan with sanctions, including the current President, President Clinton. If every President had to threaten Japan every 2 years with sanctions, it is evident to me, just the son of a truck driver, that Japan has never complied, Japan has never opened their markets, and we are a bunch of fools.

China has a 34 percent tariff on most of our goods. They are selling tennis shoes, they were called sneakers in the old days, for $150 that cost 17 cents a pair to make over there. I do not see any signs in K Mart and Wal-Mart that say, these sneakers only cost $8 because they are only costing 17 cents in China. They are getting every penny they can out of it. They are squeezing the Buffalo on the nickel.

This is a sense of the Congress resolution. I can support it. But it does not have enough teeth.

The Constitution of the United States of America says, the United States Congress shall regulate commerce with foreign nations. It does not mean that we should turn that power over to the White House. It does not mean that a bunch of bureaucrats in the trade rep's office, who end up going on the employ of China and Japan corporations, should make that decision. Congress should do it.

Here is what I am saying. We should have a reciprocal trigger in our trade agreements that says, you have free trade as long as we have free trade. But when you put up a barrier, you will receive a barrier in kind from Uncle Sam.

That is the way to do it. If we do not, we are going to pay the piper, we are going to continue to lose big, good paying jobs. If I had $100 million to invest, I sure as hell would not invest it in America. I would go right across the board to Mexico with no regs, with low labor costs. And they are doing it. And get ready for it, no one wants to listen.

Idealism has taken over the United States Congress. I think Congress should be a little more practical, take back the powers that the Constitution has vested in us and regulate commerce with foreign nations on a fair, reciprocal basis.

If we do not do that, in my opinion we have failed the American worker, failed the American taxpayers and, worst of all, we fail ourselves, fail ourselves.

I love the chairman, the gentleman from Illinois (Mr. CRANE), and the gentleman from California (Mr. MATSUI). They are doing a good job. But I would hope that they would look at reciprocity and some fairness for American trade.

Mr. CRANE. Madam Speaker, I would remind my colleague from Youngstown that we are trying to move in that direction, and I know it is not as fast as he would like, but we are. I would again remind him that we have been, to our dismay, at full employment for almost 3 years in a row now.

Madam Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. LATHAM).

Mr. LATHAM. Madam Speaker, I thank the gentleman for yielding me the time, and I want to thank the gentleman from Illinois (Mr. CRANE) and the gentleman from Illinois (Mr. EWING) for authorizing this resolution. I rise in strong support.

The European Union is a critical market for U.S. agriculture. U.S. agriculture exports to the European communities were 10.5 billion in 1997, and imports from the EU to the U.S. totaled about 7.5 billion.

However, the fact remains, the EU subsidizes agriculture far more than the United States. The EU export subsidies and domestic support programs are estimated to total almost $50 billion. U.S. programs total about $5.5 billion. The European Union's agricultural policies are so punitive that they have actually been known to distort entire world markets.

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Tariff and nontariff trade barriers must come down.

These policies hurt American farmers, they toy with our world markets, and we must level the playing field. Free and fair trade is critical to the success of our agricultural community.

This Congress will continue to fight for improved access for agricultural exports. The President should join Congress in reducing and eventually eliminating agriculture from foreign sanctions.

The 1999 World Trade Organization negotiations should address the issues that are important to America's farmers and important to rural America's economic health. The 1999 World Trade Organization negotiations present the administration with an opportunity to reduce barriers to free trade and expand on the many opportunities that will assist our cash-strapped farmers, and we must insist that decisions are based on sound science in Europe.

It is in the United States' best interests to address unfair trade practices during the next year's negotiations. Let's continue to push for reduction in nontariff trade barriers, and I hope the U.S.-European trade relationship will continue to be successful in the future.

Mr. CRANE. Madam Speaker, I yield 2 minutes to the gentleman from New York (Mr. GILMAN.)

Mr. GILMAN. Madam Speaker, I would like to address a bill that passed already, and that is the common agricultural policy. I come to the floor in my capacity as chairman of our Committee on International Relations, and

having participated for many years in the exchange between our Nation and the European Parliament, I certainly agree with the thrust of that measure.

The European Union's agricultural policies are certainly aggravating our bilateral relations and are harming American farmers and American high-tech industries. In our Committee on International Relations we have had a number of hearings on the EU's policies which unduly restrict exports of bioengineered products. We have taken that policy up directly with the president of the European Commission and with other members of the Commission, as well as with members of the European Parliament during our twice-yearly meetings.

We recently had a European parliamentary delegation visit Texas, during the course of which they visited Texas A&M University in College Station, where they met many European scientists working in the U.S. because their research cannot be supported in Europe. I think the Europeans are beginning to get the message. They are going to be left behind, with an antiquated, costly agricultural sector.

Of course, the EU's common agricultural policy is wrongheaded. Over time it will have to change because of changes in the world economy and because of the pending admission of Poland, Hungary, and the Czech Republic to the EU. The current policies of the EU are clearly not sustainable.

I understand the concerns of our farm sector now under the dual threat of drought conditions and of unfair subsidies from Europe. But I am concerned that the controversies over the effect of our sanctions policies have led some to blame the downturn in our agricultural exports as being related to the implementation of our national security statutes. In fact, sanctions affect, if anything, a very small proportion of our $60 billion agricultural exports.

And in the case of the Pakistan sanctions, we moved quickly, cooperating with the Committee on Agriculture, and amended the sanctions law to prevent any loss of our export markets by allowing substantial taxpayer dollars to help support wheat sales to Pakistan.

Madam Speaker, we need to concentrate on the real problems of agriculture. We should refrain from creating the impression that by tearing down our national security laws we are going to do something substantial to help our farmers.

I just want to remind my colleagues that we have important meetings with our European Union parliamentarians, and I would urge my colleagues to help participate in those exchanges. I think it would help them to more fully understand the complexities of our own problems.

Mr. MATSUI. Madam Speaker, I yield myself such time as I may consume, before I yield back the balance of my time, to first commend the gentleman from Illinois (Mr. CRANE) for bringing this bill through the subcommittee, the full committee, and on to the floor of the House; and I want to also congratulate, of course, the gentleman from Illinois (Mr. EWING) as well.

Ms. WATERS. Madam Speaker, reluctantly I must rise in opposition to H. Con. Res. 213. While I understand and support the interest of our domestic agricultural sector, this resolution could have far reaching negative ramifications.

This Sense of Congress expresses Congressional disapproval of the European Union's trade practices. In fact, the United States and the European Union should be getting together to explore how to develop better trade relations. This bill does not help this process.

I am particularly concerned about this hard line bargaining stance given the growing crisis for the many small banana farmers in the Caribbean Windward Islands. The United States Trade Representative, acting on behalf of the giant U.S. multinational corporation Chiquita Banana, unilaterally went to the World Trade Organization in an effort to tear down the relationship the European Union had with small and family farmers in the Carribean.

The European Union had set up a special trade relationship with their former colonies in the Carribean and West Africa. This was going to be sunseted in 10 years but Chiquita wanted it ended immediately, before the Carribean had a chance to develop alternative economic strategies. The United States Trade Representative still refuses to negotiate with the Windward Islands and they now face imminent economic catastrophe.

Our actions directly led to this negative outcome. This legislation only increases the possibility that other small developing countries will suffer as a result of our battles with other economic giants like the European Union. We need to approach each trade situation on a case by case basis and use thoughtful negotiating to avoid other Carribean like disasters. For these reasons I oppose this bill.

Mr. SMITH of Oregon. Madam Speaker, I rise in support of H. Con. Res. 213, which expresses the sense of Congress that the elimination of restrictions on U.S. agricultural products by U.S. trading partners should be a top priority in trade negotiations. I congratulate Mr. Ewing, the sponsor of this resolution, Mr. Archer, the Chairman of the Committee on Ways and Means, and Mr. Crane, the Chairman of the Trade Subcommittee, for bringing this resolution before the House.

It is very important that agriculture should be a top priority with the Administration in all trade negotiations. This resolution calls on the President to develop such a trade agenda and for the U.S. to seek competitive opportunities for U.S. agricultural exports. Finally, the resolution provides that the U.S. Trade Representative should not engage in trade negotiations with the European Union if the U.S. Trade Representative determines that trade negotiations would undermine a successful result in the 1999 WTO negotiations.

While this resolution is directed at all nations, the European Union is specifically mentioned. Using any yardstick, the EU subsidizes agriculture more than the U.S. This is a well known fact. EU export subsidies and domestic support total $47 billion. U.S. export subsidies and domestic support total $5.3 billion.

Not only does the EU spend large amounts of money, it spends that money on programs that distort world markets. Certainly the EU should spend whatever it and its taxpayers determine appropriate to support EU farmers. But the EU should not link that support to production and thereby distort world agriculture markets.

For American farmers and ranchers, trade is an essential part of their livelihood. Currently exports account for 30% of U.S. farm cash receipts. We produce much more than we consume in the United States; therefore exports are vital to the prosperity and success of U.S. farmers and ranchers.

H. Con. Res. 213 cites specific disputes with the European Union. Two cases brought by the U.S. against EU agriculture practices regarding trade in beef and bananas resulted in positive decisions for the U.S. Despite that, no trade in beef or bananas has resumed.

In 1996, significant reforms were made to U.S. farm programs. These reforms returned control of the farming operation to the producers in exchange for sharp restrictions on the level of government support to the farmer. The goal was to provide U.S. farmers with the flexibility to plant for the market. Farmer's income will come from the marketplace and not from the government. For this plan to be successful, the U.S. government must ensure that our farmers and ranchers can compete against other exporters, and not against foreign governments.

This resolution expresses the importance of U.S. agricultural trade and I urge Members to support H. Con. Res. 213.

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

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

The SPEAKER pro tempore (Mrs. EMERSON). The question is on the motion offered by the gentleman from Illinois (Mr. CRANE) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 213, as amended.

The question was taken.

Mr. CRANE. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

MISCELLANEOUS TRADE AND TECHNICAL CORRECTIONS ACT OF 1998

Mr. CRANE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4342) to make miscellaneous and technical changes to various trade laws, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4342

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Miscellaneous Trade and Technical Corrections Act of 1998".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—MISCELLANEOUS TRADE CORRECTIONS

Sec. 1001. Clerical amendments.
Sec. 1002. Obsolete references to GATT.

TITLE II—TEMPORARY DUTY SUSPENSIONS; OTHER TRADE PROVISIONS

Subtitle A—Temporary Duty Suspensions

Sec. 2001. 6-chloro-4-(cyclopropylethynyl)-1, 4-dihydro-4-(trifluromethyl)-2h-3, 1-Benzoxazin-2-one.
Sec. 2002. Oxirane, (s)-triphenylmethyloxy)methyl)-.
Sec. 2003. [r-(r*,r*)]-1,2,3,4-butanetetrol-1,4-dimethanesulfonate.
Sec. 2004. (s)-n-[[5-[2-(2-amino-4,6,7,8-tetrahydro-4-oxo-1h-pyrimido[5,4-b][1,4]thiazin-6-yl)ethyl]-2-thienyl]carbonyl]-1-glutamic acid.
Sec. 2005. 2-Amino-6-methyl-5-(4-pyridinylthio)-4-(1h)-quinazolinone, dihydrochloride.
Sec. 2006. 9-[2-[[bis [(pivaloyloxy) methoxy] phosphinyl]- methoxy] ethyl]adenine.
Sec. 2007. (R)-9-[-2-(phos phononmethoxy propyl)adenine.
Sec. 2008. (R)-propylene carbonate.
Sec. 2009. 9-(2-hydroxyethyl)adenine.
Sec. 2010. (R)-9-(2-hydroxypropyl)adenine.
Sec. 2011. Chloromethyl-2-propyl carbonate.
Sec. 2012. (R)-chloropropanediol.
Sec. 2013. Irganox 1520.
Sec. 2014. Irganox 1425.
Sec. 2015. Irganox 565.
Sec. 2016. Irganox 1520LR.
Sec. 2017. Irgacor 252LD.
Sec. 2018. Irgacor 1405.
Sec. 2019. 2-amino-4-(4-aminobenzoyl amino)-benzenesulfonic acid sodium salt.
Sec. 2020. 5-amino-n-(2-hydroxyethyl)-2,3-xylenesulfonamide.
Sec. 2021. 3-amino-2'-(sulfatoethyl sulfonyl) ethyl benzamide.
Sec. 2022. ACM.
Sec. 2023. C.I. Pigment Yellow 109.
Sec. 2024. C.I. Pigment Yellow 110.
Sec. 2025. Halofenozide.
Sec. 2026. β-bromo-β-nitrostyrene.
Sec. 2027. Beta Hydroxyalkylamide.
Sec. 2028. 2,6-dimethyl-m-dioxan-4-ol Acetate.
Sec. 2029. Grilamid TR90.
Sec. 2030. C.I. Pigment Yellow 181.
Sec. 2031. Butanamide, 2,2'-[3,3'-dichloro [1,1'-biphenyl]-4,4'-diyl) bis (azo)] bis [n-(2,3-dihydro-2-oxo-1h-benzimidazol-5-yl)-3-oxo (pigment orange).
Sec. 2032. Butanamide, n,n'-(3,3'dimethyl[1,1'-biphenyl]-4,4'-diyl)bis[2-[2,4-dichlorophenyl)azo]-3-oxo-.
Sec. 2033. C.I. Pigment Yellow 154.
Sec. 2034. C.I. Pigment Yellow 180.
Sec. 2035. C.I. Pigment Yellow 191.
Sec. 2036. KN001.
Sec. 2037. DEMT.
Sec. 2038. IN-w4280.
Sec. 2039. 2-chloro-n-[2,6-dinitro-4-(trifluoromethyl)phenyl]-N-ethyl-6-fluorobenzene-methanamine.
Sec. 2040. Propanoic acid, 2-[4-[(5-chloro-3-fluoro-2-pyridinyl)oxy]phenoxy]-2-propynyl ester.
Sec. 2041. 2,4-dichloro 3,5-dinitrobenzotrifluoride.
Sec. 2042. Acetic acid, [(5-chloro-8-quinolinyl)oxy]-, 1-methylhexyl ester.
Sec. 2043. Acetic acid, [[2-chloro-4-fluoro-5-[(tetrahydro-3-oxo-1H, 3H-[1,3,4] thiadiazolo [3,4-a]pyridazin-1-ylidene)amino]phenyl]thio]-, methyl ester.
Sec. 2044. Chloroacetone.
Sec. 2045. Sodium N-methyl-N oleoyl taurate.
Sec. 2046. Dialkylnaphthalene sulfonic acid sodium salt.
Sec. 2047. O-(6-chloro-3-phenyl-4-pyridazinyl)-S-octyl-carbonothioate.
Sec. 2048. 4-cyclopropyl-6-methyl-2-phenylamino-pyrimidine.
Sec. 2049. O, O-dimethyl-s-[5-methoxy-2-oxo-1,3,4-thiadiazol-3(2h)-yl-methyl]-dithiophosphate.
Sec. 2050. (Ethyl [2-(4-phenoxyphenoxy) ethyl] carbamate.
Sec. 2051. 3-(6-methoxy-4-methyl-1,3,5-triazin-2-yl)-1-[2-(2-chloroethoxy)-phenylsulfonyl]-urea.
Sec. 2052. [(2S,4R)/(2R,4S)]/[(2R,4R)/(2S,4S)-1-{2-[4-(4-chloro-phenoxy)-2-chlorophenyl]-4-methyl-1,3-dioxolan-2-yl-methyl}-1H-1,2,4-triazole.
Sec. 2053. Substrates of synthetic quartz or synthetic fused silica.
Sec. 2054. KL540.
Sec. 2055. Methyl thioglycolate.
Sec. 2056. Tebufenozide.
Sec. 2057. Organic luminescent pigments, dyes, and fibers for security applications, and 4-Hexylresorcinol (excluding daylight florescent pigments and dyes).
Sec. 2058. DPX-e6758.
Sec. 2059. Benzenepropanal, 4-(1,1-Dimethylethyl)-alpha-Methyl-.
Sec. 2060. Elimination of duty on Ziram.
Sec. 2061. Ethylene, tetrafluoro copolymer with ethylene (ETFE).
Sec. 2062. 2-naphthalene-carboxamide 4-[[5-[[[4-(aminocarbonyl)phenyl]amino] carbonyl]-2-methoxyphenyl]azo]-n-(5-chloro-2,4-dimethoxyphenyl)-3-hydroxy-.
Sec. 2063. Benzenesulfonic acid, 4-[[3-[[2-hydroxy-3-[[4-methoxyphenyl) amino]carbonyl]-1-naphthalenyl]azo]-4-methylbenzoyl]amino]-, calcium salt (2:1).
Sec. 2064. Pigment Red 185.
Sec. 2065. Pigment Red 208.
Sec. 2066. Pigment Red 188.
Sec. 2067. Certain weaving machines.
Sec. 2068. Chloromethyl pivalate.
Sec. 2069. 9-[2-(r)-[[bis [[isopropoxycarbonyl) oxymethoxy]phosphinoyl] methoxy]propyl] adenine fumarate (1:1).
Sec. 2070. Diethyl p-toluene sulfonyloxymenthylphosphonate.
Sec. 2071. 1,4-benzenedicarboxylic acid, 2-[[1-[[(2,3-di-hydro-2-oxo-1h-benzimidazol-5-yl)amino carbonyl]-2-oxopropyl]azo]-,dimethyl ester.
Sec. 2072. Anti-HIV/anti-AIDS drugs.
Sec. 2073. Anti-cancer drugs.
Sec. 2074. 2-amino-5-bromo-6-methyl-4-(1h)-quinazol- inone.
Sec. 2075. 2-amino-6-methyl-5-(4-pyridinylthio)-4-(1h)-quinazolinone.
Sec. 2076. 2-amino-5-nitrothiazole.
Sec. 2077. 2-amino-5-nitrobenzenesulfonic acid, monosodium salt.
Sec. 2078. 2-amino-5-nitrobenzenesulfonic acid, monoammonium salt.
Sec. 2079. 2-amino-5-nitrobenzenesulfonic acid.
Sec. 2080. 3-(4,5-dihydro-3-methyl-5-oxo-1h-pyrazol-1-yl)benzenesulfonic acid.
Sec. 2081. 4-chloro-3-nitrobenzenesulfonic acid.
Sec. 2082. 4-chloro-3-nitrobenzenesulfonic acid, monopotassium salt.
Sec. 2083. 4-chloro-3-nitrobenzenesulfonic acid, monosodium salt.
Sec. 2084. 2-methyl-5-nitrobenzenesulfonic acid.
Sec. 2085. 6-bromo-2,4,dinitroaniline.
Sec. 2086. 4-chloropyridine hydrochloride.
Sec. 2087. 3-ethoxycarbonyl-aminophenyl-n-phenyl- carbamate (desmedipham).
Sec. 2088. [s-(r*,r*)]-2,3-dihydroxy-butanedioic acid.
Sec. 2089. (3s)-2,2-dimethyl-3-thiomorpholine carboxylic acid.
Sec. 2090. Diiodomethyl-p-tolylsulfone.
Sec. 2091. 2-ethoxy-2,3-dihydro-3,3-dimethyl-5-benzofuranyl methanesulfonate (ethofumesate).
Sec. 2092. Skating boots for use in the manufacture of in-line roller skates.
Sec. 2093. 2-4-dichloro-5-hydrazino-phenol-monohy- drochloride.
Sec. 2094. 3-mercapto-d-valine.
Sec. 2095. 6-amino-1,3-naphthalenedisulfonic acid.
Sec. 2096. 6-amino-1,3-naphthalenedisulfonic acid, disodium salt.
Sec. 2097. 7-acetylamino-4-hydroxy-2-naphthalene- sulfonic acid, monosodium salt.
Sec. 2098. 4-benzoylamino-5-hydroxy-2,7-naphthalene- disulfonic acid.
Sec. 2099. 4-benzoylamino-5-hydroxy-2,7-naphthalene- disulfonic acid, monosodium salt.
Sec. 2100. P-ethylphenol.
Sec. 2101. Pantera.
Sec. 2102. 3-methyl- carbonyl- aminophenyl-3'-methyl-carbanilate (phenmedipham).
Sec. 2103. 2-amino-p-cresol.
Sec. 2104. 4-phenoxypyridine.
Sec. 2105. P-nitrobenzoic acid.
Sec. 2106. P-toluenesulfonamide.
Sec. 2107. Tannic acid.
Sec. 2108. Polymers of tetrafluoroethylene, hexafluoropropylene, and vinylidene fluoride.
Sec. 2109. Methyl 2-[[[[[4-(dimethylamino)-6-(2,2,2- trifluoroethoxy)-1,3,5-triazin-2-yl]- amino]carbonyl]-amino]sulfonyl]-3-methylbenzoate (trisulfuron methyl).
Sec. 2110. Suspension of duty on certain manufacturing equipment.
Sec. 2111. SE2SI Spray Granulated (HOE S 4291).
Sec. 2112. Personal effects of participants in certain world athletic events.
Sec. 2113. Effective date.

Subtitle B—Other Trade Provisions

Sec. 2501. Extension of certain trade benefits of insular possessions of the United States to certain fine jewelry.

Sec. 2502. Tariff treatment for certain components of scientific instruments and apparatus.
Sec. 2503. Liquidation or reliquidation of certain entries.
Sec. 2504. Finished petroleum derivatives drawback.
Sec. 2505. Drawback and refund of packaging material.
Sec. 2506. Inclusion of commercial importation data from foreign-trade zones under the National Customs Automation Program.
Sec. 2507. Large yachts imported for sale at United States boat shows.
Sec. 2508. Review of protests against decisions of Customs Service.
Sec. 2509. Entries of NAFTA-origin goods.
Sec. 2510. Treatment of international travel merchandise held at Customs-approved storage rooms.
Sec. 2511. Exception to 5-year reviews of countervailing duty or antidumping duty orders.

TITLE I—MISCELLANEOUS TRADE CORRECTIONS

SEC. 1001. CLERICAL AMENDMENTS.

(a) TRADE ACT OF 1974.—(1) Section 233(a) of the Trade Act of 1974 (19 U.S.C. 2293(a)) is amended—

(A) by aligning the text of paragraph (2) that precedes subparagraph (A) with the text of paragraph (1); and

(B) by aligning the text of subparagraphs (A) and (B) of paragraph (2) with the text of subparagraphs (A) and (B) of paragraph (3).

(2) Section 141(b) of the Trade Act of 1974 (19 U.S.C. 2171(b)) is amended—

(A) in paragraph (3) by striking "LIMITATION ON APPOINTMENTS.—"; and

(B) by aligning the text of paragraph (3) with the text of paragraph (2).

(3) The item relating to section 410 in the table of contents for the Trade Act of 1974 is repealed.

(4) Section 411 of the Trade Act of 1974 (19 U.S.C. 2441), and the item relating to section 411 in the table of contents for that Act, are repealed.

(5) Section 154(b) of the Trade Act of 1974 (19 U.S.C. 2194(b)) is amended by striking "For purposes of" and all that follows through "90-day period" and inserting "For purposes of sections 203(c) and 407(c)(2), the 90-day period".

(6) Section 406(e)(2) of the Trade Act of 1974 (19 U.S.C. 2436(e)(2)) is amended by moving subparagraphs (B) and (C) 2 ems to the left.

(7) Section 503(a)(2)(A)(ii) of the Trade Act of 1974 (19 U.S.C. 2463(a)(2)(A)(ii)) is amended by striking subclause (II) and inserting the following:

"(II) the direct costs of processing operations performed in such beneficiary developing country or such member countries,

is not less than 35 percent of the appraised value of such article at the time it is entered.".

(8) Section 802(b)(1)(A) of the Trade Act of 1974 (19 U.S.C. 2492(b)(1)(A)) is amended—

(A) by striking "481(e)" and inserting "489"; and

(B) by inserting "(22 U.S.C. 2291h)" after "1961".

(9) Section 804 of the Trade Act of 1974 (19 U.S.C. 2494) is amended by striking "481(e)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e)(1))" and inserting "489 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291h)".

(10) Section 805(2) of the Trade Act of 1974 (19 U.S.C. 2495(2)) is amended by striking "and" after the semicolon.

(11) The table of contents for the Trade Act of 1974 is amended by adding at the end the following:

"TITLE VIII—TARIFF TREATMENT OF PRODUCTS OF, AND OTHER SANCTIONS AGAINST, UNCOOPERATIVE MAJOR DRUG PRODUCING OR DRUG-TRANSIT COUNTRIES

"Sec. 801. Short title.
"Sec. 802. Tariff treatment of products of uncooperative major drug producing or drug-transit countries.
"Sec. 803. Sugar quota.
"Sec. 804. Progress reports.
"Sec. 805. Definitions.".

(b) OTHER TRADE LAWS.—(1) Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c) is amended—

(A) in subsection (e) by aligning the text of paragraph (1) with the text of paragraph (2); and

(B) in subsection (f)(3)—

(i) in subparagraph (A)(ii) by striking "subsection (a)(1) through (a)(8)" and inserting "paragraphs (1) through (8) of subsection (a)"; and

(ii) in subparagraph (C)(ii)(I) by striking "paragraph (A)(i)" and inserting "subparagraph (A)(i)".

(2) Section 3(a) of the Act of June 18, 1934 (commonly referred to as the "Foreign Trade Zones Act") (19 U.S.C. 81c(a)) is amended by striking the second period at the end of the last sentence.

(3) Section 9 of the Act of June 18, 1934 (commonly referred to as the "Foreign Trade Zones Act") (19 U.S.C. 81i) is amended by striking "Post Office Department, the Public Health Service, the Bureau of Immigration" and inserting "United States Postal Service, the Public Health Service, the Immigration and Naturalization Service".

(4) The table of contents for the Trade Agreements Act of 1979 is amended—

(A) in the item relating to section 411 by striking "Special Representative" and inserting "Trade Representative"; and

(B) by inserting after the items relating to subtitle D of title IV the following:

"Subtitle E—Standards and Measures Under the North American Free Trade Agreement

"CHAPTER 1—SANITARY AND PHYTOSANITARY MEASURES

"Sec. 461. General.
"Sec. 462. Inquiry point.
"Sec. 463. Chapter definitions.

"CHAPTER 2—STANDARDS-RELATED MEASURES

"Sec. 471. General.
"Sec. 472. Inquiry point.
"Sec. 473. Chapter definitions.

"CHAPTER 3—SUBTITLE DEFINITIONS

"Sec. 481. Definitions.

"Subtitle F—International Standard-Setting Activities

"Sec. 491. Notice of United States participation in international standard-setting activities.
"Sec. 492. Equivalence determinations.
"Sec. 493. Definitions.".

(5)(A) Section 3(a)(9) of the Miscellaneous Trade and Technical Corrections Act of 1996 is amended by striking "631(a)" and "1631(a)" and inserting "631" and "1631", respectively.

(B) Section 50(c)(2) of such Act is amended by striking "applied to entry" and inserting "applied to such entry".

(6) Section 8 of the Act of August 5, 1935 (19 U.S.C. 1708) is repealed.

(7) Section 584(a) of the Tariff Act of 1930 (19 U.S.C. 1584(a)) is amended—

(A) in the last sentence of paragraph (2), by striking "102(17) and 102(15), respectively, of the Controlled Substances Act" and inserting "102(18) and 102(16), respectively, of the Controlled Substances Act (21 U.S.C. 802(18) and 802(16))"; and

(B) in paragraph (3)—

(i) by striking "or which consists of any spirits," and all that follows through "be not shown,"; and

(ii) by striking ", and, if any manifested merchandise" and all that follows through the end and inserting a period.

(8) Section 621(4)(A) of the North American Free Trade Agreement Implementation Act, as amended by section 21(d)(12) of the Miscellaneous Trade and Technical Amendments Act of 1996, is amended by striking "disclosure within 30 days" and inserting "disclosure, or within 30 days".

(9) Section 558(b) of the Tariff Act of 1930 (19 U.S.C. 1558(b)) is amended by striking "(c)" each place it appears and inserting "(h)".

(10) Section 441 of the Tariff Act of 1930 (19 U.S.C. 1441) is amended by striking paragraph (6).

(11) Section 431(c)(1) of the Tariff Act of 1930 (19 U.S.C. 1431(c)(1)) is amended by amending the matter preceding subparagraph (A) to read as follows: "Except as provided in paragraph (2), the following information, when contained in such vessel or aircraft manifest, shall be available for public disclosure:".

SEC. 1002. OBSOLETE REFERENCES TO GATT.

(a) FOREST RESOURCES CONSERVATION AND SHORTAGE RELIEF ACT OF 1990.—(1)(A) Section 488(b) of the Forest Resources Conservation and Shortage Relief Act of 1990 (16 U.S.C. 620(b)) is amended—

(i) in paragraph (3) by striking "General Agreement on Tariffs and Trade" and inserting "GATT 1994 (as defined in section 2(1)(B) of the Uruguay Round Agreements Act)" ; and

(ii) in paragraph (5) by striking "General Agreement on Tariffs and Trade" and inserting "WTO Agreement and the multilateral trade agreements (as such terms are defined in paragraphs (9) and (4), respectively, of section 2 of the Uruguay Round Agreements Act)".

(B) Section 491(g) of that Act (16 U.S.C. 620c(g)) is amended by striking "Contracting Parties to the General Agreement on Tariffs and Trade" and inserting "Dispute Settlement Body of the World Trade Organization (as the term 'World Trade Organization' is defined in section 2(8) of the Uruguay Round Agreements Act)".

(b) INTERNATIONAL FINANCIAL INSTITUTIONS ACT.—Section 1403(b) of the International Financial Institutions Act (22 U.S.C. 262n–2(b)) is amended—

(1) in paragraph (1)(A) by striking "General Agreement on Tariffs and Trade or Article 10" and all that follows through "Trade" and inserting "GATT 1994 as defined in section 2(1)(B) of the Uruguay Round Agreements Act, or Article 3.1(a) of the Agreement on Subsidies and Countervailing Measures referred to in section 101(d)(12) of that Act"; and

(2) in paragraph (2)(B) by striking "Article 6" and all that follows through "Trade" and inserting "Article 15 of the Agreement on Subsidies and Countervailing Measures referred to in subparagraph (A)".

(c) BRETTON WOODS AGREEMENTS ACT.—Section 49(a)(3) of the Bretton Woods Agreements Act (22 U.S.C. 286gg(a)(3)) is amended by striking "GATT Secretariat" and inserting "Secretariat of the World Trade Organization (as the term 'World Trade Organization' is defined in section 2(8) of the Uruguay Round Agreements Act)".

(d) FISHERMEN'S PROTECTIVE ACT OF 1967.—Section 8(a)(4) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)(4)) is amended by striking "General Agreement on Tariffs and Trade" and inserting "World Trade Organization (as defined in section 2(8) of the Uruguay Round Agreements Act) or the multilateral trade agreements (as defined in section 2(4) of that Act)".

(e) UNITED STATES-HONG KONG POLICY ACT OF 1992.—Section 102(3) of the United States-Hong Kong Policy Act of 1992 (22 U.S.C. 5712(3)) is amended—

(1) by striking "contracting party to the General Agreement on Tariffs and Trade" and inserting "WTO member country (as defined in section 2(10) of the Uruguay Round Agreements Act)"; and

(2) by striking "latter organization" and inserting "World Trade Organization (as defined in section 2(8) of that Act)".

(f) NOAA FLEET MODERNIZATION ACT.—Section 607(b)(8) of the NOAA Fleet Modernization Act (33 U.S.C. 891e(b)(8)) is amended by striking "Agreement on Interpretation" and all that follows through "trade negotiations" and inserting "Agreement on Subsidies and Countervailing Measures referred to in section 101(d)(12) of the Uruguay Round Agreements Act, or any other export subsidy prohibited by that agreement".

(g) ENERGY POLICY ACT OF 1992.—(1) Section 1011(b) of the Energy Policy Act of 1992 (42 U.S.C. 2296b(b)) is amended—

(A) by striking "General Agreement on Tariffs and Trade" and inserting "multilateral trade agreements (as defined in section 2(4) of the Uruguay Round Agreements Act)"; and

(B) by striking "United States-Canada Free Trade Agreement" and inserting "North American Free Trade Agreement".

(2) Section 1017(c) of such Act (42 U.S.C. 2296b–6(c)) is amended—

(A) by striking "General Agreement on Tariffs and Trade" and inserting "multilateral trade agreements (as defined in section 2(4) of the Uruguay Round Agreements Act)"; and

(B) by striking "United States-Canada Free Trade Agreement" and inserting "North American Free Trade Agreement".

(h) ENERGY POLICY CONSERVATION ACT.—Section 400AA(a)(3) of the Energy Policy Conservation Act (42 U.S.C. 6374(a)(3)) is amended in subparagraphs (F) and (G) by striking "General Agreement on Tariffs and Trade" each place it appears and inserting "multilateral trade agreements as defined in section 2(4) of the Uruguay Round Agreements Act".

(i) TITLE 49, UNITED STATES CODE.—Section 50103 of title 49, United States Code, is amended in subsections (c)(2) and (e)(2) by striking "General Agreement on Tariffs and Trade" and inserting "multilateral trade agreements (as defined in section 2(4) of the Uruguay Round Agreements Act)".

TITLE II—TEMPORARY DUTY SUSPENSIONS; OTHER TRADE PROVISIONS

Subtitle A—Temporary Duty Suspensions

SEC. 2001. 6-CHLORO-4-(CYCLOPROPYLETHYNYL)-1, 4-DIHYDRO-4-(TRIFLUROMETHYL)-2H-3, 1-BENZOXAZIN-2-ONE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.56 6-Chloro-4-(cyclopropylethynyl)-1, 4-Dihydro-4-(trifluromethyl)-2H-3, 1-Benzoxazin-2-one (CAS No. 154598–52–4) (provided for in subheading 2934.90.3000)	Free	No change	No change	On or before 12/31/2000."

SEC. 2002. OXIRANE, (S)-TRIPHENYLMETHYLOXY)METHYL)-.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

9902.33.09 Oxirane, (S)-Triphenylmethyloxy)methyl)- (CAS No. 129940–50–7) (provided for in subheading 2910.90.20)	Free	No change	No change	On or before 12/31/99."

SEC. 2003. [R-(R*,R*)]-1,2,3,4-BUTANETETROL-1,4-DIMETHANESULFONATE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.24 [R-(R*,R*)]-1,2,3,4-Butanetetrol-1,4-dimethanesulfonate (CAS No. 1947–62–2) (provided for in subheading 2905.49.50)	Free	No change	No change	On or before 12/31/99."

SEC. 2004. (S)-N-[[5-[2-(2-AMINO-4,6,7,8-TETRAHYDRO-4-OXO-1H-PYRIMIDO[5,4-B][1,4]THIAZIN-6-YL)ETHYL]-2-THIENYL]CARBONYL]-L-GLUTAMIC ACID.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.25 (S)-N-[[5-[2-(2-amino-4,6,7,8-tetrahydro-4-oxo-1H-pyrimido[5,4-b][1,4]thiazin-6-yl)ethyl]-2-thienyl]carbonyl]-L-glutamic acid (CAS No. 177575–17–6) (provided for in subheading 2934.90.90)	Free	No change	No change	On or before 12/31/99."

SEC. 2005. 2-AMINO-6-METHYL-5-(4-PYRIDINYLTHIO)-4-(1H)-QUINAZOLINONE, DIHYDROCHLORIDE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.26 2-amino-6-methyl-5-(4-pyridinylthio)-4-(1H)-quinazolinone, dihydrochloride (CAS No. 152946–68–4) (provided for in subheading 2933.59.70)	Free	No change	No change	On or before 12/31/99."

SEC. 2006. 9-[2-[[BIS [(PIVALOYLOXY) METHOXY] PHOSPHINYL]- METHOXY] ETHYL]ADENINE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

9902.33.01 9-[2-[[Bis [(pivaloyloxy) methoxy] phosphinyl]- methoxy] ethyl]adenine (CAS No. 142340–99–6) (provided for in subheading 2933.59.59)	Free	No change	No change	On or before 12/31/99."

SEC. 2007. (R)-9-[-2-(PHOS PHONONMETHOXY PROPYL)ADENINE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.33.03 (R)-9-[-2-(Phos phononmethoxy propyl)adenine (CAS No. 147127–20–6) (provided for in subheading 2933.59.95)	Free	No change	No change	On or before 12/31/99."

SEC. 2008. (R)-PROPYLENE CARBONATE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.33.04 (R)-Propylene carbonate (CAS No. 16606–55–6) (provided for in subheading 2920.90.50)	Free	No change	No change	On or before 12/31/99."

SEC. 2009. 9-(2-HYDROXYETHYL)ADENINE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.33.05 9-(2-Hydroxyethyl)adenine (CAS No. 707–99–3) (provided for in subheading 2933.59.95)	Free	No change	No change	On or before 12/31/99."

SEC. 2010. (R)-9-(2-HYDROXYPROPYL)ADENINE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.33.06 (R)-9-(2-Hydroxypropyl)adenine (CAS No. 14047–28–0) (provided for in subheading 2933.59.95)	Free	No change	No change	On or before 12/31/99."

SEC. 2011. CHLOROMETHYL-2-PROPYL CARBONATE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.33.07 Chloromethyl-2-propyl carbonate (CAS No. 35180–01–9) (provided for in subheading 2920.90.50)	Free	No change	No change	On or before 12/31/99."

SEC. 2012. (R)-CHLOROPROPANEDIOL.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.33.08 (R)-Chloropropanediol (CAS No. 57090–45–6) (provided for in subheading 2905.39.90)	Free	No change	No change	On or before 12/31/99."

SEC. 2013. IRGANOX 1520.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.14 2,4-bis[(octylthio) methyl]-o-cresol (CAS No. 110553–27–0) provided for in subheading 2930.90.29)	Free	No change	No change	On or before 12/31/1999."

SEC. 2014. IRGANOX 1425.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.16 Calcium bis[monoethyl (3,5-di-tert-butyl-4-hydroxybenzyl)phosphonate]-(Cas No. 65140–91–2) provided for in subheading 2931.00.30)	Free	No change	No change	On or before 12/31/1999."

SEC. 2015. IRGANOX 565.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.18 4-[[4,6-bis(octylthio)-1,3,5-triazine-2-yl]amino]-2,6-bis(1,1-dimethylethyl)phenol (CAS No. 991–84–4) provided for in subheading 2933.69.60)	Free	No change	No change	On or before 12/31/1999."

SEC. 2016. IRGANOX 1520LR.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.38.13 2,4-bis[(octylthio) methyl]-o-cresol; epoxidized triglyceride (provided for in subheading 3812.30.60)	Free	No change	No change	On or before 12/31/1999."

SEC. 2017. IRGACOR 252LD.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.30 (2-Benzothiazolylthio) butanedioic acid (CAS No. 95154–01–1) (provided for in subheading 2934.20.40.	Free	No change	No change	On or before 12/31/1999."

SEC. 2018. IRGACOR 1405.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new item:

"9902.32.32 4-methyl-γ-oxo-benzenebutanoic acid compounded with 4-ethylmorpholine (2:1) (CAS No. 171054–89–0) (provided for in subheading 2934.90.39)	Free	No change	No change	On or before 12/31/1999."

SEC. 2019. 2-AMINO-4-(4-AMINOBENZOYL AMINO)-BENZENESULFONIC ACID SODIUM SALT.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.30.91 2-amino-4-(4-aminobenzoyl amino)-benzenesulfonic acid sodium salt (CAS No. 167614–37–1) (provided for in subheading 2930.90.29)	Free	No change	No change	On or before 12/31/2000."

SEC. 2020. 5-AMINO-N-(2-HYDROXYETHYL)-2,3-XYLENESULFONAMIDE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.15 5-Amino-N-(2-hydroxyethyl)-2,3-xylenesulfonamide (CAS No. 25797–78–8) (provided for in subheading 2935.00.95)	Free	No change	No change	On or before 12/31/2000."

SEC. 2021. 3-AMINO-2′-(SULFATOETHYL SULFONYL) ETHYL BENZAMIDE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.30.90 3-amino-2′-(sulfatoethyl sulfonyl) ethyl benzamide (CAS No. 121315–20–6) (provided for in subheading 2930.90.29)	Free	No change	No change	On or before 12/31/2000."

SEC. 2022. ACM.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.29.95 Phosphinic acid, [3-(acetyloxy)-3-cyanopropyl]methyl-, butyl ester (CAS No. 167004-78-6) (provided for in subheading 2931.00.90)	Free	No change	No change	On or before 12/31/99."

SEC. 2023. C.I. PIGMENT YELLOW 109.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.00 C.I. Pigment Yellow 109 Benzoic acid, 2,3,4,5-tetrachloro-6-cyano-,methyl ester, reaction product with 2-methyl-1,3-benzenediamine and sodium methoxide (CAS No. 106276-79-3) (provided for in subheading 3204.17.04)	Free	No change	No change	On or before 12/31/99."

SEC. 2024. C.I. PIGMENT YELLOW 110.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.05 C.I. Pigment Yellow 110 Benzoic acid, 2,3,4,5-tetrachloro-6-cyano-,methyl ester, reaction products with p-phenylenediamine and sodium methoxide (CAS No. 106276-80-6) (provided for in subheading 3204.17.04)	Free	No change	No change	On or before 12/31/99."

SEC. 2025. HALOFENOZIDE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.29.28	Benzoic acid, 4-chloro-2-benzoyl-2-(1,1-dimethylethyl) hydrazide (CAS No. 112226-61-6) (provided for in subheading 2928.00.25)	Free	No change	No change	On or before 12/31/ 2000."

SEC. 2026. β-BROMO-β-NITROSTYRENE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.92	β-Bromo-β-nitrostyrene (CAS No. 7166–19–0) (provided for in subheading 2904.90.47)	Free	No change	No change	On or before 12/31/ 2000."

SEC. 2027. BETA HYDROXYALKYLAMIDE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.38.25	N,N,N',N'-tetrakis (2-hydroxyethyl) hexane diamide (Beta Hydroxyalkylamide) (CAS No. 6334–25–4) (provided for in subheading 3824.90.90)	Free	No change	No change	On or before 12/31/ 2000."

SEC. 2028. 2,6-DIMETHYL-M-DIOXAN-4-OL ACETATE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.94	2,6-Dimethyl-m-dioxan-4-ol acetate (CAS No. 000828-00-2) (provided for in subheading 2932.99.90)	Free	No change	No change	On or before 12/31/ 2000."

SEC. 2029. GRILAMID TR90.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.39.12	Dodecanedioic acid, polymer with 4,4'-methylenebis (2-methylcyclohexanamine) (CAS No. 163800–66–6) (provided for in subheading 3908.90.70)	Free	No change	No change	On or before 12/31/ 99."

SEC. 2030. C.I. PIGMENT YELLOW 181.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.20	C.I. Pigment Yellow 181 N-[4-(aminocarbonyl)phenyl]-4-[[1[[(2,3-dihydro-2-oxo-1H-benzimidazol-5-yl)amino] carbonyl]-2-oxopropyl]azo]benzamide (CAS No. 074441–05–7) (provided for in subheading 3204.17.60)	Free	No change	No change	On or before 12/31/ 2002."

SEC. 2031. BUTANAMIDE, 2,2'-[3,3'-DICHLORO [1,1'-BIPHENYL]-4,4'-DIYL) BIS (AZO)] BIS [N-(2,3-DIHYDRO- 2 -OXO- 1H -BENZIMIDAZOL- 5 -YL)-3-OXO (PIGMENT ORANGE).

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.33	Butanamide, 2,2'-[3,3'-dichloro[1,1'-biphenyl]-4,4'-diyl)bis(azo)]bis[N-2,3-dihydro-2-oxo-1H-benzimidazol-5-yl)-3-oxo (Pigment Orange 72) (provided for in subheading 3204.17.60)	Free	No change	No change	On or before 12/31/ 2002."

SEC. 2032. BUTANAMIDE, N,N'-(3,3'DIMETHYL[1,1'-BIPHENYL]-4,4'-DIYL)BIS[2-[2,4-DICHLOROPHENYL)AZO]-3-OXO-.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.04	Butanamide, N,N'- (3,3'dimethyl [1,1'-biphenyl] -4,4'-diyl) bis[2-[2,4-dichlorophenyl)azo]-3-oxo- (C.I. Pigment Yellow 16) (provided for in subheading 3204.17.04)	Free	No change	No change	On or before 12/31/ 2002."

SEC. 2033. C.I. PIGMENT YELLOW 154.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.27	C.I. Pigment Yellow 154 Butanamide, N-(2,3-dihydro-2-oxo-1H-benzimidazol-5-yl)-3-oxo-2-[[2-(trifluoro-methyl)phenyl]azo]- (CAS No. 068134–22–5) (provided for in subheading 3204.17.60)	Free	No change	No change	On or before 12/31/ 2002."

SEC. 2034. C.I. PIGMENT YELLOW 180.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.22	C.I. Pigment Yellow 180 Butanamide, 2,2'-[1-2,-ethanediylbis-(oxy-2,1-phenyleneazo)]bis[N-(2,3-dihydro-2-oxo-1H-benzimidazol-5-yl)-3-oxo- (provided for in subheading 3204.17.60)	Free	No change	No change	On or before 12/31/ 2002."

SEC. 2035. C.I. PIGMENT YELLOW 191.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.28	Benzenesulfonic acid, 4-chloro-2-[[5-hydroxy-3-methyl-1-(3-sulfophenyl)-1H-pyrazol-4-yl]azo]-5-methyl-,calcium salt (1:1) (C.I. Pigment Yellow 191) (provided for in subheading 3204.17.60)	Free	No change	No change	On or before 12/31/ 2002."

SEC. 2036. KN001.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.30.05	2-4-dichlon-5-hydrozyhydrazine hydrochloride (CAS No. 189573–21–5) (provided for in subheading 2928.00.25)	Free	No change	No change	On or before 12/31/ 00."

SEC. 2037. DEMT.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.50	N,N-diethyl-m-toluidine (DEMT) (CAS No. 91–67–8) (provided for in subheading 2921.43.80)	Free	No change	No change	On or before 12/31/ 2000."

SEC. 2038. IN–W4280.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.51	2,4-dichloro-5-hydroxy-phenylhydrazine (CAS No. 39807–21–1) (provided for in subheading 2928.00.5000)	Free	No change	No change	On or before 12/31/ 00."

SEC. 2039. 2-CHLORO-N-[2,6-DINITRO-4-(TRIFLUOROMETHYL)PHENYL]-N-ETHYL-6-FLUOROBENZENE- METHANAMINE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

9902.29.24	2-chloro-N-[2,6-dinitro-4-(trifluoromethyl)phenyl]-N-ethyl-6-fluorobenzenemethanamine. (CAS No. 62924–70–3) (provided for in subheading 2921.49.95)	Free	No change	No change	On or before 12/31/ 2000."

SEC. 2040. PROPANOIC ACID, 2-[4-[(5-CHLORO-3-FLUORO-2-PYRIDINYL)OXY]PHENOXY]-2-PROPYNYL ESTER.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.29.23	Propanoic acid, 2-[4-[(5-chloro-3-fluoro-2-pyridinyl)oxy]-phenoxy]-2-propynyl ester. (CAS No. 105512–06–9) (provided for in subheading 2918.90.20.50)	Free	No change	No change	On or before 12/31/ 2000."

SEC. 2041. 2,4-DICHLORO 3,5-DINITROBENZOTRIFLUORIDE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.29.10	2,4 dichloro 3,5 dinitro benzotrifluoride. (CAS No. 29091–09–6) (provided for in subheading 2910.90.20)	Free	No change	No change	On or before 12/31/ 2000."

SEC. 2042. ACETIC ACID, [(5-CHLORO-8-QUINOLINYL)OXY]-, 1-METHYLHEXYL ESTER.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.29.33	Acetic acid, [(5-chloro-8-quinolinyl)oxy]-, 1-methylhexyl ester. (CAS No. 99607–70–2) (provided for in subheading 2933.90.82.90)	Free	No change	No change	On or before 12/31/ 2000."

SEC. 2043. ACETIC ACID, [[2-CHLORO-4-FLUORO-5-[(TETRAHYDRO-3-OXO-1H, 3H-[1,3,4] THIADIAZOLO [3,4-A]PYRIDAZIN-1-YLIDENE)AMINO]PHENYL]THIO]-, METHYL ESTER.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.29.34	Acetic acid, [[2-chloro-4-fluoro-5-[(tetrahydro-3-oxo-1H, 3H-[1,3,4] thiadiazolo [3,4-a] pyridazin-1-ylidene)amino] phenyl]thio]-, methyl ester. (CAS No. 117337–19–6) (provided for in subheading 2934.90.15)	Free	No change	No change	On or before 12/31/ 2000."

SEC. 2044. CHLOROACETONE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.29.21	Chloroacetone. (CAS No. 78–95–5) (provided for in subheading 2914.19.00)	Free	No change	No change	On or before 12/31/ 2000."

SEC. 2045. SODIUM N-METHYL-N OLEOYL TAURATE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.29.04	Sodium N-methyl-N oleoyl taurate. (CAS No. 137–20–2) (provided for in subheading 2904.10.50)	Free	No change	No change	On or before 12/31/ 2000."

SEC. 2046. DIALKYLNAPHTHALENE SULFONIC ACID SODIUM SALT.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.29.05	Dialkylnaphthalene sulfonic acid sodium salt. (CAS No. 25638–17–9) (provided for in subheading 3402.11.40)	Free	No change	No change	On or before 12/31/ 2000."

SEC. 2047. O-(6-CHLORO-3-PHENYL-4-PYRIDAZINYL)-S-OCTYL-CARBONOTHIOATE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.38.08	O-(6-chloro-3-phenyl-4-pyridazinyl)-S-octyl-carbonothioate. (CAS No. 55512–33–9) (provided for in subheading 3808.30.15)	Free	No change	No change	On or before 12/31/ 2000."

SEC. 2048. 4-CYCLOPROPYL-6-METHYL-2-PHENYLAMINO-PYRIMIDINE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.29.35	4-Cyclopropyl-6-methyl-2-phenylamino-pyrimidine. (CAS No. 121552–61–2) (provided for in subheading 2933.59.15)	Free	No change	No change	On or before 12/31/ 2000."

SEC. 2049. O, O-DIMETHYL-S-[5-METHOXY-2-OXO-1,3,4-THIADIAZOL-3(2H)-YL-METHYL]-DITHIOPHOSPHATE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.29.36	O,O-Dimethyl-S-[5-methoxy-2-oxo-1,3,4-thiadiazol-3(2H)-yl- methyl]- dithiophosphate. (CAS No. 950–37–8) (provided for in subheading 2934.90.90)	Free	No change	No change	On or before 12/31/ 2000."

SEC. 2050. (ETHYL [2-(4-PHENOXYPHENOXY) ETHYL] CARBAMATE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.29.37	(Ethyl [2-(4-phenoxyphenoxy) ethyl] carbamate. (CAS No. 79127–80–3) (provided for in subheading 2924.10.80)	Free	No change	No change	On or before 12/31/ 2000."

SEC. 2051. 3-(6-METHOXY-4-METHYL-1,3,5-TRIAZIN-2-YL)-1-[2-(2-CHLOROETHOXY)-PHENYLSULFONYL]-UREA.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.38.09	3-(6-Methoxy-4-methyl-1,3,5-triazin-2-yl)-1-[2-(2-chloroethoxy)-phenylsulfonyl]-urea. (CAS No. 82097–50–5) (provided for in subheading 3808.30.15)	Free	No change	No change	On or before 12/31/ 2000."

SEC. 2052. [(2S,4R)/(2R,4S)]/[(2R,4R)/(2S,4S)-1-[2-[4-(4-CHLORO-PHENOXY)-2-CHLOROPHENYL]-4-METHYL-1,3-DIOXOLAN-2-YL-METHYL]-1H-1,2,4-TRIAZOLE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.29.38	[(2S,4R)/(2R,4S)]/[(2R,4R)/(2S,4S)-1-[2-[4-(4-chloro-phenoxy)-2-chlorophenyl]-4-methyl-1,3-dioxolan-2-yl-methyl]-1H-1,2,4-triazole. (CAS No. 119446–68–3) (provided for in subheading 2934.90.12)	Free	No change	No change	On or before 12/31/ 2000."

SEC. 2053. SUBSTRATES OF SYNTHETIC QUARTZ OR SYNTHETIC FUSED SILICA.

Subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9903.70.06	Substrates of synthetic quartz or synthetic fused silica imported into the United States in bulk or in forms or packages for retail sale (provided for in subheading 7006.00.40)	1%	No change	No change	On or before 12/31/ 2000."

SEC. 2054. KL540.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.54	Methyl4-trifluoromethoxyphenyl-N- (chlorocarbonyl) carbamate (CAS No. 173903–15–6) (provided for in subheading 2924.29.70)	Free	No change	No change	On or before 12/31/ 2000."

SEC. 2055. METHYL THIOGLYCOLATE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.58	Methyl thioglycolate (CAS No. 2365–48–2) (provided for in subheading 2930.90.90)	Free	No change	No change	On or before 12/31/ 2000

SEC. 2056. TEBUFENOZIDE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.29.51	N-tert-butyl-N'-(4-ethylbenoyl)-3,5-dimethylbenoylhydrazide (CAS No. 112410–23–8) (provided for in subheading 2928.00.25)	Free	No change	No change	On or before 12/31/ 2000."

SEC. 2057. ORGANIC LUMINESCENT PIGMENTS, DYES, AND FIBERS FOR SECURITY APPLICATIONS, AND 4-HEXYLRESORCINOL (EXCLUDING DAYLIGHT FLORESCENT PIGMENTS AND DYES).

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new headings:

"9902.32.85	Organic luminescent pigments, dyes, for security applications (excluding daylight florescent pigments and dyes) (provided for in subheading 3204.90.00)	Free	No change	No change	On or before 12/31/ 2001
9902.29.07	4-Hexylresorcinol (CAS No. 136–77–6) (provided for in subheading 2907.29.90)	Free	No change	No change	On or before 12/31/ 2001."

SEC. 2058. DPX–E6758.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.33.59	Phenyl (4, 6-dimethoxy-pyrimidin-2-yl) carbamate (CAS No. 89392–0) (provided for in subheading 2933.59.70)	Free	No change	No change	On or before 12/31/ 2000."

SEC. 2059. BENZENEPROPANAL, 4-(1,1-DIMETHYLETHYL)-ALPHA-METHYL-.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new item:

"9902.29.57	Benzenepropanal, 4-(1,1-dimethylethyl)-alpha-methyl- (CAS No. 80–54–6 provided for in subheading 2912.29.60.00)	6%	No change	No change	On or before 12/31/ 2000."

SEC. 2060. ELIMINATION OF DUTY ON ZIRAM.

Subheading 3808.20.24 of the Harmonized Tariff Schedule of the United States is amended by striking "and Metiram" and inserting "Metiram; and Ziram".

SEC. 2061. ETHYLENE, TETRAFLUORO COPOLYMER WITH ETHYLENE (ETFE).

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.29.50	Ethylene, tetrafluoro copolymer with ethylene (ETFE) (provided for in subheading 3904.69.5000)	3.3%	No change	No change	On or before 12/31/ 00."

SEC. 2062. 2-NAPHTHALENE-CARBOXAMIDE 4-[[5-[[[4-(AMINOCARBONYL)PHENYL]AMINO] CARBONYL]-2-METHOXYPHENYL]AZO]-N-(5-CHLORO-2,4-DIMETHOXYPHENYL)-3-HYDROXY-.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.82	2-naphthalene-carboxamide 4-[[5-[[[4-(Aminocarbonyl) phenyl] amino]carbonyl]-2-methoxyphenyl]azo]-N-(5-chloro-2,4-dimethoxyphenyl)-3-hydroxy (Pigment Red 181) (provided for in subheading 3204.17.60)	Free	No change	No change	On or before 12/31/ 2002."

SEC. 2063. BENZENESULFONIC ACID, 4-[[3-[[2-HYDROXY- 3 -[[4-METHOXYPHENYL) AMINO]CARBONYL]- 1 -NAPHTHA- LENYL]AZO]- 4 -METHYLBENZOYL]AMINO]-, CALCIUM SALT (2:1).

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.86	Benzenesulfonic acid, 4-[[3-[[2-hydroxy- 3 -[[4-methoxyphenyl)-amino]carbonyl]- 1 -naphtha-lenyl]azo]- 4 -methylbenzoyl]amino]-, calcium salt (2:1) (Pigment Red 247) (provided for in subheading 3204.17.60)	Free	No change	No change	On or before 12/31/ 2002."

SEC. 2064. PIGMENT RED 185.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.08	2-naphthalene-carboxaminde N-(2,3-Dihydro- 2 -oxo- 1H -benzimidazol- 5 -yl)- 5 -methyl- 4 -[(methyl amino) sulphonyl] phenyl]azo] (Pigment Red 185) (provided for in subheading 3204.17.04)	Free	No change	No change	On or before 12/31/ 2002."

SEC. 2065. PIGMENT RED 208.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.10	Benzoic acid, 2-[[3-[[(2,3-dihydro- 2 -oxo- 1H -benzimidazol- 5 -yl) amino]carbonyl]- 2 - hydroxy- 1 -naphthalenyl]azo]-, butyl ester (Pigment Red 208) (provided for in subheading 3204.17.04)	Free	No change	No change	On or before 12/31/ 2002."

SEC. 2066. PIGMENT RED 188.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.80	Benzoic acid, 4-[[(2,5-dichlorophenyl) amino]carbonyl]-2-[[2-hydroxy-3-[[(2-methoxyphenyl) amino]carbonyl]-1-naphthalenyl]-, methyl ester (provided for in subheading 3204.17.04)	Free	No change	No change	On or before 12/31/ 2002."

SEC. 2067. CERTAIN WEAVING MACHINES.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.83.10	Weaving machines (looms) for weaving fabrics of a width exceeding 30 cm, shuttle type: power looms for weaving fabrics of a width not exceeding 4.9 m, if imported without off-loom or large loom take-ups, drop wires, heddles, reeds, harness frames, and beams (provided for in subheading 8446.21.50)	Free	No change	No change	On or before 12/31/ 99."

SEC. 2068. CHLOROMETHYL PIVALATE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.33.10	Chloromethyl Pivalate (CAS No. 18997–19–8) (Provided for in subheading 2915.90.50)	Free	No change	No change	On or before 12/31/99."

SEC. 2069. 9-[2-(R)-[[BIS [[ISOPROPOXYCARBONYL) OXYMETHOXY]PHOSPHINOYL] METHOXY]PROPYL] ADENINE FUMARATE (1:1).

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.33.02	9-[2-(R)-[[Bis [[isopropoxycarbonyl) oxymethoxy]phosphinoyl] methoxy]propyl] adenine fumarate (1:1) (CAS No. 202138–50–9) (provided for in subheading 2933.59.59)	Free	No change	No change	On or before 12/31/99."

SEC. 2070. DIETHYL P-TOLUENE SULFONYLOXYMENTHYLPHOSPHONATE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.33.11	Diethyl p-toluene sulfonyloxymenthylphosphonate (CAS No. 31618–90–3) (Provided for in subheading 2933.59.80)	Free	No change	No change	On or before 12/31/99."

SEC. 2071. 1,4-BENZENEDICARBOXYLIC ACID, 2-[[1-[[(2,3-DI-HYDRO-2-OXO-1H-BENZIMIDAZOL-5-YL)AMINO CARBONYL]-2-OXOPROPYL]AZO]-,DIMETHYL ESTER.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.34	1,4-Benzenedicarboxylic acid, 2-[[1-[[(2,3-di-hydro- 2 -oxo-1H-benzimidazol- 5 -yl)amino carbonyl]- 2 -oxopropyl]azo]-, dimethyl ester (Pigment Yellow 175) (provided for in subheading 3204.17.60)	Free	No change	No change	On or before 12/31/2002."

SEC. 2072. ANTI-HIV/ANTI-AIDS DRUGS.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.84	3-(Acetyloxy)-2-methyl-benzoic acid (CAS No. 168899–58–9) (provided for in subheading 2918.29.65)	Free	No change	No change	On or before 12/31/2000."

SEC. 2073. ANTI-CANCER DRUGS.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.59	(S)-N-[[5-[2-(2- Amino- 4,6,7,8-tetra- hydro-4-oxo- 1H- pyrimido [5,4-b] [1,4] thiazin- 6-yl)ethyl]-2- thienyl] carbonyl]-L- glutamic acid diethyl ester (CAS No. 177575–19–8) (provided for in subheading 2930.90.90)	Free	No change	No change	On or before 12/31/2000."

SEC. 2074. 2-AMINO-5-BROMO-6-METHYL-4-(1H)-QUINAZOL- INONE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.60	2-Amino-5-bromo-6-methyl-4-(1H)-quinazolinone (CAS No. 147149–89–1) (provided for in subheading 2933.90.97)	Free	No change	No change	On or before 12/31/2000."

SEC. 2075. 2-AMINO-6-METHYL-5-(4-PYRIDINYLTHIO)-4-(1H)-QUINAZOLINONE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.21	2-Amino-6-methyl-5-(4-pyridinylthio)-4-(1H)-quinazolinone (CAS No. 147149–76–6)(provided for in subheading 2933.90.97)	Free	No change	No change	On or before 12/31/2000."

SEC. 2076. 2-AMINO-5-NITROTHIAZOLE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.61	2-Amino-5-nitrothiazole (CAS No. 121–66–4) (provided for in subheading 2934.10.90)	Free	No change	No change	On or before 12/31/2000."

SEC. 2077. 2-AMINO-5-NITROBENZENESULFONIC ACID, MONOSODIUM SALT.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.62	2-Amino-5-nitrobenzenesulfonic acid, monosodium salt (CAS No. 30693–53–9) (provided for in subheading 2921.42.90)	Free	No change	No change	On or before 12/31/2000."

SEC. 2078. 2-AMINO-5-NITROBENZENESULFONIC ACID, MONOAMMONIUM SALT.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.63	2-Amino-5-nitrobenzenesulfonic acid, monoammonium salt (CAS No. 4346–51–4) (provided for in subheading 2921.42.90)	Free	No change	No change	On or before 12/31/2000."

SEC. 2079. 2-AMINO-5-NITROBENZENESULFONIC ACID.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.36	2-Amino-5-nitrobenzenesulfonic acid (CAS No. 96–75–3) (provided for in subheading 2921.42.90)	Free	No change	No change	On or before 12/31/2000."

SEC. 2080. 3-(4,5-DIHYDRO-3-METHYL-5-OXO-1H-PYRAZOL-1-Y1)BENZENESULFONIC ACID.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.38	3-(4,5-Dihydro-3-methyl-5-oxo-1H-pyrazol-1-y1) benzenesulfonic acid (CAS No. 119–17–5) (provided for in subheading 2933.19.43)	Free	No change	No change	On or before 12/31/2000."

SEC. 2081. 4-CHLORO-3-NITROBENZENESULFONIC ACID.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.48	4-Chloro-3-nitrobenzenesulfonic acid (CAS No. 121–18–6) (provided for in subheading 2904.90.47)	Free	No change	No change	On or before 12/31/2000."

SEC. 2082. 4-CHLORO-3-NITROBENZENESULFONIC ACID, MONOPOTASSIUM SALT.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.83 4-Chloro-3-nitrobenzenesulfonic acid, monopotassium salt (CAS No. 6671–49–4) (provided for in subheading 2904.90.47)	Free	No change	No change	On or before 12/31/ 2000."

SEC. 2083. 4-CHLORO-3-NITROBENZENESULFONIC ACID, MONOSODIUM SALT.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.52 4-Chloro-3-nitrobenzenesulfonic acid, monosodium salt (CAS No. 17691–19–9) (provided for in subheading 2904.90.40)	Free	No change	No change	On or before 12/31/ 2000."

SEC. 2084. 2-METHYL-5-NITROBENZENESULFONIC ACID.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.64 2-Methyl-5-nitrobenzenesulfonic acid (CAS No. 121–03–9) (provided for in subheading 2904.90.20)	Free	No change	No change	On or before 12/31/ 2000."

SEC. 2085. 6-BROMO-2,4,DINITROANILINE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.81 6-Bromo-2,4, dinitroaniline (CAS No. 1817–73–8) (provided for in subheading 2921.42.90)	Free	No change	No change	On or before 12/31/ 2000."

SEC. 2086. 4-CHLOROPYRIDINE HYDROCHLORIDE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.65 4-Chloropyridine hydrochloride (CAS No. 7379–35–3) (provided for in subheading 2933.39.61)	Free	No change	No change	On or before 12/31/ 2000."

SEC. 2087. 3-ETHOXYCARBONYL-AMINOPHENYL-N-PHENYL- CARBAMATE (DESMEDIPHAM).

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.31.12 3-Ethoxycarbonyl-aminophenyl-N-phenylcarbamate (Desmedipham) (CAS No. 13684–56–5) (provided for in subheading 2924.29.41)	Free	No change	No change	On or before 12/31/ 99."

SEC. 2088. [S-(R*,R*)]-2,3-DIHYDROXY-BUTANEDIOIC ACID.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.23 [S-(R*,R*)]-2,3-dihydroxy-butanedioic acid (CAS No. 147–71–7) (provided for in subheading 2918.19.90 or 2918.90.50)	Free	No change	No change	On or before 12/31/ 2000."

SEC. 2089. (3S)-2,2-DIMETHYL-3-THIOMORPHOLINE CARBOXYLIC ACID.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.19 (3S)-2,2-Dimethyl-3-thiomorpholine carboxylic acid (CAS No. 84915–43–5) (provided for in subheading 2934.90.90)	Free	No change	No change	On or before 12/31/ 2000."

SEC. 2090. DIIODOMETHYL-P-TOLYLSULFONE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.90 Diiodomethyl-*p*-tolylsulfone (CAS No. 20018–09–1) (provided for in subheading 2930.90.10)	Free	No change	No change	On or before 12/31/ 2000."

SEC. 2091. 2-ETHOXY-2,3-DIHYDRO-3,3-DIMETHYL-5-BENZOFURANYL METHANESULFONATE (ETHOFUMESATE).

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.31.20 2-Ethoxy-2,3-dihydro-3,3-dimethyl-5-benzofuranyl- methanesulfonate (ethofumesate) singularly or in mixture with application adjuvants (CAS No. 26225–79–6) (provided for in subheadings 2932.99.08 and 3808.30.15)	Free	No change	No change	On or before 12/31/ 99."

SEC. 2092. SKATING BOOTS FOR USE IN THE MANUFACTURE OF IN-LINE ROLLER SKATES.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.64.04 Skating boots for use in the manufacture of in-line roller skates (provided for in subheading 6404.11.90)	Free	No change	No change	On or before 12/31/ 2000."

SEC. 2093. 2-4-DICHLORO-5-HYDRAZINO-PHENOL-MONOHY- DROCHLORIDE.

Subchapter II of Chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.30.98 2-4-Dichloro-5-hydrazino-phenol-monohydrochloride (CAS No. 189573–21–5) (provided for in subheading 2928.00.25)	Free	No change	No change	On or before 12/31/ 98."

SEC. 2094. 3-MERCAPTO-D-VALINE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.66 3-Mercapto-D-valine (CAS No. 52–67–5) (provided for in subheading 2930.90.45)	Free	No change	No change	On or before 12/31/ 2000."

SEC. 2095. 6-AMINO-1,3-NAPHTHALENEDISULFONIC ACID.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.91 6-Amino-1,3-naphthalenedisulfonic acid (CAS No. 118–33–2) (provided for in subheading 2921.45.90)	Free	No change	No change	On or before 12/31/ 2000."

SEC. 2096. 6-AMINO-1,3-NAPHTHALENEDISULFONIC ACID, DISODIUM SALT.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.67 6-Amino-1,3-naphthalenedisulfonic acid, disodium salt (CAS No. 50976–35–7) (provided for in subheading 2921.45.90)	Free	No change	No change	On or before 12/31/ 2000."

SEC. 2097. 7-ACETYLAMINO-4-HYDROXY-2-NAPHTHALENE- SULFONIC ACID, MONOSODIUM SALT.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.68	7-Acetylamino-4-hydroxy-2-naphthalenesulfonic acid, monosodium salt (CAS No. 42360–29–2) (provided for in subheading 2924.29.70)	Free	No change	No change	On or before 12/31/ 2000."

SEC. 2098. 4-BENZOYLAMINO-5-HYDROXY-2,7-NAPHTHALENE- DISULFONIC ACID.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.40	4-Benzoylamino-5- hydroxy-2,7-naphthalenedisulfonic acid (CAS No. 117–46–4) (provided for in subheading 2924.29.75)	Free	No change	No change	On or before 12/31/ 2000."

SEC. 2099. 4-BENZOYLAMINO-5-HYDROXY-2,7-NAPHTHALENE- DISULFONIC ACID, MONOSODIUM SALT.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.42	4-Benzoylamino-5-hydroxy-2,7-naphthalenedisulfonic acid, monosodium salt (CAS No. 79873–39–5) (provided for in subheading 2924.29.70)	Free	No change	No change	On or before 12/31/ 2000."

SEC. 2100. P-ETHYLPHENOL.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.31.21	p-Ethylphenol (CAS No. 123–07–9) (provided for in subheading 2907.19.20)	Free	No change	No change	On or before 12/31/ 2000."

SEC. 2101. PANTERA.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.29.09	(+/−)- Tetrahydrofurfuryl (R)-2-[4-(6-chloroquinoxalin-2-yloxy) phenoxy] propanoate (CAS No. 119738–06–6) (provided for in subheading 2909.30.40) and any mixtures containing the same	Free	No change	No change	On or before 12/31/ 2000."

SEC. 2102. 3-METHYL- CARBONYL- AMINOPHENYL-3'-METHYL-CARBANILATE (PHENMEDIPHAM).

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.31.22	3-Methyl- carbonyl- aminophenyl-3'-methyl-carbanilate (phenmedipham) (CAS No. 13684-63-4) (provided for in subheading 2924.29.47)	Free	No change	No change	On or before 12/31/ 99."

SEC. 2103. 2-AMINO-P-CRESOL.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.93	2-Amino-p-cresol (CAS No. 95–84–1) (provided for in subheading 2922.29.10)	Free	No change	No change	On or before 12/31/ 2000."

SEC. 2104. 4-PHENOXYPYRIDINE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.69	4-Phenoxypyridine (CAS No. 4783–86–2) (provided for in subheading 2933.90.82)	Free	No change	No change	On or before 12/31/ 2000."

SEC. 2105. P-NITROBENZOIC ACID.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.70	p-Nitrobenzoic acid (CAS No. 62–23–7) (provided for in subheading 2916.39.45)	Free	No change	No change	On or before 12/31/ 99."

SEC. 2106. P-TOLUENESULFONAMIDE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.95	p-Toluenesulfonamide (CAS No. 70–55–3) (provided for in subheading 2935.00.95)	Free	No change	No change	On or before 12/31/ 99."

SEC. 2107. TANNIC ACID.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.32.71	Tannic acid, containing by weight 50 percent or more of tannic acid (CAS No. 1401–55–4) (provided for in subheading 3201.90.10)	Free	No change	No change	On or before 12/31/ 2000."

SEC. 2108. POLYMERS OF TETRAFLUOROETHYLENE, HEXAFLUOROPROPYLENE, AND VINYLIDENE FLUORIDE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.39.04	Polymers of tetrafluoroethylene (provided for in subheading 3904.61.00), hexafluoropropylene and vinylidene fluoride (provided for in subheading 3904.69.50)	Free	No change	No change	On or before 12/31/ 99."

SEC. 2109. METHYL 2-[[[[[4-(DIMETHYLAMINO)-6-(2,2,2- TRIFLUOROETHOXY)-1,3,5-TRIAZIN-2-YL]- AMINO]CARBONYL]-AMINO]SULFONYL]-3-METHYLBENZOATE (TRISULFURON METHYL).

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.38.11	Methyl 2-[[[[[4- (dimethylamino)-6-(2,2,2- trifluoroethoxy)- 1,3,5-triazin-2-yl]- amino]carbonyl]- amino]sulfonyl]-3-methylbenzoate (trisulfuron methyl) in mixture with application adjurants. (CAS No. 126535–15–7) (provided for in subheading 3808.30.15)	Free	No change	No change	On or before 12/31/ 99."

SEC. 2110. SUSPENSION OF DUTY ON CERTAIN MANUFACTURING EQUIPMENT.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new subheadings:

"9902.84.79	Calendaring or other rolling machines for rubber to be used in the production of radial tires designed for off-the-highway use with a rim measuring 86 cm or more in diameter provided for in subheading 4011.20.10 or subheading 4011.91.50 or subheading 4011.99.40, numerically controlled, or parts thereof (provided for in subheading 8420.10.90, 8420.91.90 (part) or 8420.99.90 (part)) and material holding devices or similar attachments thereto	Free	No change	No change	On or before 12/31/ 2000
9902.84.81	Shearing machines used to cut metallic tissue to be used in the production of radial tires designed for off-the-highway use with a rim measuring 86 cm or more in diameter provided for in subheading 4011.20.10 or subheading 4011.91.50 or subheading 4011.99.40, numerically controlled (provided for in subheading 8462.31.00 or subheading 8466.94.85 (part))	Free	No change	No change	On or before 12/31/ 2000

9902.84.83	Machine tools for working wire of iron or steel to be used in the production of radial tires designed for off-the-highway use with a rim measuring 86 cm or more in diameter provided for in subheading 4011.20.10 or subheading 4011.91.50 or subheading 4011.99.40, numerically controlled, or parts thereof (provided for in subheading 8463.30.00 or 8466.94.85 (part))	Free	No change	No change	On or before 12/31/2000
9902.84.85	Extruders to be used in the production of radial tires designed for off-the-highway use with a rim measuring 86 cm or more in diameter provided for in subheading 4011.20.10 or subheading 4011.91.50 or subheading 4011.99.40, numerically controlled, or parts thereof (provided for in subheading 8477.20.00 or 8477.90.85 (part))	Free	No change	No change	On or before 12/31/2000
9902.84.87	Machinery for molding, retreading, or otherwise forming uncured, unvulcanized rubber to be used in the production of radial tires designed for off-the-highway use with a rim measuring 86 cm or more in diameter provided for in subheading 4011.20.10 or subheading 4011.91.50 or subheading 4011.99.40, numerically controlled, or parts thereof (provided for in subheading 8477.51.00 or 8477.90.85 (part))	Free	No change	No change	On or before 12/31/2000
9902.84.89	Sector mold press machines to be used in the production of radial tires designed for off-the-highway use with a rim measuring 86 cm or more in diameter provided for in subheading 4011.20.10 or subheading 4011.91.50 or subheading 4011.99.40, numerically controlled, or parts thereof (provided for in subheading 8477.51.00 or subheading 8477.90.85 (part))	Free	No change	No change	On or before 12/31/2000
9902.84.91	Sawing machines to be used in the production of radial tires designed for off-the-highway use with a rim measuring 86 cm or more in diameter provided for in subheading 4011.20.10 or subheading 4011.91.50 or subheading 4011.99.40, numerically controlled, or parts thereof (provided for in subheading 8465.91.00 or subheading 8466.92.50 (part))	Free	No change	No change	On or before 12/31/2000."

SEC. 2111. SE2SI SPRAY GRANULATED (HOE S 4291).

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.39.07	A saturated polyester in primary form (provided for in subheading 3907.99.00)	Free	No change	No change	On or before 12/31/2002."

SEC. 2112. PERSONAL EFFECTS OF PARTICIPANTS IN CERTAIN WORLD ATHLETIC EVENTS.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.98.08	Any of the following articles not intended for sale or distribution to the public: personal effects of aliens who are participants in, officials of, or accredited members of delegations to, the 1999 International Special Olympics, the 1999 Women's World Cup Soccer, the 2001 International Special Olympics, the 2002 Salt Lake City Winter Olympics, and the 2002 Winter Paralympic Games, and of persons who are immediate family members of or servants to any of the foregoing persons; equipment and materials imported in connection with the foregoing events by or on behalf of the foregoing persons or the organizing committees of such events; articles to be used in exhibitions depicting the culture of a country participating in any such event; and, if consistent with the foregoing, such other articles as the Secretary of Treasury may allow	Free	No change	Free	On or before 1/1/2003."

(b) TAXES AND FEES NOT TO APPLY.—The articles described in heading 9902.98.08 of the Harmonized Tariff Schedule of the United States (as added by subsection (a)) shall be free of taxes and fees which may be otherwise applicable.

(c) NO EXEMPTION FROM CUSTOMS INSPECTIONS.—The articles described in heading 9902.98.08 of the Harmonized Tariff Schedule of the United States (as added by subsection (a)) shall not be free or otherwise exempt or excluded from routine or other inspections as may be required by the Customs Service.

SEC. ~~2112.~~ *2113.* EFFECTIVE DATE.

Except as otherwise provided in this subtitle, the amendments made by this title apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

Subtitle B—Other Trade Provisions

SEC. 2501. EXTENSION OF CERTAIN TRADE BENEFITS OF INSULAR POSSESSIONS OF THE UNITED STATES TO CERTAIN FINE JEWELRY.

(a) IN GENERAL.—The additional U.S. notes to chapter 71 of the Harmonized Tariff Schedule of the United States are amended by adding at the end the following new note:

"3. (a) Notwithstanding any other provision in additional U.S. note 5 to chapter 91, any article of jewelry provided for in heading 7113 which is the product of the Virgin Islands, Guam, or American Samoa (including any such article which contains any foreign component) shall be eligible for the benefits provided in paragraph (h) of additional U.S. note 5 to chapter 91, subject to the provisions and limitations of that note and of paragraphs (b), (c), and (d) of this note.

"(b) Nothing provided for in this note shall result in an increase or a decrease in the aggregate amount referred to in paragraph (h)(iii) of, or quantitative limitation otherwise established pursuant to the requirements of, additional U.S. note 5 to chapter 91.

"(c) Nothing provided for in this note shall be construed to permit a reduction in the amount available to watch producers under paragraph (h)(iv) of additional U.S. note 5 to chapter 91.

"(d) The Secretary of Commerce and the Secretary of the Interior shall issue such regulations, not inconsistent with the provisions of this note and additional U.S. note 5 to chapter 91, as they determine necessary to carry out their respective duties under this note. Such regulations shall not be inconsistent with substantial transformation requirements established by the United States Customs Service but may define the circumstances under which articles of jewelry shall be deemed to be 'units' for purposes of the benefits, provisions, and limitations of additional U.S. note 5 to chapter 91.".

(b) CONFORMING AMENDMENTS.—Additional U.S. note 5 to chapter 91 of the Harmonized Tariff Schedule of the United States is amended—

(1) in subdivision (a), by inserting after "chapter" the following: "and any article of jewelry provided for in heading 7113 (under the terms of additional U.S. note 3 to chapter 71)"; and

(2) in subdivision (b), by inserting after "watches)" the following: "and any article of jewelry provided for in heading 7113".

SEC. 2502. TARIFF TREATMENT FOR CERTAIN COMPONENTS OF SCIENTIFIC INSTRUMENTS AND APPARATUS.

(a) IN GENERAL.—U.S. Note 6 of subchapter X of chapter 98 of the Harmonized Tariff Schedule of the United States is amended in subdivision (a) by adding at the end the following new sentence: "The term 'instruments and apparatus' under subheading 9810.00.60 includes separable components of an instrument or apparatus listed in this subdivision that are imported for assembly in the United States in such instrument or apparatus where the instrument or apparatus, due to its size, cannot be feasibly imported in its assembled state.".

(b) APPLICATION OF DOMESTIC EQUIVALENCY TEST TO COMPONENTS.—U.S. Note 6 of subchapter X of chapter 98 of the Harmonized Tariff Schedule of the United States is amended—

(1) by redesignating subdivisions (d) through (f) as subdivisions (e) through (g), respectively; and

(2) by inserting after subdivision (c) the following:

"(d)(i) If the Secretary of Commerce determines under this U.S. note that an instrument or apparatus of equivalent scientific value to the instrument or apparatus which, due to its size cannot be feasibly imported in its assembled state, is being manufactured in the United States, the Secretary shall report the findings to the Secretary of the Treasury and to the applicant institution and all components of the instrument or apparatus shall remain dutiable.

"(ii) If the Secretary of Commerce determines that the instrument or apparatus is not being manufactured in the United States, the Secretary is authorized to determine further whether any component of the instrument or apparatus is being manufactured in the United States and shall report the findings to the Secretary of the Treasury and to the applicant institution, and any component found to be domestically available shall remain dutiable.

"(iii) Any decision by the Secretary of the Treasury which allows for duty-free entry of a component of an instrument or apparatus which, due to its size cannot be feasibly imported in its assembled state, shall be effective for a specified maximum period, to be determined in consultation with the Secretary of Commerce, taking into account both the scientific needs of the importing institution and the potential for development of comparable domestic manufacturing capacity.".

(c) MODIFICATIONS OF REGULATIONS.—The Secretary of the Treasury and the Secretary of Commerce shall make such modifications to their joint regulations as are necessary to carry out the amendments made by this section.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect beginning 120 days after the date of the enactment of this Act.

SEC. 2503. LIQUIDATION OR RELIQUIDATION OF CERTAIN ENTRIES.

(a) LIQUIDATION OR RELIQUIDATION OF ENTRIES.—Notwithstanding sections 514 and 520 of the Tariff Act of 1930 (19 U.S.C. 1514 and 1520), or any other provision of law, the United States Customs Service shall, not later than 90 days after the date of the enactment of this Act, liquidate or reliquidate those entries made at Los Angeles, California, and New Orleans, Louisiana, which are listed in subsection (c), in accordance with the final decision of the International Trade Administration of the Department of Commerce for shipments entered between October 1, 1984, and December 14, 1987 (case number A-274-001).

(b) PAYMENT OF AMOUNTS OWED.—Any amounts owed by the United States pursuant

to the liquidation or reliquidation of an entry under subsection (a) shall be paid by the Customs Service within 90 days after such liquidation or reliquidation.

(c) ENTRY LIST.—The entries referred to in subsection (a) are the following:

Entry Number	Date of Entry	Port
322 00298563	12/11/86	Los Angeles, California
322 00300567	12/11/86	Los Angeles, California
86-2909242	9/2/86	New Orleans, Louisiana
87-05457388	1/9/87	New Orleans, Louisiana

SEC. 2504. FINISHED PETROLEUM DERIVATIVES DRAWBACK.

The Secretary of the Treasury shall convene a working group of interested parties and, not later than March 31, 1999, publish regulations and, if necessary, submit legislation to the Congress, to modify and simplify the processing of finished petroleum derivatives drawback claims.

SEC. 2505. DRAWBACK AND REFUND OF PACKAGING MATERIAL.

(a) IN GENERAL.—Section 313(q) of the Tariff Act of 1930 (19 U.S.C. 1313(q)) is further amended—

(1) by striking "Packaging material" and inserting the following:

"(1) IN GENERAL.—Packaging material"; and

(2) by adding at the end the following:

"(2) ADDITIONAL ELIGIBILITY.—Packaging material produced in the United States, which is used by the manufacturer or any other person on or for articles which are exported or destroyed under subsection (a) or (b), shall be eligible under such subsection for refund, as drawback, of 99 percent of any duty, tax, or fee imposed on the importation of such material used to manufacture or produce the packaging material.".

(b) EFFECTIVE DATE.—The amendment made by this section applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

SEC. 2506. INCLUSION OF COMMERCIAL IMPORTATION DATA FROM FOREIGN-TRADE ZONES UNDER THE NATIONAL CUSTOMS AUTOMATION PROGRAM.

Section 411 of the Tariff Act of 1930 (19 U.S.C. 1411) is amended by adding at the end the following:

"(c) FOREIGN-TRADE ZONES.—Not later than January 1, 1999, the Secretary shall provide for the inclusion of commercial importation data from foreign-trade zones under the Program.".

SEC. 2507. LARGE YACHTS IMPORTED FOR SALE AT UNITED STATES BOAT SHOWS.

(a) IN GENERAL.—The Tariff Act of 1930 (19 U.S.C. 1304 et seq.) is amended by inserting after section 484a the following:

"SEC. 484b. DEFERRAL OF DUTY ON LARGE YACHTS IMPORTED FOR SALE AT UNITED STATES BOAT SHOWS.

"(a) IN GENERAL.—Notwithstanding any other provision of law, any vessel meeting the definition of a large yacht as provided in subsection (b) and which is otherwise dutiable may be imported without the payment of duty if imported with the intention to offer for sale at a boat show in the United States. Payment of duty shall be deferred, in accordance with this section, until such large yacht is sold.

"(b) DEFINITION.—As used in this section, the term 'large yacht' means a vessel that exceeds 79 feet in length, is used primarily for recreation or pleasure, and has been previously sold by a manufacturer or dealer to a retail consumer.

"(c) DEFERRAL OF DUTY.—At the time of importation of any large yacht, if such large yacht is imported for sale at a boat show in the United States and is otherwise dutiable, duties shall not be assessed and collected if the importer of record—

"(1) certifies to the Customs Service that the large yacht is imported pursuant to this section for sale at a boat show in the United States; and

"(2) posts a bond, which shall have a duration of 6 months after the date of importation, in an amount equal to twice the amount of duty on the large yacht that would otherwise be imposed under subheading 8903.91.00 or 8903.92.00 of the Harmonized Tariff Schedule of the United States.

"(d) PROCEDURES UPON SALE.—

"(1) DEPOSIT OF DUTY.—If any large yacht (which has been imported for sale at a boat show in the United States with the deferral of duties as provided in this section) is sold within the 6-month period after importation—

"(A) entry shall be completed and duty (calculated at the applicable rates provided for under subheading 8903.91.00 or 8903.92.00 of the Harmonized Tariff Schedule of the United States and based upon the value of the large yacht at the time of importation) shall be deposited with the Customs Service; and

"(B) the bond posted as required by subsection (c)(2) shall be returned to the importer.

"(e) PROCEDURES UPON EXPIRATION OF BOND PERIOD.—

"(1) IN GENERAL.—If the large yacht entered with deferral of duties is neither sold nor exported within the 6-month period after importation—

"(A) entry shall be completed and duty (calculated at the applicable rates provided for under subheading 8903.91.00 or 8903.92.00 of the Harmonized Tariff Schedule of the United States and based upon the value of the large yacht at the time of importation) shall be deposited with the Customs Service; and

"(B) the bond posted as required by subsection (c)(2) shall be returned to the importer.

"(2) ADDITIONAL REQUIREMENTS.—No extensions of the bond period shall be allowed. Any large yacht exported in compliance with the bond period may not be reentered for purposes of sale at a boat show in the United States (in order to receive duty deferral benefits) for a period of 3 months after such exportation.

"(f) REGULATIONS.—The Secretary of the Treasury is authorized to make such rules and regulations as may be necessary to carry out the provisions of this section.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to any large yacht imported into the United States after the date that is 15 days after the date of the enactment of this Act.

SEC. 2508. REVIEW OF PROTESTS AGAINST DECISIONS OF CUSTOMS SERVICE.

Section 515(a) of the Tariff Act of 1930 (19 U.S.C. 1515(a)) is amended by inserting after the third sentence the following: "Within 30 days from the date an application for further review is filed, the appropriate customs officer shall allow or deny the application and, if allowed, the protest shall be forwarded to the customs officer who will be conducting the further review.".

SEC. 2509. ENTRIES OF NAFTA-ORIGIN GOODS.

(a) REFUND OF MERCHANDISE PROCESSING FEES.—Section 520(d) of the Tariff Act of 1930 (19 U.S.C. 1520(d)) is amended in the matter preceding paragraph (1) by inserting "(including any merchandise processing fees)" after "excess duties".

(b) PROTEST AGAINST DECISION OF CUSTOMS SERVICE RELATING TO NAFTA CLAIMS.—Section 514(a)(7) of such Act (19 U.S.C. 1514(a)(7)) is amended by striking "section 520(c)" and inserting "subsection (c) or (d) of section 520".

(c) EFFECTIVE DATE.—The amendments made by this section apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

SEC. 2510. TREATMENT OF INTERNATIONAL TRAVEL MERCHANDISE HELD AT CUSTOMS-APPROVED STORAGE ROOMS.

(a) IN GENERAL.—Section 557(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1557(a)(1)) is amended in the first sentence by inserting "(including international travel merchandise)" after "Any merchandise subject to duty".

(b) EFFECTIVE DATE.—The amendment made by this section applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

SEC. 2511. EXCEPTION TO 5-YEAR REVIEWS OF COUNTERVAILING DUTY OR ANTI-DUMPING DUTY ORDERS.

Section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) is amended by adding at the end the following:

"(7) EXCLUSIONS FROM COMPUTATIONS.—(A) Subject to subparagraph (B), there shall be excluded from the computation of the 5-year period described in paragraph (1) and the periods described in paragraph (6) any period during which the importation of the subject merchandise is prohibited on account of the imposition, under the International Emergency Economic Powers Act or other provision of law, of sanctions by the United States against the country in which the subject merchandise originates.

"(B) Subparagraph (A) shall apply only with respect to subject merchandise which originates in a country that is not a WTO member.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. CRANE) and the gentleman from California (Mr. MATSUI) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. CRANE).

GENERAL LEAVE

Mr. CRANE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous matter on H.R. 4342.

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

There was no objection.

Mr. CRANE. Madam Speaker, I yield myself such time as I may consume. I rise in strong support of H.R. 4342, a bill to make technical corrections and miscellaneous amendments to trade laws.

H.R. 4342 is a package of miscellaneous trade provisions and other technical and clerical corrections that were introduced originally as separate bills. Collecting these highly technical miscellaneous bills into a single legislative

package is an enormous task undertaken in each Congress. Given these difficulties, we have worked on developing and applying a set of consistent, transparent guidelines for handling miscellaneous trade proposals.

The provisions in H.R. 4342 fall into two titles. The first title makes clerical corrections to trade laws. The second title of H.R. 4342 contains two subtitles. The first subtitle contains 112 various duty suspensions and tariff reductions. A large portion of the provisions in this section would temporarily suspend the duty on a variety of anti-HIV/AIDS and anti-cancer drugs. Other provisions temporarily suspend the duties on a wide array of chemicals, including many which are environmentally friendly substitutes for those containing toxic heavy metals.

Another notable provision would provide for duty-free treatment to all participants and individuals associated with the 1999 International Special Olympics, the 1999 Women's World Cup Soccer, which, incidentally, will be held in my home State of Illinois, the 2001 International Special Olympics, the 2002 Salt Lake City Winter Olympics, and the 2002 Winter Para-Olympic Games.

The package of trade bills has been thoroughly evaluated and commented on by all concerned parties, including the U.S. Customs Service, the Department of Commerce, the International Trade Commission, the United States Trade Representative, and the general public, including firms which may have an interest in a tariff suspension on a product they produce domestically, including those from Youngstown, Ohio.

The provisions that remain in the bill are completely noncontroversial and revenue neutral, and many will enable U.S. firms to produce goods more competitively and cost efficiently. Accordingly, I urge my colleagues to support this package.

Madam Speaker, I reserve the balance of my time.

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

Madam Speaker, I rise in support of H.R. 4342, the Miscellaneous Trade and Technical Corrections Act of 1998, which I cosponsored with the gentleman from Illinois (Mr. CRANE). This bill was favorably reported out of the Committee on Ways and Means on a voice vote.

H.R. 4342 is a bipartisan bill. It consolidates 112 tariff and 11 trade bills introduced this Congress by Members on both sides of the aisle, as well as proposals from the administration and technical corrections to various trade statutes.

Most of the provisions suspend duties temporarily on imports of specific products, such as drugs to fight AIDS and cancer for which there is no domestic production. These duty suspensions will reduce costs for imported raw material used in manufacturing products domestically. Other provisions correct errors or improve the operations of various customs or other trade laws.

The bill allows the duty-free entry of equipment and personal effects for participants in the 1999 Special Olympics, the Women's World Cup, and the 2002 Winter Olympics. In addition, H.R. 4342 will bring U.S. law into conformity with an international agreement on duty-free importation of large scientific instruments.

This package of tariff and trade bills has been thoroughly reviewed and evaluated by all interested parties to ensure that none of the provisions are controversial. The committee solicited comments from the private sector, the views of the U.S. Customs Service, the Department of Commerce, the U.S. Trade Representative and, of course, the International Trade Commission. These agencies' review ensures that no domestic producers or other private sector interests will be adversely affected. Only provisions which were determined by the CBO to be revenue neutral were included in the bill.

H.R. 4342 will improve the cost competitiveness of domestic companies by removing tariffs which have no protective effect on inputs they need for manufacturing, and will reduce costs for consumers of important drugs.

Madam Speaker, I would like to again commend the gentleman from Illinois for shepherding this bill through the subcommittee, the full committee, and now on the floor of the House. I urge my colleagues to vote for 4342.

Madam Speaker, I yield 3 minutes to the gentlewoman from the Virgin Islands (Ms. CHRISTIAN-GREEN). H.R. 4342 includes a bill she introduced, which was H.R. 2498, to extend the production incentive certificate program to fine jewelry produced in the insular possessions.

Ms. CHRISTIAN-GREEN. Madam Speaker, I thank my colleague for yielding me this time.

Madam Speaker, I rise in strong support of H.R. 4342, which makes miscellaneous and technical changes to various trade laws. I want to thank the sponsors of this bill, the gentleman from California (Mr. MATSUI) and the gentleman from Illinois (Mr. CRANE).

And I also want to thank the chairman and ranking member of the Committee on Ways and Means, the gentleman from Texas (Mr. ARCHER) and the gentleman from New York (Mr. RANGEL), for including my bill to extend certain trade benefits of the U.S. Insular Areas under the Harmonized Tariff Schedule to certain fine jewelry.

Madam Speaker, this is a very proud day for me, and a momentous day for the people of the Virgin Islands, whom I represent. It is a proud day because the passage of H.R. 4342 will mean that we will be one step closer to breathing life into an industry which at one time provided nearly 1,000 direct jobs for my constituents on Saint Croix and several thousand more indirect jobs. It would also breathe life into an economy which has been teetering on the brink of death for nearly 10 years.

Since 1989, when Hurricane Hugo, the first of three major storms, hit our islands, our economy has been severely wounded. Even today, as this country is experiencing an economic boom, the economy of the Virgin Islands continues to decline.

All sectors of the Virgin Islands' economy are in trouble. Tourism, which makes up almost 70 percent of our economy, continues to suffer from the effects of these storms as well as from a lack of affordable airline fares and other factors. As a result, we are experiencing an unemployment rate which has more than doubled in the past 5 years.

Enactment of my jewelry wage credits bill will mean the creation of good, well-paying jobs for the Virgin Islands, utilizing an already existing labor force and their skills. As a recent editorial in the Virgin Islands Daily News noted, passage of H.R. 4342, which includes my jewelry bill, and I quote, "Will go a long way towards improving our stagnant economy."

Madam Speaker, I want to thank attorney Peter Heibert for his invaluable assistance, and attorney Brian Modeste on my own staff for his diligence on this bill.

I ask my colleagues to help me bring hope back to my district. I ask for a vote of "yes" on H.R. 4342.

Mr. MATSUI. Madam Speaker, I yield myself such time as I may consume to add that the gentlewoman from the Virgin Islands has done a tremendous job on making sure the provisions she sought were in the legislation. We appreciate her efforts there.

Madam Speaker, I yield 2 minutes to the gentleman from Texas (Mr. DOGGETT), whose bill, H.R. 3375, to reduce duty temporarily on synthetic quartz substrates, is included in our legislation. And I want to congratulate him as well for his efforts to get this in there.

Mr. DOGGETT. Madam Speaker, I thank my colleague for yielding me this time, and certainly thank the gentleman from Illinois (Mr. CRANE) also, and rise in support of H.R. 4342.

One of this bill's sections does, as the gentleman from California (Mr. MATSUI) just noted, incorporate in its entirety a bill that I filed in March, H.R. 3375, to reduce tariffs on imports of synthetic quartz substrates.

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These substrates are used by DuPont Photomasks based down in central Texas to manufacture photomasks.

Now, photomasks are not the kind you wear on Halloween. Rather, they

are a very important form that provide the master patterns that are used to transfer circuit images onto silicon wafers to make chips, which are in turn a very vital component of many everyday products from cell phones to medical equipment.

For many years now, the central Texas high-tech workers at DuPont Photomasks and other of the companies along the Silicon Trail there in central Texas have produced the building blocks for America's industries into the 21st century. Every day over 300 workers go over to the DuPont plant.

They are improving the semiconductor manufacturing process. They are involving the students and faculty at the University of Texas with some important educational opportunities and staying right on the frontier, with their research projects, of the technological frontier that is so important to America's future.

Our government should be encouraging and supporting this creative industry and the people who have transformed central Texas into a high-tech center for ingenuity and growth.

This tariff reduction is necessary because our tariff rates on these substrates imports have placed the DuPont facility and its central Texas workers at a competitive disadvantage compared to Asian photomask manufacturers. There are no manufacturers of these substrates here in the United States, and our current tariff of almost 5 percent adds hundreds of thousands of dollars in unnecessary costs to the DuPont manufacturing process. This bill will remove an unnecessary cost that has hurt our ability to compete on the world market.

Together with the other tariff reductions that are contained in this bill, they represent at least a modest but very positive statement about the benefits of expanding international commerce. These are benefits both for the United States economy and the American worker.

I believe that our economic future lies in removing more barriers to trade. This is a good step forward. I urge prompt approval of this legislation and the principle that underlies it.

Mr. MATSUI. Madam Speaker, last but not least, I yield 3 minutes to the gentleman from Ohio (Mr. TRAFICANT) who will vote for this bill.

Mr. TRAFICANT. Madam Speaker, I am going to vote for the bill but I wanted to respond to the full employment statement of the gentleman from Illinois (Chairman CRANE) and I want to read some of the new jobs that have been created in the Dictionary of Labor Statistics: gizzard skin remover; corncob pipe assembler; fur blower; burger broiler; hotcake chef; ticket taker; jelly roller; cream puff specialist; manure handler; hardness inspector; brassiere cup molder cutter; and pantyhose crotch closure machine operator.

There is also, I would say to the gentleman from Illinois, a pantyhose crotch closure machine operator supervisor. I would venture to say there is a pantyhose crotch closure machine operator foreman.

I want to make a point here. I do not believe America is at full employment. I believe America is at absolutely peak underemployment, and many families need three, four jobs just to pay their bills. So as we keep watching the up and down Viagra motions of Wall Street, keep in mind not everything that looks so rosy smells so good when you hold it to your nosey on this trade business.

Now, I do not know all the details of this trade business, but I do have confidence in the gentleman from Illinois (Mr. CRANE) and the gentleman from California (Mr. MATSUI), and I will support these technical corrections. But I want to say this again: Individual bankruptcy is at an all-time high; credit car debt, all-time high. The American people are under the gun.

We just have seen a strike at General Motors. Thank God it was not a national strike. How many of these plants will move offshore? I am scared to death, as every Member is, because they surely could move offshore under these trade laws and make more profits without our American workers.

But let me tell my colleagues something. The people who pay the taxes to keep this freight on track are the American workers. No workers, no consumers. No workers, no consumers, no tax. No tax, big problems.

So, with that, I am going to make the pitch here for tax. Let us keep American workers. Our tax problems will work out. I will support these technical corrections, but I do not want to hear any more about this full employment.

I have heard enough about panty hose crotch closers, I say to the gentleman from Illinois (Mr. CRANE), and I think it is time he comes clean.

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

I would simply remind my distinguished colleague the gentleman from Ohio (Mr. TRAFICANT) that I have seven daughters, and so these are issues of concern I think to any father.

But let me remind my distinguished colleague also of the consideration of the H–1(b) visa vote forthcoming that would permit entry into this country with special visas of 65,000 skilled, skilled, workers because we cannot find them in our own labor force here in the United States. And I would urge that he look at Congress Daily, where it says, "Business groups, especially high-tech companies, want to increase the current annual allotment of 65,000 H–1(b) visas per year to address what they say is a shortage of computer workers."

And so we can have our honest disagreements on this. But I am so appreciative that the gentleman from Ohio (Mr. TRAFICANT) is, nonetheless, supporting this bill we have under consideration today.

Mr. SHAW. Madam Speaker, I rise in strong support of H.R. 4342, the Miscellaneous Trade and Technical Corrections Act of 1998. This bill has many provisions within it which will help small companies throughout the United States. In particular, one provision within this bill will directly help many of my constituents. The provision which I am speaking about this afternoon will allow duty deferral of large yachts imported for sale at U.S. boat shows. The change will put the onus of paying the duty on the end purchaser of the boat and not the importer. Current law requires importers of used boats intended for resale to pay the duty in advance—this acts as a significant barrier to imports.

In my district of West Palm Beach and Fort Lauderdale, this provision will help spur the economy by allowing more and bigger yachts into the shows without having to pay the duty up front. This will lead to, increased sales of such large boats, which can pump tens of thousands of dollars into local economies because of related expenditures such as the cost of a supporting crew, docking fees, boat repairs, and supplies. The changing of this requirement will also allow importers to reduce the cost of starting new shows and enable small companies to participate in the current shows.

In addition to the duty free entry of large yachts, this bill also contains provisions which will allow duty free entry of certain chemicals that are integral to fighting cancer and AIDS. For these reasons I urge a yes vote on H.R. 4342.

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

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

The SPEAKER pro tempore (Mrs. EMERSON). The question is on the motion offered by the gentleman from Illinois (Mr. CRANE) that the House suspend the rules and pass the bill, H.R. 4342, as amended.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CASTLE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 4342, as amended.

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

There was no objection.

LIBRARY OF CONGRESS BICENTENNIAL COMMEMORATIVE COIN ACT OF 1998

Mr. CASTLE. Madam Speaker, I move to suspend the rules and pass the

bill (H.R. 3790) to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the Library of Congress

The Clerk read as follows:

H.R. 3790

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Library of Congress Bicentennial Commemorative Coin Act of 1998".

SEC. 2. COIN SPECIFICATIONS.

(a) DENOMINATIONS.—The Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall mint and issue the following coins:

(1) $5 GOLD COINS.—Not more than 100,000 $5 coins, which shall—

(A) weigh 8.359 grams;

(B) have a diameter of 0.850 inches; and

(C) contain 90 percent gold and 10 percent alloy.

(2) $1 SILVER COINS.—Not more than 500,000 $1 coins, which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) contain 90 percent silver and 10 percent copper.

(b) BIMETALLIC COINS.—The Secretary may mint and issue not more than 200,000 $10 bimetallic coins of gold and platinum instead of the gold coins required under subsection (a)(1) in accordance with such specifications as the Secretary determines to be appropriate.

(c) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

SEC. 3. SOURCES OF BULLION.

(a) PLATINUM AND GOLD.—The Secretary shall obtain platinum and gold for minting coins under this Act from available sources.

(b) SILVER.—The Secretary may obtain silver for minting coins under this Act from stockpiles established under the Strategic and Critical Materials Stock Piling Act and from other available sources.

SEC. 4. DESIGN OF COINS.

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins minted under this Act shall be emblematic of the Library of Congress.

(2) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year "2000"; and

(C) inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) SELECTION.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary after consultation with the Library of Congress and the Commission of Fine Arts; and

(2) reviewed by the Citizens Commemorative Coin Advisory Committee.

SEC. 5. ISSUANCE OF COINS.

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular combination of denomination and quality of the coins minted under this Act.

(c) PERIOD FOR ISSUANCE.—The Secretary may issue coins minted under this Act only during the period beginning on January 1, 2000, and ending on December 31, 2000.

(d) PROMOTION CONSULTATION.—The Secretary shall—

(1) consult with the Library of Congress in order to establish a role for the Library of Congress in the promotion, advertising, and marketing of the coins minted under this Act; and

(2) if the Secretary determines that such action would be beneficial to the sale of coins minted under this Act, enter into a contract with the Library of Congress to carry out the role established under paragraph (1).

SEC. 6. SALE OF COINS.

(a) SALE PRICE.—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in subsection (d) with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

(d) SURCHARGES.—All sales shall include a surcharge established by the Secretary, in an amount equal to not more than—

(1) $50 per coin for the $10 coin or $35 per coin for the $5 coin; and

(2) $5 per coin for the $1 coin.

SEC. 7. DISTRIBUTION OF SURCHARGES.

All surcharges received by the Secretary from the sale of coins issued under this Act shall be paid by the Secretary to the Library of Congress Trust Fund Board in accordance with section 5134(f) of title 31, United States Code (as added by section 529(b)(2) of the Treasury, Postal Service, and General Government Appropriations Act, 1997), to be used for the purpose of supporting bicentennial programs, educational outreach activities (including schools and libraries), and other activities of the Library of Congress.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Delaware (Mr. CASTLE) and the gentleman from Connecticut (Mr. GEJDENSON) each will control 20 minutes.

The Chair recognizes the gentleman from Delaware (Mr. CASTLE).

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

I rise in support of H.R. 3790, the Library of Congress Bicentennial Commemorative Coin Act of 1998. Aside from commemorating a very worthy institution on the celebration of its bicentennial in the year 2000, this bill conforms in all aspects to the coin reform legislation that we have passed in this Congress and the last. It also promises to be of great numismatic interest because it permits the minting of the first bimetallic coins in this Nation's history, combining gold and platinum.

This commemorative has already been approved by the Citizens Commemorative Coin Advisory Committee, as required under our coin reform legislation passed this Congress and the last. It also meets other strictures of those reforms, including mintage limits and retention of surcharge payments until all the Government's costs are recovered from the program.

I would also add that the gentleman from California (Mr. THOMAS) has been extremely energetic in obtaining 299 cosponsors, we need 290, in near record time.

I urge the immediate adoption of H.R. 3790.

Madam Speaker, I reserve the balance of my time.

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

I would like to join my colleague in support of the legislation and to spend just one moment trying to get across how important this legislation is.

It is not simply a coin that rightfully commemorates the history of this great institution, the Library of Congress. It is not just something that is going to make money and pay for some of its operations. It will indeed, for the first time, put something I think that every American ought to have access to, and that is the information at the Library of Congress. The digitizing of the Library's resources really changes who gets to access this information.

I grew up in a small town. Oftentimes if we lived in a small town, we did not have access to the latest information, to the great depth of information that is needed, intellectual curiosity cut off by the lack of a library.

Well, today we have got the Internet. And while it has some great things on it, it has got an awful lot of junk. This is going to put some high-quality information for people to access. It will pay for it without raising additional revenues through the general treasury.

The funds that are necessary to this run out very shortly. Passing this is an important step to fund the digitizing of the information of the Library of Congress. It will be one of the best things we do for the American people.

Madam Speaker, I reserve the balance of my time.

Mr. CASTLE. Madam Speaker, I thank the gentleman from Connecticut (Mr. GEJDENSON) for his kind words.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Delaware (Mr. CASTLE) that the House suspend the rules and pass the bill, H.R. 3790.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CASTLE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3790.

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

There was no objection.

JAMES F. BATTIN FEDERAL COURTHOUSE

Mr. KIM. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3696) to designate the Federal Courthouse located at 316 North 26th Street in Billings, Montana, as the "James F. Battin Federal Courthouse," as amended.

The Clerk read as follows:

H.R. 3696

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

SECTION 1. DESIGNATION.

The United States courthouse located at 316 North 26th Street in Billings, Montana, shall be known and designated as the "James F. Battin United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the "James F. Battin United States Courthouse".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. KIM) and the gentleman from Ohio (Mr. TRAFICANT) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. KIM).

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

Madam Speaker, H.R. 3696, as amended, designates the United States Courthouse located in Billings, Montana, as the "James F. Battin United States Courthouse."

Judge Battin was a Federal District Judge for the United States District Court of Montana, and he was also a former Member of this Congress, having served in the House of Representatives for the 87th through the 91st Congress. He was appointed to the Federal bench by President Nixon in 1969 and served as Chief Judge from 1978 until he elected to take a senior status in 1990.

From the bench he diligently served the District of Montana, as well as additional assignments in the United States District Courts for Washington, Oregon, California, Arizona, Hawaii, and Georgia.

During his tenure in Congress, he served on the Committee on Committees, the Executive Committee, the Judiciary Committee, Foreign Affairs Committee, and the Committee on Ways and Means.

This certainly is a fitting tribute to a distinguished judge and dedicated public servant. I support the bill, as amended, and I urge my colleagues to support it.

Madam Speaker, I reserve the balance of my time.

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

Madam Speaker, I am proud to support this bill. While in Congress, Judge Battin served on the Committee on the Judiciary, Committee on Foreign Affairs, and the Committee on Ways and Means.

It is interesting to note that Judge Battin's son, Jim, currently serves in the California Assembly representing the 80th District. I think it is proper to honor those contributions. And I want to compliment the sponsor of the bill, the gentleman from Montana (Mr. HILL) for his contribution. I am proud to support the legislation.

Madam Speaker, I reserve the balance of my time.

Mr. KIM. Madam Speaker, I yield such time as he may consume to the gentleman from Montana (Mr. HILL).

Mr. HILL. Madam Speaker, I am pleased today to present to the House H.R. 3696, legislation to designate the Federal courthouse in downtown Billings, Montana, as the "James F. Battin Federal Courthouse."

While there are a few Members in and around this Chamber who will probably remember Jim Battin as Montana's Eastern District congressman, and others who remember him as a distinguished member of the Federal bench, I want to take just a few moments today to give my colleagues some reflections on the life of the man that we will honor today.

James Battin earned a reputation for effectiveness and integrity during five terms in the Congress and 27 years on the Federal bench.

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His accomplishments range from building new protections for the environment and wilderness preserves, to rulings on streamlining Federal judiciary proceedings. He created the precedent for the now universally accepted six-man Federal jury in civil cases.

After high school, James Battin served in the U.S. Navy during World War II. After the war he began his career in public service as a city attorney in Billings, Montana. In 1958 he was elected to the Montana State legislature, and successfully ran for a seat in the U.S. House of Representatives in 1960.

During his first term in the U.S. House of Representatives, James Battin was chosen by his fellow freshman legislators to sit on the House Committee on Committees. As a member of this critical House overseer, he secured a seat for himself on the Committee on Ways and Means. Monitoring the federal purse strings from this vantage point, Battin solidified the respect of his colleagues, exerting great influence on behalf of his large home State.

In his second term, Battin was appointed to the House Foreign Affairs Committee. An assignment to the House Judiciary Committee followed soon thereafter. With a growing list of congressional responsibilities and influence, he came to play an instrumental role in a host of legislation, among these the law creating the Montana Bob Marshall Wilderness Area, at the time the largest wildlife area in the United States. Throughout the 1960s he would serve Montana for five terms in the U.S. House, each time winning reelection by an ever-larger landslide margin.

In addition to his duties in Washington, James Battin would go on to serve as one of the two U.S. congressional representatives to the Intergovernmental Committee on European Migration which met in Geneva. This group helped persons forced from behind the Iron Curtain to reestablish in other countries in useful occupations. As an emissary of his Nation he brought the assistance and stewardship of our government to people forming businesses abroad.

In 1968 Battin was selected to serve as President Nixon's representative to the Platform Committee at the Republican National Convention. Amid a time of change and upheaval and war abroad, he helped articulate his party's vision for America. With a congressional career moving at full pace and his influence increasing each year, Battin welcomed new representatives and he took them under his wing.

In 1969 James Battin was asked by President Nixon to serve as a Federal district judge on the Ninth Circuit Court of Appeals in San Francisco. The new post appealed to the five-term Congressman and represented a huge stepping stone in his career. However, Battin declined because, while he aspired to be a Federal judge, he also wanted to raise his family in the quiet beauty of Montana, a life unlike what he would have expected in San Francisco.

Soon after, a Federal judgeship became available in his home State and in Billings. His judicial home became the Billings Federal Building, which we are redesignating today.

James Battin became the first judicial appointment of the new Nixon administration. He went on to serve and excel in that post for 27 years, becoming the District of Montana's chief judge in 1978. During the time Battin issued key rulings affecting the lives of Montana citizens, among them preserving access to the Bighorn River for all people. A dedicated and hard working man, he remained on the bench until his passing in the autumn of 1996.

James Battin is best remembered as a dedicated husband and father whose first priority was always his family. While he preceded us here by more than 30 years, he stood for the enduring values that bring so many of us to Congress today, the importance of family, a better government and the desire to serve our fellow man.

H.R. 3696 is a tribute to a great person. His accomplishments are numerous, and his contribution to the lives of his neighbors is echoed by the wide support he enjoyed among Montana residents for decades.

Mr. Speaker, I am proud to offer this legislation as a token of Montana's and the Nation's deep gratitude for a lifetime of dedicated service. I urge Members' support of H.R. 3696.

Mr. TRAFICANT. Madam Speaker, I support the legislation.

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

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

The SPEAKER pro tempore (Mrs. EMERSON). The question is on the motion offered by the gentleman from California (Mr. KIM) that the House suspend the rules and pass the bill, H.R. 3696, as amended.

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

The title of the bill was amended so as to read: "A bill to designate the United States courthouse located at 316 North 26th Street in Billings, Montana, as the 'James F. Battin United States Courthouse'.".

A motion to reconsider was laid on the table.

JOSEPH P. KINNEARY UNITED STATES COURTHOUSE

Mr. KIM. Madam Speaker, I move to suspend the rules and pass the Senate bill (S. 1800) to designate the Federal building and United States courthouse located at 85 Marconi Boulevard in Columbus, Ohio, as the "Joseph P. Kinneary United States Courthouse".

The Clerk read as follows:

S. 1800

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

SECTION 1. DESIGNATION OF JOSEPH P. KINNEARY UNITED STATES COURTHOUSE.

The Federal building and United States courthouse located at 85 Marconi Boulevard in Columbus, Ohio, shall be known and designated as the "Joseph P. Kinneary United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and United States courthouse referred to in section 1 shall be deemed to be a reference to the "Joseph P. Kinneary United States Courthouse".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. KIM) and the gentleman from Ohio (Mr. TRAFICANT) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. KIM).

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

Madam Speaker, S. 1800 designates the Federal building and United States courthouse located in Columbus, Ohio, as the "Joseph P. Kinneary United States Courthouse."

Judge Joseph Kinneary has served and continues to serve his country in a distinguished manner. During World War II, Judge Kinneary served in the United States Army from 1942 to 1946. He has also held the offices of Assistant Attorney General and First Assistant Attorney General for the State of Ohio, as well as United States Attorney for the Southern District of Ohio. In 1961, President Johnson appointed Judge Kinneary to the Federal bench for the Southern District of Ohio, where after 32 years he continues to preside and maintain an active docket.

Judge Kinneary gives new meaning to the phrase "dedicated public servant." This is a fitting tribute.

I support the bill, and I urge my colleagues to support the bill.

Madam Speaker, I reserve the balance of my time.

Mr. TRAFICANT. Madam Speaker, I yield myself such time as I may consume. I am proud to support this bill as an Ohio resident that takes pride in the long distinguished service career of Judge Kinneary.

Judge Kinneary has served on the Ohio Federal bench for over 32 years, and even today, Madam Speaker, as we deliberate this tribute to the fine judge, he continues to serve the citizens of Ohio as a senior judge very active in carrying a docket of cases.

As has been stated, the good judge graduated from law school in 1935 and practiced law as an Assistant Attorney General until 1939. During World War II he served his country in the Army from 1942 until 1946.

After the war, Judge Kinneary returned to Ohio. In 1949 he became the First Assistant Attorney General of Ohio. In 1961, as the gentleman from California (Mr. KIM) has stated, President Kennedy appointed Judge Kinneary as the United States Attorney for the Southern District of Ohio where his work has been an example to all who have followed him. President Johnson then appointed Judge Kinneary to the District Court for the Southern District of Ohio in 1966, and the rest is history that we are all in Ohio, Buckeyes, proud of.

Judge Kinneary's long distinguished career spans almost six decades in service to the Buckeye State. It is absolutely fitting and proper here today that the Congress of the United States pay tribute to this outstanding judge by designating the Federal building in Columbus, Ohio, as the Joseph P. Kinneary United States Courthouse. I am proud to be a part of this process.

Madam Speaker, I want to compliment the gentleman from Ohio (Mr. LATOURETTE) my neighbor to the north for being a part of this process and bringing this to the attention of the United States Congress.

I urge an "aye" vote.

Mr. PORTMAN. Madam Speaker, I rise today to pay tribute to Judge Joseph Kinneary, a fellow native of Cincinnati who will be 93 in September. A respected jurist, Judge Kinneary has worked hard to serve justice in Cincinnati, in Ohio, and in America.

Judge Kinneary attended Saint Xavier High School in Cincinnati, then went on to Notre Dame. He returned to Cincinnati to obtain his law degree from the College of Law at the University of Cincinnati.

Judge Kinneary served our government with distinction. After becoming Assistant Attorney General of Ohio, President Kennedy appointed him to United States Attorney for Southern Ohio in 1961. He was reappointed by President Johnson. He later became United States District Judge for the Southern District of Ohio, a position he held for thirty-two years, including three years as Chief Judge. Judge Kinneary also served his nation in the Army during the Second World War. He served for four years, achieved the rank of Captain, and won the Army Commendation Ribbon for his outstanding contributions.

Legislation is before us today to designate the federal building and courthouse in Columbus the Joseph P. Kinneary United States Courthouse. I welcome this effort to recognize the commitment, dedication and years of service given by Judge Kinneary. He honorably served his country in time of war, and continued that devotion by working for justice though our legal system. Having distinguished himself since he received his law degree from the College of Law at the University of Cincinnati, he has returned to become a member on the Board of Visitors for the College of Law and one of the Law School's strongest supporters. Judge Kinneary holds the distinction of being the second longest serving federal judge in the nation.

I applaud the initiative to recognize and reward the forty-seven years of public service put forth by Judge Kinneary, and want to commend Judge Kinneary's selfless devotion to his local community. I urge my colleagues in Congress to support this action which recognizes the achievements and commitment of so dedicated a citizen.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. KIM) that the House suspend the rules and pass the Senate bill, S. 1800.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KIM. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3696 and S. 1800.

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

There was no objection.

DIGITAL MILLENNIUM COPYRIGHT ACT

Mr. COBLE. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 2281) to amend title 17, United States Code, to implement the World Intellectual Property Organization Copyright Treaty and Performances and Phonograms Treaty, as amended.

The Clerk read as follows:

H.R. 2281

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Digital Millennium Copyright Act".

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.
Sec. 2. Table of contents.

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TITLE III-COMPUTER MAINTENANCE OR REPAIR COPYRIGHT EXEMPTION

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Sec. 501. Short title.
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Sec. 503. Conforming amendment.
Sec. 504. Conforming amendments to title 28, United States Code.
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TITLE VI—PROTECTION OF CERTAIN ORIGINAL DESIGNS

Sec. 601. Short title.
Sec. 602. Protection of certain original designs.
Sec. 603. Conforming amendments.
Sec. 604. Effective date.

TITLE I—WIPO COPYRIGHT TREATIES IMPLEMENTATION

SEC. 101. SHORT TITLE.

This title may be cited as the "WIPO Copyright Treaties Implementation Act".

SEC. 102. TECHNICAL AMENDMENTS.

(a) DEFINITIONS.—Section 101 of title 17, United States Code, is amended—

(1) by striking the definition of "Berne Convention work";

(2) in the definition of "The 'country of origin' of a Berne Convention work"—

(A) by striking "The 'country of origin' of a Berne Convention work, for purposes of section 411, is the United States if" and inserting "For purposes of section 411, a work is a 'United States work' only if";

(B) in paragraph (1)—

(i) in subparagraph (B) by striking "nation or nations adhering to the Berne Convention" and inserting "treaty party or parties";

(ii) in subparagraph (C) by striking "does not adhere to the Berne Convention" and inserting "is not a treaty party"; and

(iii) in subparagraph (D) by striking "does not adhere to the Berne Convention" and inserting "is not a treaty party"; and

(C) in the matter following paragraph (3) by striking "For the purposes of section 411, the 'country of origin' of any other Berne Convention work is not the United States.";

(3) by inserting after the definition of "fixed" the following:

"The 'Geneva Phonograms Convention' is the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms, concluded at Geneva, Switzerland, on October 29, 1971.";

(4) by inserting after the definition of "including" the following:

"An 'international agreement' is—

"(1) the Universal Copyright Convention;

"(2) the Geneva Phonograms Convention;

"(3) the Berne Convention;

"(4) the WTO Agreement;

"(5) the WIPO Copyright Treaty;

"(6) the WIPO Performances and Phonograms Treaty; and

"(7) any other copyright treaty to which the United States is a party.";

(5) by inserting after the definition of "transmit" the following:

"A 'treaty party' is a country or intergovernmental organization other than the United States that is a party to an international agreement.";

(6) by inserting after the definition of "widow" the following:

"The 'WIPO Copyright Treaty' is the WIPO Copyright Treaty concluded at Geneva, Switzerland, on December 20, 1996.";

(7) by inserting after the definition of "The 'WIPO Copyright Treaty'" the following:

"The 'WIPO Performances and Phonograms Treaty' is the WIPO Performances and Phonograms Treaty concluded at Geneva, Switzerland, on December 20, 1996."; and

(8) by inserting after the definition of "work made for hire" the following:

"The terms 'WTO Agreement' and 'WTO member country' have the meanings given those terms in paragraphs (9) and (10), respectively, of section 2 of the Uruguay Round Agreements Act.".

(b) SUBJECT MATTER OF COPYRIGHT; NATIONAL ORIGIN.—Section 104 of title 17, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1) by striking "foreign nation that is a party to a copyright treaty to which the United States is also a party" and inserting "treaty party";

(B) in paragraph (2) by striking "party to the Universal Copyright Convention" and inserting "treaty party";

(C) by redesignating paragraph (5) as paragraph (6);

(D) by redesignating paragraph (3) as paragraph (5) and inserting it after paragraph (4);

(E) by inserting after paragraph (2) the following:

"(3) the work is a sound recording that was first fixed in a treaty party; or";

(F) in paragraph (4) by striking "Berne Convention work" and inserting "pictorial, graphic, or sculptural work that is incorporated in a building or other structure, or an architectural work that is embodied in a building and the building or structure is located in the United States or a treaty party"; and

(G) by inserting after paragraph (6), as so redesignated, the following:

"For purposes of paragraph (2), a work that is published in the United States or a treaty party within 30 days after publication in a foreign nation that is not a treaty party shall be considered to be first published in the United States or such treaty party, as the case may be."; and

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

"(d) EFFECT OF PHONOGRAMS TREATIES.—Notwithstanding the provisions of subsection (b), no works other than sound recordings shall be eligible for protection under this title solely by virtue of the adherence of the United States to the Geneva Phonograms Convention or the WIPO Performances and Phonograms Treaty.".

(c) COPYRIGHT IN RESTORED WORKS.—Section 104A(h) of title 17, United States Code, is amended—

(1) in paragraph (1), by striking subparagraphs (A) and (B) and inserting the following:

"(A) a nation adhering to the Berne Convention;

"(B) a WTO member country;

"(C) a nation adhering to the WIPO Copyright Treaty;

"(D) a nation adhering to the WIPO Performances and Phonograms Treaty; or

"(E) subject to a Presidential proclamation under subsection (g).";

(2) by amending paragraph (3) to read as follows:

"(3) The term 'eligible country' means a nation, other than the United States, that—

"(A) becomes a WTO member country after the date of the enactment of the Uruguay Round Agreements Act;

"(B) on such date of enactment is, or after such date of enactment becomes, a nation adhering to the Berne Convention;

"(C) adheres to the WIPO Copyright Treaty;

"(D) adheres to the WIPO Performances and Phonograms Treaty; or

"(E) after such date of enactment becomes subject to a proclamation under subsection (g).";

(3) in paragraph (6)—

(A) in subparagraph (C)(iii) by striking "and" after the semicolon;

(B) at the end of subparagraph (D) by striking the period and inserting "; and"; and

(C) by adding after subparagraph (D) the following:

"(E) if the source country for the work is an eligible country solely by virtue of its adherence to the WIPO Performances and Phonograms Treaty, is a sound recording.";

(4) in paragraph (8)(B)(i)—

(A) by inserting "of which" before "the majority"; and

(B) by striking "of eligible countries"; and

(5) by striking paragraph (9).

(d) REGISTRATION AND INFRINGEMENT ACTIONS.—Section 411(a) of title 17, United States Code, is amended in the first sentence—

(1) by striking "actions for infringement of copyright in Berne Convention works whose country of origin is not the United States and"; and

(2) by inserting "United States" after "no action for infringement of the copyright in any".

(e) STATUTE OF LIMITATIONS.—Section 507(a) of title 17, United State Code, is amended by striking "No" and inserting "Except as expressly provided otherwise in this title, no".

SEC. 103. COPYRIGHT PROTECTION SYSTEMS AND COPYRIGHT MANAGEMENT INFORMATION.

(a) IN GENERAL.—Title 17, United States Code is amended by adding at the end the following new chapter:

"CHAPTER 12—COPYRIGHT PROTECTION AND MANAGEMENT SYSTEMS

"Sec.
"1201. Circumvention of copyright protection systems.
"1202. Integrity of copyright management information.
"1203. Civil remedies.
"1204. Criminal offenses and penalties.
"1205. Savings clause.
"1203. Civil remedies.

"§ 1201. Circumvention of copyright protection systems

"(a) VIOLATIONS REGARDING CIRCUMVENTION OF TECHNOLOGICAL MEASURES.—(1)(A) No person shall circumvent a technological measure that effectively controls access to a work protected under this title. The prohibition contained in the preceding sentence shall take effect at the end of the 2-year period beginning on the date of the enactment of this chapter.

"(B)(i) The prohibition contained in subparagraph (A) shall not apply to persons with respect to a copyrighted work which is in a particular class of works and to which such persons have gained initial lawful access, if such persons are, or are likely to be in the succeeding 3-year period, adversely affected by virtue of such prohibition in their ability to make noninfringing uses of that particular class of works under this title, as determined under subparagraph (C).

"(ii) The prohibition contained in subparagraph (A) shall not apply to nonprofit libraries, archives, or educational institutions, or to any entity described in section 501(c)(3), (4), or (6) of the Internal Revenue Code of 1986 that is exempt from tax under section 501(a) of such Code, with respect to a particular class of works, if such entities are, or are likely to be in the succeeding 3-year period, adversely affected by virtue of such prohibition in their ability to make noninfringing uses of that particular class of works under this title, as determined under subparagraph (C).

"(C) During the 2-year period described in subparagraph (A), and during each succeeding 3-year period, the Secretary of Commerce, in consultation with the Under Secretary of Commerce for Intellectual Property Policy, the Assistant Secretary of Commerce for Communications and Information, and the Register of Copyrights, shall conduct a rulemaking on the record to make the determination for purposes of subparagraph (B) of whether nonprofit libraries, archives, or educational institutions and other entities described in subparagraph (B) or persons who have gained initial lawful access to a copyrighted work are, or are likely to be in the succeeding 3-year period, adversely affected by the prohibition under subparagraph (A) in their ability to make noninfringing uses under this title of a particular class of copyrighted works. In conducting such rulemaking, the Secretary shall examine—

"(i) the availability for use of copyrighted works;

"(ii) the availability for use of works for nonprofit archival, preservation, and educational purposes;

"(iii) the impact of the prohibition on the circumvention of technological measures applied to copyrighted works on criticism, comment, news reporting, teaching, scholarship, or research;

"(iv) the effect of circumvention of technological measures on the market for or value of copyrighted works; and

"(v) such other factors as the Secretary, in consultation with the Under Secretary of Commerce for Intellectual Property Policy, the Assistant Secretary of Commerce for Communications and Information, and the Register of Copyrights, considers appropriate.

"(D) The Secretary shall publish any class of copyrighted works for which the Secretary has determined, pursuant to the rulemaking conducted under subparagraph (C), that noninfringing uses by nonprofit libraries, archives, or educational institutions and other entities described in subparagraph (B) or by persons who have gained initial lawful access to a copyrighted work are, or are likely to be, adversely affected, and the prohibition contained in subparagraph (A) shall not apply to such entities with respect to such class of works, or to such persons with respect to such copyrighted work, for the ensuing 3-year period.

"(E) Neither the exception under subparagraph (B) from the applicability of the prohibition contained in subparagraph (A), nor any determination made in a rulemaking conducted under subparagraph (C), may be used as a defense in any action to enforce any provision of this title other than this paragraph.

"(2) No person shall manufacture, import, offer to the public, provide, or otherwise traffic in any technology, product, service, device, component, or part thereof, that—

"(A) is primarily designed or produced for the purpose of circumventing a technological measure that effectively controls access to a work protected under this title;

"(B) has only limited commercially significant purpose or use other than to circumvent a technological measure that effectively controls access to a work protected under this title; or

"(C) is marketed by that person or another acting in concert with that person with that person's knowledge for use in circumventing a technological measure that effectively controls access to a work protected under this title.

"(3) As used in this subsection—

"(A) to 'circumvent a technological measure' means to descramble a scrambled work, to decrypt an encrypted work, or otherwise to avoid, bypass, remove, deactivate, or impair a technological measure, without the authority of the copyright owner; and

"(B) a technological measure 'effectively controls access to a work' if the measure, in the ordinary course of its operation, requires the application of information, or a process or a treatment, with the authority of the copyright owner, to gain access to the work.

"(b) ADDITIONAL VIOLATIONS.—(1) No person shall manufacture, import, offer to the public, provide, or otherwise traffic in any technology, product, service, device, component, or part thereof, that—

"(A) is primarily designed or produced for the purpose of circumventing protection afforded by a technological measure that effectively protects a right of a copyright owner under this title in a work or a portion thereof;

"(B) has only limited commercially significant purpose or use other than to circumvent protection afforded by a technological measure that effectively protects a right of a copyright owner under this title in a work or a portion thereof; or

"(C) is marketed by that person or another acting in concert with that person with that person's knowledge for use in circumventing protection afforded by a technological measure that effectively protects a right of a copyright owner under this title in a work or a portion thereof.

"(2) As used in this subsection—

"(A) to 'circumvent protection afforded by a technological measure' means avoiding, bypassing, removing, deactivating, or otherwise impairing a technological measure; and

"(B) a technological measure 'effectively protects a right of a copyright owner under this title' if the measure, in the ordinary course of its operation, prevents, restricts, or otherwise limits the exercise of a right of a copyright owner under this title.

"(c) OTHER RIGHTS, ETC., NOT AFFECTED.—(1) Nothing in this section shall affect rights, remedies, limitations, or defenses to copyright infringement, including fair use, under this title.

"(2) Nothing in this section shall enlarge or diminish vicarious or contributory liability for copyright infringement in connection with any technology, product, service, device, component, or part thereof.

"(3) Nothing in this section shall require that the design of, or design and selection of parts and components for, a consumer electronics, telecommunications, or computing product provide for a response to any particular technological measure.

"(4) Nothing in this section shall enlarge or diminish any rights of free speech or the press for activities using consumer electronics, telecommunications, or computing products.

"(d) EXEMPTION FOR NONPROFIT LIBRARIES, ARCHIVES, AND EDUCATIONAL INSTITUTIONS.—(1) A nonprofit library, archives, or educational institution which gains access to a

commercially exploited copyrighted work solely in order to make a good faith determination of whether to acquire a copy of that work for the sole purpose of engaging in conduct permitted under this title shall not be in violation of subsection (a)(1)(A). A copy of a work to which access has been gained under this paragraph—

"(A) may not be retained longer than necessary to make such good faith determination; and

"(B) may not be used for any other purpose.

"(2) The exemption made available under paragraph (1) shall only apply with respect to a work when an identical copy of that work is not reasonably available in another form.

"(3) A nonprofit library, archives, or educational institution that willfully for the purpose of commercial advantage or financial gain violates paragraph (1)—

"(A) shall, for the first offense, be subject to the civil remedies under section 1203; and

"(B) shall, for repeated or subsequent offenses, in addition to the civil remedies under section 1203, forfeit the exemption provided under paragraph (1).

"(4) This subsection may not be used as a defense to a claim under subsection (a)(2) or (b), nor may this subsection permit a nonprofit library, archives, or educational institution to manufacture, import, offer to the public, provide, or otherwise traffic in any technology, product, service, component, or part thereof, which circumvents a technological measure.

"(5) In order for a library or archives to qualify for the exemption under this subsection, the collections of that library or archives shall be—

"(A) open to the public; or

"(B) available not only to researchers affiliated with the library or archives or with the institution of which it is a part, but also to other persons doing research in a specialized field.

"(e) LAW ENFORCEMENT AND INTELLIGENCE ACTIVITIES.—This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of an officer, agent, or employee of the United States, a State, or a political subdivision of a State, or a person acting pursuant to a contract with the United States, a State, or a political subdivision of a State.

"(f) REVERSE ENGINEERING.—(1) Notwithstanding the provisions of subsection (a)(1)(A), a person who has lawfully obtained the right to use a copy of a computer program may circumvent a technological measure that effectively controls access to a particular portion of that program for the sole purpose of identifying and analyzing those elements of the program that are necessary to achieve interoperability of an independently created computer program with other programs, and that have not previously been readily available to the person engaging in the circumvention, to the extent any such acts of identification and analysis do not constitute infringement under this title.

"(2) Notwithstanding the provisions of subsections (a)(2) and (b), a person may develop and employ technological means to circumvent a technological measure, or to circumvent protection afforded by a technological measure, in order for that person to make the identification and analysis permitted under paragraph (1), or for the limited purpose of that person achieving interoperability of an independently created computer program with other programs, if such means are necessary to achieve such interoperability, to the extent that doing so does not constitute infringement under this title.

"(3) The information acquired through the acts permitted under paragraph (1), and the means permitted under paragraph (2), may be made available to others if the person referred to in paragraphs (1) and (2) provides such information or means solely for the purpose of achieving interoperability of an independently created computer program with other programs, and to the extent that doing so does not constitute infringement under this title or violate other applicable law.

"(4) For purposes of this subsection, the term 'interoperability' means the ability of computer programs to exchange information, and of such programs mutually to use the information which has been exchanged.

"(g) ENCRYPTION RESEARCH.—

"(1) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'encryption research' means activities necessary to identify and analyze flaws and vulnerabilities of encryption technologies applied to copyrighted works, if these activities are conducted to advance the state of knowledge in the field of encryption technology or to assist in the development of encryption products; and

"(B) the term 'encryption technology' means the scrambling and descrambling of information using mathematical formulas or algorithms.

"(2) PERMISSIBLE ACTS OF ENCRYPTION RESEARCH.—Notwithstanding the provisions of subsection (a)(1)(A), it is not a violation of that subsection for a person to circumvent a technological measure as applied to a copy, phonorecord, performance, or display of a published work in the course of an act of good faith encryption research if—

"(A) the person lawfully obtained the encrypted copy, phonorecord, performance, or display of the published work;

"(B) such act is necessary to conduct such encryption research;

"(C) the person made a good faith effort to obtain authorization before the circumvention; and

"(D) such act does not constitute infringement under this title or a violation of applicable law other than this section, including section 1030 of title 18 and those provisions of title 18 amended by the Computer Fraud and Abuse Act of 1986.

"(3) FACTORS IN DETERMINING EXEMPTION.—In determining whether a person qualifies for the exemption under paragraph (2), the factors to be considered shall include—

"(A) whether the information derived from the encryption research was disseminated, and if so, whether it was disseminated in a manner reasonably calculated to advance the state of knowledge or development of encryption technology, versus whether it was disseminated in a manner that facilitates infringement under this title or a violation of applicable law other than this section, including a violation of privacy or breach of security;

"(B) whether the person is engaged in a legitimate course of study, is employed, or is appropriately trained or experienced, in the field of encryption technology; and

"(C) whether the person provides the copyright owner of the work to which the technological measure is applied with notice of the findings and documentation of the research, and the time when such notice is provided.

"(4) USE OF TECHNOLOGICAL MEANS FOR RESEARCH ACTIVITIES.—Notwithstanding the provisions of subsection (a)(2), it is not a violation of that subsection for a person to—

"(A) develop and employ technological means to circumvent a technological measure for the sole purpose of that person performing the acts of good faith encryption research described in paragraph (2); and

"(B) provide the technological means to another person with whom he or she is working collaboratively for the purpose of conducting the acts of good faith encryption research described in paragraph (2) or for the purpose of having that other person verify his or her acts of good faith encryption research described in paragraph (2).

"(5) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this chapter, the Under Secretary of Commerce for Intellectual Property Policy, the Assistant Secretary of Commerce for Communications and Information, and the Register of Copyrights shall jointly report to the Congress on the effect this subsection has had on—

"(A) encryption research and the development of encryption technology;

"(B) the adequacy and effectiveness of technological measures designed to protect copyrighted works; and

"(C) protection of copyright owners against the unauthorized access to their encrypted copyrighted works.

The report shall include legislative recommendations, if any.

"(h) EXCPETIONS REGARDING MINORS.—(1) In applying subsection (a) to a component or part, the court may consider the necessity for its intended and actual incorporation in a technology, product, service, or device, which—

"(A) does not itself violate the provisions of this title; and

"(B) has the sole purpose to prevent the access of minors to material on the Internet.

"(2) Notwithstanding the provisions of subsection (a)(1)(A), it is not a violation of that subsection for a parent to circumvent a technological measure that effectively controls access to a test, examination, or other evaluation of his or her minor child's abilities that is given by a nonprofit educational institution if—

"(A) the parent made a good faith effort to obtain authorization before the circumvention; and

"(B) such act is necessary to obtain a copy of such test, examination, or other evaluation.

"(i) PROTECTION OF PERSONALLY IDENTIFYING INFORMATION.—

(1) CIRCUMVENTION PERMITTED.—Notwithstanding the provisions of subsection (a)(1)(A), it is not a violation of that subsection for a person to circumvent a technological measure that effectively controls access to a work protected under this title, if—

"(A) the technological measure, or the work it protects, contains the capability of collecting or disseminating personally identifying information reflecting the online activities of a natural person who seeks to gain access to the work protected;

"(B) in the normal course of its operation, the technological measure, or the work it protects, collects or disseminates personally identifying information about the person who seeks to gain access to the work protected, without providing conspicuous notice of such collection or dissemination to such person, and without providing such person with the capability to prevent or restrict such collection or dissemination;

"(C) the act of circumvention has the sole effect of identifying and disabling the capability described in subparagraph (A), and has no other effect on the ability of any person to gain access to any work; and

"(D) the act of circumvention is carried out solely for the purpose of preventing the collection or dissemination of personally identifying information about a natural person who seeks to gain access to the work protected, and is not in violation of any other law.

"(2) INAPPLICABILITY TO CERTAIN TECHNOLOGICAL MEASURES.—This subsection does not apply to a technological measure, or a work it protects, that does not collect or disseminate personally identifying information and that is disclosed to a user as not having or using such capability.

"§ 1202. Integrity of copyright management information

"(a) FALSE COPYRIGHT MANAGEMENT INFORMATION.—No person shall knowingly and with the intent to induce, enable, facilitate, or conceal infringement—

"(1) provide copyright management information that is false, or

"(2) distribute or import for distribution copyright management information that is false.

"(b) REMOVAL OR ALTERATION OF COPYRIGHT MANAGEMENT INFORMATION.—No person shall, without the authority of the copyright owner or the law—

"(1) intentionally remove or alter any copyright management information,

"(2) distribute or import for distribution copyright management information knowing that the copyright management information has been removed or altered without authority of the copyright owner or the law, or

"(3) distribute, import for distribution, or publicly perform works, copies of works, or phonorecords, knowing that copyright management information has been removed or altered without authority of the copyright owner or the law,

knowing, or, with respect to civil remedies under section 1203, having reasonable grounds to know, that it will induce, enable, facilitate, or conceal an infringement of any right under this title.

"(c) DEFINITION.—As used in this section, the term 'copyright management information' means any of the following information conveyed in connection with copies or phonorecords of a work or performances or displays of a work, including in digital form, except that such term does not include any personally identifying information about a user of a work or of a copy, phonorecord, performance, or display of a work:

"(1) The title and other information identifying the work, including the information set forth on a notice of copyright.

"(2) The name of, and other identifying information about, the author of a work.

"(3) The name of, and other identifying information about, the copyright owner of the work, including the information set forth in a notice of copyright.

"(4) With the exception of public performances of works by radio and television broadcast stations, the name of, and other identifying information about, a performer whose performance is fixed in a work other than an audiovisual work.

"(5) With the exception of public performances of works by radio and television broadcast stations, in the case of an audiovisual work, the name of, and other identifying information about, a writer, performer, or director who is credited in the audiovisual work.

"(6) Terms and conditions for use of the work.

"(7) Identifying numbers or symbols referring to such information or links to such information.

"(8) Such other information as the Register of Copyrights may prescribe by regulation, except that the Register of Copyrights may not require the provision of any information concerning the user of a copyrighted work.

"(d) LAW ENFORCEMENT AND INTELLIGENCE ACTIVITIES.—This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of an officer, agent, or employee of the United States, a State, or a political subdivision of a State, or a person acting pursuant to a contract with the United States, a State, or a political subdivision of a State.

"(e) LIMITATIONS ON LIABILITY.—

"(1) ANALOG TRANSMISSIONS.—In the case of an analog transmission, a person who is making transmissions in its capacity as a broadcast station, or as a cable system, or someone who provides programming to such station or system, shall not be liable for a violation of subsection (b) if—

"(A) avoiding the activity that constitutes such violation is not technically feasible or would create an undue financial hardship on such person; and

"(B) such person did not intend, by engaging in such activity, to induce, enable, facilitate, or conceal infringement of a right under this title.

"(2) DIGITAL TRANSMISSIONS.—

"(A) If a digital transmission standard for the placement of copyright management information for a category of works is set in a voluntary, consensus standard-setting process involving a representative cross-section of broadcast stations or cable systems and copyright owners of a category of works that are intended for public performance by such stations or systems, a person identified in paragraph (1) shall not be liable for a violation of subsection (b) with respect to the particular copyright management information addressed by such standard if—

"(i) the placement of such information by someone other than such person is not in accordance with such standard; and

"(ii) the activity that constitutes such violation is not intended to induce, enable, facilitate, or conceal infringement of a right under this title.

"(B) Until a digital transmission standard has been set pursuant to subparagraph (A) with respect to the placement of copyright management information for a category or works, a person identified in paragraph (1) shall not be liable for a violation of subsection (b) with respect to such copyright management information, if the activity that constitutes such violation is not intended to induce, enable, facilitate, or conceal infringement of a right under this title, and if—

"(i) the transmission of such information by such person would result in a perceptible visual or aural degradation of the digital signal; or

"(ii) the transmission of such information by such person would conflict with—

"(I) an applicable government regulation relating to transmission of information in a digital signal;

"(II) an applicable industry-wide standard relating to the transmission of information in a digital signal that was adopted by a voluntary consensus standards body prior to the effective date of this chapter; or

"(III) an applicable industry-wide standard relating to the transmission of information in a digital signal that was adopted in a voluntary, consensus standards-setting process open to participation by a representative cross-section of broadcast stations or cable systems and copyright owners of a category of works that are intended for public performance by such stations or systems.

"(3) DEFINITIONS.—As used in this subsection—

"(A) the term 'broadcast station' has the meaning given that term in section 3 of the Communications Act of 1934 (47 U.S.C. 153)); and

"(B) the term 'cable system' has the meaning given that term in section 602 of the Communications Act of 1934 (47 U.S.C. 522)).

"§ 1203. Civil remedies

"(a) CIVIL ACTIONS.—Any person injured by a violation of section 1201 or 1202 may bring a civil action in an appropriate United States district court for such violation.

"(b) POWERS OF THE COURT.—In an action brought under subsection (a), the court—

"(1) may grant temporary and permanent injunctions on such terms as it deems reasonable to prevent or restrain a violation, but in no event shall impose a prior restraint on free speech or the press protected under the 1st amendment to the Constitution;

"(2) at any time while an action is pending, may order the impounding, on such terms as it deems reasonable, of any device or product that is in the custody or control of the alleged violator and that the court has reasonable cause to believe was involved in a violation;

"(3) may award damages under subsection (c);

"(4) in its discretion may allow the recovery of costs by or against any party other than the United States or an officer thereof;

"(5) in its discretion may award reasonable attorney's fees to the prevailing party; and

"(6) may, as part of a final judgment or decree finding a violation, order the remedial modification or the destruction of any device or product involved in the violation that is in the custody or control of the violator or has been impounded under paragraph (2).

"(c) AWARD OF DAMAGES.—

"(1) IN GENERAL.—Except as otherwise provided in this title, a person committing a violation of section 1201 or 1202 is liable for either—

"(A) the actual damages and any additional profits of the violator, as provided in paragraph (2), or

"(B) statutory damages, as provided in paragraph (3).

"(2) ACTUAL DAMAGES.—The court shall award to the complaining party the actual damages suffered by the party as a result of the violation, and any profits of the violator that are attributable to the violation and are not taken into account in computing the actual damages, if the complaining party elects such damages at any time before final judgment is entered.

"(3) STATUTORY DAMAGES.—(A) At any time before final judgment is entered, a complaining party may elect to recover an award of statutory damages for each violation of section 1201 in the sum of not less than $200 or more than $2,500 per act of circumvention, device, product, component, offer, or performance of service, as the court considers just.

"(B) At any time before final judgment is entered, a complaining party may elect to recover an award of statutory damages for each violation of section 1202 in the sum of not less than $2,500 or more than $25,000.

"(4) REPEATED VIOLATIONS.—In any case in which the injured party sustains the burden of proving, and the court finds, that a person has violated section 1201 or 1202 within three years after a final judgment was entered

against the person for another such violation, the court may increase the award of damages up to triple the amount that would otherwise be awarded, as the court considers just.

"(5) INNOCENT VIOLATIONS.—

"(A) IN GENERAL.—The court in its discretion may reduce or remit the total award of damages in any case in which the violator sustains the burden of proving, and the court finds, that the violator was not aware and had no reason to believe that its acts constituted a violation.

"(B) NONPROFIT LIBRARY, ARCHIVES, OR EDUCATIONAL INSTITUTIONS.—In the case of a nonprofit library, archives, or educational institution, the court shall remit damages in any case in which the library, archives, or educational institution sustains the burden of proving, and the court finds, that the library, archives, or educational institution was not aware and had no reason to believe that its acts constituted a violation.

"§ 1204. Criminal offenses and penalties

"(a) IN GENERAL.—Any person who violates section 1201 or 1202 willfully and for purposes of commercial advantage or private financial gain—

"(1) shall be fined not more than $500,000 or imprisoned for not more than 5 years, or both, for the first offense; and

"(2) shall be fined not more than $1,000,000 or imprisoned for not more than 10 years, or both, for any subsequent offense.

"(b) LIMITATION FOR NONPROFIT LIBRARY, ARCHIVES, OR EDUCATIONAL INSTITUTION.—Subsection (a) shall not apply to a nonprofit library, archives, or educational institution.

"(c) STATUTE OF LIMITATIONS.—No criminal proceeding shall be brought under this section unless such proceeding is commenced within five years after the cause of action arose.

"§ 1205. Savings clause

"Nothing in this chapter abrogates, diminishes, or weakens the provisions of, nor provides any defense or element of mitigation in a criminal prosecution or civil action under, any Federal or State law that prevents the violation of the privacy of an individual in connection with the individual's use of the Internet.".

(b) CONFORMING AMENDMENT.—The table of chapters for title 17, United States Code, is amended by adding after the item relating to chapter 11 the following:

"12. Copyright Protection and Management Systems ..... 1201".

SEC. 104. DEVELOPMENT AND IMPLEMENTATION OF TECHNOLOGICAL PROTECTION MEASURES.

(a) STATEMENT OF CONGRESSIONAL POLICY AND OBJECTIVE.—It is the sense of the Congress that technological measures that effectively control access to works protected under title 17, United States Code, or that effectively protect a right of a copyright owner under such title play a crucial role in safeguarding the interests of both copyright owners and lawful users of copyrighted works in digital formats, by facilitating lawful uses of such works while protecting the private property interests of holders of rights under title 17, United States Code. Accordingly, the expeditious implementation of such measures, developed by the private sector is a key factor in realizing the full benefits of making available copyrighted works through digital networks, including the benefits set forth in this section.

(b) TECHNOLOGICAL MEASURES.—The technological measures referred to in subsection (a) shall include, but not be limited to, those which—

(1) enable nonprofit libraries, for nonprofit purposes, to continue to lend to library users copies or phonorecords that such libraries have lawfully acquired, including the lending of such copies or phonorecords in digital formats in a manner that prevents infringement;

(2) effectively protect against the infringement of exclusive rights under title 17, United States Code, and facilitate the exercise of those exclusive rights; and

(3) promote the development and implementation of diverse methods, mechanisms, and arrangements in the marketplace for making available copyrighted works in digital formats which provide opportunities for individual members of the public to make lawful uses of copyrighted works in digital formats.

(c) PROCEDURES FOR DEVELOPING AND IMPLEMENTING TECHNOLOGICAL MEASURES.—The technological measures whose development and implementation the Congress anticipates include, but are not limited to, those which—

(1) are developed pursuant to a broad consensus in an open, fair, voluntary, and multi-industry process;

(2) are made available on reasonable and nondiscriminatory terms; and

(3) do not impose substantial costs or burdens on copyright owners or on manufacturers of hardware or software used in conjunction with copyrighted works in digital formats.

(d) OVERSIGHT AND REPORTING.—(1) The Under Secretary of Commerce for Intellectual Property Policy, the Assistant Secretary of Commerce for Communications and Information, and the Register of Copyrights shall jointly review the impact of the enactment of section 1201 of title 17, United States Code, on the access of individual users to copyrighted works in digital formats and shall jointly report annually thereon to the Committees on the Judiciary and on Commerce of the House of Representatives and the Committees on the Judiciary and on Commerce, Science, and Transportation of the Senate.

(2) Each report under paragraph (1) shall address the following issues:

(A) The status of the development and implementation of technological measures described in this section, including measures that advance the objectives of this section, and the effectiveness of such technological measures in protecting the private property interests of copyright owners under title 17, United States Code.

(B) The degree to which individual lawful users of copyrighted works—

(i) have access to the Internet and digital networks generally;

(ii) are dependent upon such access for their use of copyrighted works;

(iii) have available to them other channels for obtaining and using copyrighted works, other than the Internet and digital networks generally;

(iv) are required to pay copyright owners or intermediaries for each lawful use of copyrighted works in digital formats to which they have access; and

(v) are able to utilize nonprofit libraries to obtain access, through borrowing without payment by the user, to copyrighted works in digital formats.

(C) The degree to which infringement of copyrighted works in digital formats is occurring.

(D) Whether and the extent to which section 1201 of title 17, United States Code, is asserted as a basis for liability in claims brought against persons conducting research and development, including reverse engineering of copyrighted works, and the extent to which such claims constitute a serious impediment to the development and production of competitive goods and services.

(E) The degree to which individual users of copyrighted materials in digital formats are able effectively to protect themselves against the use of technological measures to carry out or facilitate the undisclosed collection and dissemination of personally identifying information concerning the access to and use of such materials by such users.

(F) Such other issues as the Under Secretary of Commerce for Intellectual Property Policy, the Assistant Secretary of Commerce for Communications and Information, and the Register of Copyrights identify as relevant to the impact of the enactment of section 1201 of title 17, United States Code, on the access of individual users to copyrighted works in digital formats.

(3) The first report under this subsection shall be submitted not later than one year after the date of the enactment of this Act, and the last such report shall be submitted not later than three years after the date of the enactment of this Act.

(4) The reports under this subsection may include such recommendations for additional legislative action as the Under Secretary of Commerce for Intellectual Property Policy, the Assistant Secretary of Commerce for Communications and Information, and the Register of Copyrights consider advisable in order to further the objectives of this section.

SEC. 105. EVALUATION OF IMPACT OF COPYRIGHT LAW AND AMENDMENTS ON ELECTRONIC COMMERCE AND TECHNOLOGICAL DEVELOPMENT.

(a) EVALUATION BY UNDER SECRETARY OF COMMERCE AND REGISTER OF COPYRIGHTS.—The Under Secretary of Commerce for Intellectual Property Policy, the Assistant Secretary of Commerce for Communications and Information, and the Register of Copyrights shall jointly evaluate—

(1) the effects of the amendments made by this title and the development of electronic commerce and associated technology on the operation of sections 109 and 117 of title 17, United States Code; and

(2) the relationship between existing and emergent technology and the operation of sections 109 and 117 of title 17, United States Code.

(c) REPORT TO CONGRESS.—The Under Secretary of Commerce for Intellectual Property Policy, the Assistant Secretary of Commerce for Communications and Information, and the Register of Copyrights shall, not later than 24 months after the date of the enactment of this Act, submit to the Congress a joint report on the evaluation conducted under subsection (b), including any legislative recommendations the Under Secretary, the Assistant Secretary, and the Register may have.

SEC. 106. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to subsection (b), this title and the amendments made by this title shall take effect on the date of the enactment of this Act.

(b) AMENDMENTS RELATING TO CERTAIN INTERNATIONAL AGREEMENTS.—(1) The following shall take effect upon the entry into force of the WIPO Copyright Treaty with respect to the United States:

(A) Paragraph (5) of the definition of "international agreement" contained in section 101 of title 17, United States Code, as amended by section 102(a)(4) of this Act.

(B) The amendment made by section 102(a)(6) of this Act.

(C) Subparagraph (C) of section 104A(h)(1) of title 17, United States Code, as amended by section 102(c)(1) of this Act.

(D) Subparagraph (C) of section 104A(h)(3) of title 17, United States Code, as amended by section 102(c)(2) of this Act.

(2) The following shall take effect upon the entry into force of the WIPO Performances and Phonograms Treaty with respect to the United States:

(A) Paragraph (6) of the definition of "international agreement" contained in section 101 of title 17, United States Code, as amended by section 102(a)(4) of this Act.

(B) The amendment made by section 102(a)(7) of this Act.

(C) The amendment made by section 102(b)(2) of this Act.

(D) Subparagraph (D) of section 104A(h)(1) of title 17, United States Code, as amended by section 102(c)(1) of this Act.

(E) Subparagraph (D) of section 104A(h)(3) of title 17, United States Code, as amended by section 102(c)(2) of this Act.

(F) The amendments made by section 102(c)(3) of this Act.

TITLE II—ONLINE COPYRIGHT INFRINGEMENT LIABILITY LIMITATION

SEC. 201. SHORT TITLE.

This title may be cited as the "Online Copyright Infringement Liability Limitation Act".

SEC. 202. LIMITATIONS ON LIABILITY FOR COPYRIGHT INFRINGEMENT.

(a) IN GENERAL.—Chapter 5 of title 17, United States Code, is amended by adding after section 511 the following new section:

"§ 512. Limitations on liability relating to material online

"(a) TRANSITORY DIGITAL NETWORK COMMUNICATIONS.—A service provider shall not be liable for monetary relief, or, except as provided in subsection (i), for injunctive or other equitable relief, for infringement of copyright by reason of the provider's transmitting, routing, or providing connections for, material through a system or network controlled or operated by or for the service provider, or by reason of the intermediate and transient storage of that material in the course of such transmitting, routing, or providing connections, if—

"(1) the transmission of the material was initiated by or at the direction of a person other than the service provider;

"(2) the transmission, routing, provision of connections, or storage is carried out through an automatic technical process without selection of the material by the service provider;

"(3) the service provider does not select the recipients of the material except as an automatic response to the request of another person;

"(4) no copy of the material made by the service provider in the course of such intermediate or transient storage is maintained on the system or network in a manner ordinarily accessible to anyone other than anticipated recipients, and no such copy is maintained on the system or network in a manner ordinarily accessible to such anticipated recipients for a longer period than is reasonably necessary for the transmission, routing, or provision of connections; and

"(5) the material is transmitted through the system or network without modification of its content.

"(b) SYSTEM CACHING.—

"(1) LIMITATION ON LIABILITY.—A service provider shall not be liable for monetary relief, or, except as provided in subsection (i), for injunctive or other equitable relief, for infringement of copyright by reason of the intermediate and temporary storage of material on a system or network controlled or operated by or for the service provider in a case in which—

"(A) the material is made available online by a person other than the service provider,

"(B) the material is transmitted from the person described in subparagraph (A) through the system or network to a person other than the person described in subparagraph (A) at the direction of that other person, and

"(C) the storage is carried out through an automatic technical process for the purpose of making the material available to users of the system or network who, after the material is transmitted as described in subparagraph (B), request access to the material from the person described in subparagraph (A),

if the conditions set forth in paragraph (2) are met.

(2) CONDITIONS.—The conditions referred to in paragraph (1) are that—

"(A) the material described in paragraph (1) is transmitted to the subsequent users described in paragraph (1)(C) without modification to its content from the manner in which the material was transmitted from the person described in paragraph (1)(A);

"(B) the service provider described in paragraph (1) complies with rules concerning the refreshing, reloading, or other updating of the material when specified by the person making the material available online in accordance with a generally accepted industry standard data communications protocol for the system or network through which that person makes the material available, except that this subparagraph applies only if those rules are not used by the person described in paragraph (1)(A) to prevent or unreasonably impair the intermediate storage to which this subsection applies;

"(C) the service provider does not interfere with the ability of technology associated with the material to return to the person described in paragraph (1)(A) the information that would have been available to that person if the material had been obtained by the subsequent users described in paragraph (1)(C) directly from that person, except that this subparagraph applies only if that technology—

"(i) does not significantly interfere with the performance of the provider's system or network or with the intermediate storage of the material;

"(ii) is consistent with generally accepted industry standard communications protocols; and

"(iii) does not extract information from the provider's system or network other than the information that would have been available to the person described in paragraph (1)(A) if the subsequent users had gained access to the material directly from that person;

"(D) if the person described in paragraph (1)(A) has in effect a condition that a person must meet prior to having access to the material, such as a condition based on payment of a fee or provision of a password or other information, the service provider permits access to the stored material in significant part only to users of its system or network that have met those conditions and only in accordance with those conditions; and

"(E) if the person described in paragraph (1)(A) makes that material available online without the authorization of the copyright owner of the material, the service provider responds expeditiously to remove, or disable access to, the material that is claimed to be infringing upon notification of claimed infringement as described in subsection (c)(3), except that this subparagraph applies only if—

"(i) the material has previously been removed from the originating site or access to it has been disabled, or a court has ordered that the material be removed from the originating site or that access to the material on the originating site be disabled; and

"(ii) the party giving the notification includes in the notification a statement confirming that the material has been removed from the originating site or access to it has been disabled or that a court has ordered that the material be removed from the originating site or that access to the material on the originating site be disabled.

"(c) INFORMATION RESIDING ON SYSTEMS OR NETWORKS AT DIRECTION OF USERS.—

"(1) IN GENERAL.—A service provider shall not be liable for monetary relief, or, except as provided in subsection (i), for injunctive or other equitable relief, for infringement of copyright by reason of the storage at the direction of a user of material that resides on a system or network controlled or operated by or for the service provider, if the service provider—

"(A)(i) does not have actual knowledge that the material or an activity using the material on the system or network is infringing;

"(ii) in the absence of such actual knowledge, is not aware of facts or circumstances from which infringing activity is apparent; or

"(iii) upon obtaining such knowledge or awareness, acts expeditiously to remove, or disable access to, the material;

"(B) does not receive a financial benefit directly attributable to the infringing activity, in a case in which the service provider has the right and ability to control such activity; and

"(C) upon notification of claimed infringement as described in paragraph (4), responds expeditiously to remove, or disable access to, the material that is claimed to be infringing or to be the subject of infringing activity.

"(2) LIMITATION ON LIABILITY OF NONPROFIT EDUCATIONAL INSTITUTIONS.—A nonprofit educational institution that is a service provider shall not be liable for monetary relief, or, except as provided in subsection (i), for injunctive or other equitable relief, by reason of the acts or omissions of a faculty member, administrative employee, student, or graduate student, unless such faculty member, administrative employee, student, or graduate student is exercising managerial or operational responsibilities that directly relate to the institution's function as a service provider.

"(3) DESIGNATED AGENT.—The limitations on liability established in this subsection apply to a service provider only if the service provider has designated an agent to receive notifications of claimed infringement described in paragraph (4), by making available through its service, including on its website in a location accessible to the public, and by providing to the Copyright Office, substantially the following information:

"(A) the name, address, phone number, and electronic mail address of the agent.

"(B) other contact information which the Register of Copyrights may deem appropriate.

The Register of Copyrights shall maintain a current directory of agents available to the

public for inspection, including through the Internet, in both electronic and hard copy formats, and may require payment of a fee by service providers to cover the costs of maintaining the directory.

"(4) ELEMENTS OF NOTIFICATION.—

"(A) To be effective under this subsection, a notification of claimed infringement must be a written communication provided to the designated agent of a service provider that includes substantially the following:

"(i) A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

"(ii) Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single online site are covered by a single notification, a representative list of such works at that site.

"(iii) Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit the service provider to locate the material.

"(iv) Information reasonably sufficient to permit the service provider to contact the complaining party, such as an address, telephone number, and, if available, an electronic mail address at which the complaining party may be contacted.

"(v) A statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law.

"(vi) A statement that the information in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

"(B)(i) Subject to clause (ii), a notification from a copyright owner or from a person authorized to act on behalf of the copyright owner that fails to comply substantially with the provisions of subparagraph (A) shall not be considered under paragraph (1)(A) in determining whether a service provider has actual knowledge or is aware of facts or circumstances from which infringing activity is apparent.

"(ii) In a case in which the notification that is provided to the service provider's designated agent fails to comply substantially with all the provisions of subparagraph (A) but substantially complies with clauses (ii), (iii), and (iv) of subparagraph (A), clause (i) of this subparagraph applies only if the service provider promptly attempts to contact the person making the notification or takes other reasonable steps to assist in the receipt of notification that substantially complies with all the provisions of subparagraph (A).

"(d) INFORMATION LOCATION TOOLS.—A service provider shall not be liable for monetary relief, or, except as provided in subsection (i), for injunctive or other equitable relief, for infringement of copyright by reason of the provider referring or linking users to an online location containing infringing material or infringing activity, by using information location tools, including a directory, index, reference, pointer, or hypertext link, if the service provider—

"(1)(A) does not have actual knowledge that the material or activity is infringing;

"(B) in the absence of such actual knowledge, is not aware of facts or circumstances from which infringing activity is apparent; or

"(C) upon obtaining such knowledge or awareness, acts expeditiously to remove, or disable access to, the material;

"(2) does not receive a financial benefit directly attributable to the infringing activity, in a case in which the service provider has the right and ability to control such activity; and

"(3) upon notification of claimed infringement as described in subsection (c)(4), responds expeditiously to remove, or disable access to, the material that is claimed to be infringing or to be the subject of infringing activity, except that, for purposes of this paragraph, the information described in subsection (c)(4)(A)(iii) shall be identification of the reference or link, to material or activity claimed to be infringing, that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit the service provider to locate that reference or link.

"(e) MISREPRESENTATIONS.—Any person who knowingly materially misrepresents under this section—

"(1) that material or activity is infringing, or

"(2) that material or activity was removed or disabled by mistake or misidentification,

shall be liable for any damages, including costs and attorneys' fees, incurred by the alleged infringer, by any copyright owner or copyright owner's authorized licensee, or by a service provider, who is injured by such misrepresentation, as the result of the service provider relying upon such misrepresentation in removing or disabling access to the material or activity claimed to be infringing, or in replacing the removed material or ceasing to disable access to it.

"(f) REPLACEMENT OF REMOVED OR DISABLED MATERIAL AND LIMITATION ON OTHER LIABILITY.—

"(1) NO LIABILITY FOR TAKING DOWN GENERALLY.—Subject to paragraph (2), a service provider shall not be liable to any person for any claim based on the service provider's good faith disabling of access to, or removal of, material or activity claimed to be infringing or based on facts or circumstances from which infringing activity is apparent, regardless of whether the material or activity is ultimately determined to be infringing.

"(2) EXCEPTION.—Paragraph (1) shall not apply with respect to material residing at the direction of a subscriber of the service provider on a system or network controlled or operated by or for the service provider that is removed, or to which access is disabled by the service provider, pursuant to a notice provided under subsection (c)(1)(C), unless the service provider—

"(A) takes reasonable steps promptly to notify the subscriber that it has removed or disabled access to the material;

"(B) upon receipt of a counter notification described in paragraph (3), promptly provides the person who provided the notification under subsection (c)(1)(C) with a copy of the counter notification, and informs that person that it will replace the removed material or cease disabling access to it in 10 business days; and

"(C) replaces the removed material and ceases disabling access to it not less than 10, nor more than 14, business days following receipt of the counter notice, unless its designated agent first receives notice from the person who submitted the notification under subsection (c)(1)(C) that such person has filed an action seeking a court order to restrain the subscriber from engaging in infringing activity relating to the material on the service provider's system or network.

"(3) CONTENTS OF COUNTER NOTIFICATION.—To be effective under this subsection, a counter notification must be a written communication provided to the service provider's designated agent that includes substantially the following:

"(A) A physical or electronic signature of the subscriber.

"(B) Identification of the material that has been removed or to which access has been disabled and the location at which the material appeared before it was removed or access to it was disabled.

"(C) A statement under penalty of perjury that the subscriber has a good faith belief that the material was removed or disabled as a result of mistake or misidentification of the material to be removed or disabled.

"(D) The subscriber's name, address, and telephone number, and a statement that the subscriber consents to the jurisdiction of Federal District Court for the judicial district in which the address is located, or if the subscriber's address is outside of the United States, for any judicial district in which the service provider may be found, and that the subscriber will accept service of process from the person who provided notification under subsection (c)(1)(C) or an agent of such person.

"(4) LIMITATION ON OTHER LIABILITY.—A service provider's compliance with paragraph (2) shall not subject the service provider to liability for copyright infringement with respect to the material identified in the notice provided under subsection (c)(1)(C).

"(g) SUBPOENA TO IDENTIFY INFRINGER.—

"(1) REQUEST.—A copyright owner or a person authorized to act on the owner's behalf may request the clerk of any United States district court to issue a subpoena to a service provider for identification of an alleged infringer in accordance with this subsection.

"(2) CONTENTS OF REQUEST.—The request may be made by filing with the clerk—

"(A) a copy of a notification described in subsection (c)(4)(A);

"(B) a proposed subpoena; and

"(C) a sworn declaration to the effect that the purpose for which the subpoena is sought is to obtain the identity of an alleged infringer and that such information will only be used for the purpose of protecting rights under this title.

"(3) CONTENTS OF SUBPOENA.—The subpoena shall authorize and order the service provider receiving the notification and the subpoena to expeditiously disclose to the copyright owner or person authorized by the copyright owner information sufficient to identify the alleged infringer of the material described in the notification to the extent such information is available to the service provider.

"(4) BASIS FOR GRANTING SUBPOENA.—If the notification filed satisfies the provisions of subsection (c)(4)(A), the proposed subpoena is in proper form, and the accompanying declaration is properly executed, the clerk shall expeditiously issue and sign the proposed subpoena and return it to the requester for delivery to the service provider.

"(5) ACTIONS OF SERVICE PROVIDER RECEIVING SUBPOENA.—Upon receipt of the issued subpoena, either accompanying or subsequent to the receipt of a notification described in subsection (c)(4)(A), the service provider shall expeditiously disclose to the copyright owner or person authorized by the copyright owner the information required by the subpoena, notwithstanding any other provision of law and regardless of whether the service provider responds to the notification.

"(6) RULES APPLICABLE TO SUBPOENA.—Unless otherwise provided by this section or by applicable rules of the court, the procedure for issuance and delivery of the subpoena, and the remedies for noncompliance with the subpoena, shall be governed to the greatest extent practicable by those provisions of the Federal Rules of Civil Procedure governing the issuance, service, and enforcement of a subpoena duces tecum.

"(h) CONDITIONS FOR ELIGIBILITY.—

"(1) ACCOMMODATION OF TECHNOLOGY.—The limitations on liability established by this section shall apply to a service provider only if the service provider—

"(A) has adopted and reasonably implemented, and informs subscribers and account holders of the service provider's system or network of, a policy that provides for the termination in appropriate circumstances of subscribers and account holders of the service provider's system or network who are repeat infringers; and

"(B) accommodates and does not interfere with standard technical measures.

"(2) DEFINITION.—As used in this subsection, the term 'standard technical measures' means technical measures that are used by copyright owners to identify or protect copyrighted works and—

"(A) have been developed pursuant to a broad consensus of copyright owners and service providers in an open, fair, voluntary, multi-industry standards process;

"(B) are available to any person on reasonable and nondiscriminatory terms; and

"(C) do not impose substantial costs on service providers or substantial burdens on their systems or networks.

"(i) INJUNCTIONS.—The following rules shall apply in the case of any application for an injunction under section 502 against a service provider that is not subject to monetary remedies under this section:

"(1) SCOPE OF RELIEF.—(A) With respect to conduct other than that which qualifies for the limitation on remedies set forth in subsection (a), the court may grant injunctive relief with respect to a service provider only in one or more of the following forms:

"(i) An order restraining the service provider from providing access to infringing material or activity residing at a particular online site on the provider's system or network.

"(ii) An order restraining the service provider from providing access to a subscriber or account holder of the service provider's system or network who is engaging in infringing activity and is identified in the order, by terminating the accounts of the subscriber or account holder that are specified in the order.

"(iii) Such other injunctive relief as the court may consider necessary to prevent or restrain infringement of copyrighted material specified in the order of the court at a particular online location, if such relief is the least burdensome to the service provider among the forms of relief comparably effective for that purpose.

"(B) If the service provider qualifies for the limitation on remedies described in subsection (a), the court may only grant injunctive relief in one or both of the following forms:

"(i) An order restraining the service provider from providing access to a subscriber or account holder of the service provider's system or network who is using the provider's service to engage in infringing activity and is identified in the order, by terminating the accounts of the subscriber or account holder that are specified in the order.

"(ii) An order restraining the service provider from providing access, by taking reasonable steps specified in the order to block access, to a specific, identified, online location outside the United States.

"(2) CONSIDERATIONS.—The court, in considering the relevant criteria for injunctive relief under applicable law, shall consider—

"(A) whether such an injunction, either alone or in combination with other such injunctions issued against the same service provider under this subsection, would significantly burden either the provider or the operation of the provider's system or network;

"(B) the magnitude of the harm likely to be suffered by the copyright owner in the digital network environment if steps are not taken to prevent or restrain the infringement;

"(C) whether implementation of such an injunction would be technically feasible and effective, and would not interfere with access to noninfringing material at other online locations; and

"(D) whether other less burdensome and comparably effective means of preventing or restraining access to the infringing material are available.

"(3) NOTICE AND EX PARTE ORDERS.—Injunctive relief under this subsection shall be available only after notice to the service provider and an opportunity for the service provider to appear are provided, except for orders ensuring the preservation of evidence or other orders having no material adverse effect on the operation of the service provider's communications network.

"(j) DEFINITIONS.—

"(1) SERVICE PROVIDER.—(A) As used in subsection (a), the term 'service provider' means an entity offering the transmission, routing, or providing of connections for digital online communications, between or among points specified by a user, of material of the user's choosing, without modification to the content of the material as sent or received.

"(B) As used in this section, other than subsection (a), the term 'service provider' means a provider of online services or network access, or the operator of facilities therefor, and includes an entity described in subparagraph (A).

"(2) MONETARY RELIEF.—As used in this section, the term 'monetary relief' means damages, costs, attorneys' fees, and any other form of monetary payment.

"(k) OTHER DEFENSES NOT AFFECTED.—The failure of a service provider's conduct to qualify for limitation of liability under this section shall not bear adversely upon the consideration of a defense by the service provider that the service provider's conduct is not infringing under this title or any other defense.

"(l) PROTECTION OF PRIVACY.—Nothing in this section shall be construed to condition the applicability of subsections (a) through (d) on—

"(1) a service provider monitoring its service or affirmatively seeking facts indicating infringing activity, except to the extent consistent with a standard technical measure complying with the provisions of subsection (h); or

"(2) a service provider gaining access to, removing, or disabling access to material in cases in which such conduct is prohibited by law.

"(m) CONSTRUCTION.—Subsections (a), (b), (c), and (d) describe separate and distinct functions for purposes of applying this section. Whether a service provider qualifies for the limitation on liability in any one of those subsections shall be based solely on the criteria in that subsection, and shall not affect a determination of whether that service provider qualifies for the limitations on liability under any other such subsection.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 17, United States Code, is amended by adding at the end the following:

"512. Limitations on liability relating to material online.".

(c) EFFECTIVE DATE.—The amendments made by this section take effect on the date of the enactment of this Act.

SEC. 203. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on the date of the enactment of this Act.

TITLE III—COMPUTER MAINTENANCE OR REPAIR COPYRIGHT EXEMPTION

SEC. 301. SHORT TITLE.

This title may be cited as the "Computer Maintenance Competition Assurance Act".

SEC. 302. LIMITATIONS ON EXCLUSIVE RIGHTS; COMPUTER PROGRAMS.

Section 117 of title 17, United States Code, is amended—

(1) by striking "Notwithstanding" and inserting the following:

"(a) MAKING OF ADDITIONAL COPY OR ADAPTATION BY OWNER OF COPY.—Notwithstanding";

(2) by striking "Any exact" and inserting the following:

"(b) LEASE, SALE, OR OTHER TRANSFER OF ADDITIONAL COPY OR ADAPTATION.—Any exact"; and

(3) by adding at the end the following:

"(c) MACHINE MAINTENANCE OR REPAIR.—Notwithstanding the provisions of section 106, it is not an infringement for the owner or lessee of a machine to make or authorize the making of a copy of a computer program if such copy is made solely by virtue of the activation of a machine that lawfully contains an authorized copy of the computer program, for purposes only of maintenance or repair of that machine, if—

"(1) such new copy is used in no other manner and is destroyed immediately after the maintenance or repair is completed; and

"(2) with respect to any computer program or part thereof that is not necessary for that machine to be activated, such program or part thereof is not accessed or used other than to make such new copy by virtue of the activation of the machine.

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

"(1) the 'maintenance' of a machine is the servicing of the machine in order to make it work in accordance with its original specifications and any changes to those specifications authorized for that machine; and

"(2) the 'repair' of a machine is the restoring of the machine to the state of working in accordance with its original specifications and any changes to those specifications authorized for that machine.".

TITLE IV—MISCELLANEOUS PROVISIONS

Subtitle A—Establishment of the Under Secretary of Commerce for Intellectual Property Policy

SEC. 401. UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY POLICY.

(a) APPOINTMENT.—There shall be within the Department of Commerce an Under Secretary of Commerce for Intellectual Property Policy, who shall be appointed by the President, by and with the advice and consent of the Senate, at level II of the Executive Schedule. On or after the effective date of this subtitle, the President may designate

an individual to serve as the Acting Under Secretary until the date on which an Under Secretary qualifies under this subsection.

(b) DUTIES.—The Under Secretary of Commerce for Intellectual Property Policy, under the direction of the Secretary of Commerce, shall perform the following functions with respect to intellectual property policy:

(1) In coordination with the Under Secretary of Commerce for International Trade, promote exports of goods and services of the United States industries that rely on intellectual property.

(2) Advise the President, through the Secretary of Commerce, on national and certain international issues relating to intellectual property policy, including issues in the areas of patents, trademarks, and copyrights.

(3) Advise Federal departments and agencies on matters of intellectual property protection in other countries.

(4) Provide guidance, as appropriate, with respect to proposals by agencies to assist foreign governments and international intergovernmental organizations on matters of intellectual property protection.

(5) Conduct programs and studies related to the effectiveness of intellectual property protection throughout the world.

(6) Advise the Secretary of Commerce on programs and studies relating to intellectual property policy that are conducted, or authorized to be conducted, cooperatively with foreign patent and trademark offices and international intergovernmental organizations.

(7) In coordination with the Department of State, conduct programs and studies cooperatively with foreign intellectual property offices and international intergovernmental organizations.

(c) DEPUTY UNDER SECRETARIES.—To assist the Under Secretary of Commerce for Intellectual Property Policy, the Under Secretary shall appoint a Deputy Under Secretary for Patent Policy and a Deputy Under Secretary for Trademark Policy, as members of the Senior Executive Service in accordance with the provisions of title 5, United States Code. The Deputy Under Secretaries shall perform such duties and functions as the Under Secretary shall prescribe.

(d) COMPENSATION.—Section 5313 of title 5, United States Code, is amended by adding at the end the following: "Under Secretary of Commerce for Intellectual Property Policy."

(e) FUNDING.—Funds available to the Patent and Trademark Office shall be made available for all expenses of the Office of the Under Secretary of Commerce for Intellectual Property Policy, subject to prior approval in appropriations Acts. Amounts made available under this subsection shall not exceed 2 percent of the projected annual revenues of the Patent and Trademark Office from fees for services and goods of that Office. The Secretary of Commerce shall determine the budget requirements of the Office of the Under Secretary for Intellectual Property Policy.

(f) CONSULTATION.—In connection with the performance of his or her duties under this section, the Under Secretary shall, on appropriate matters, consult with the Register of Copyrights.

SEC. 402. RELATIONSHIP WITH EXISTING AUTHORITIES.

(a) NO DEROGATION.—Nothing in section 401 shall derogate from the duties of the United States Trade Representative or from the duties of the Secretary of State. In addition, nothing in this subtitle shall derogate from the duties and functions of the Register of Copyrights or otherwise alter current authorities relating to copyright matters.

(b) CLARIFICATION OF AUTHORITY OF THE COPYRIGHT OFFICE.—Section 701 of title 17, United States Code, is amended—

(1) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively; and

(2) by inserting after subsection (a) the following:

"(b) In addition to the functions and duties set out elsewhere in this chapter, the Register of Copyrights shall perform the following functions:

"(1) Advise Congress on national and international issues relating to copyright, other matters arising under chapters 9, 12, 13, and 14 of this title, and related matters.

"(2) Provide information and assistance to Federal departments and agencies and the Judiciary on national and international issues relating to copyright, other matters arising under chapters 9, 12, 13, and 14 of this title, and related matters.

"(3) Participate in meetings of international intergovernmental organizations and meetings with foreign government officials relating to copyright, other matters arising under chapters 9, 12, 13, and 14 of this title, and related matters, including as a member of United States delegations as authorized by the appropriate Executive Branch authority.

"(4) Conduct studies and programs regarding copyright, other matters arising under chapters 9, 12, 13, and 14 of this title, and related matters, the administration of the Copyright Office, or any function vested in the Copyright Office by law, including educational programs conducted cooperatively with foreign intellectual property offices and international intergovernmental organizations.

"(5) Perform such other functions as Congress may direct, or as may be appropriate in furtherance of the functions and duties specifically set forth in this title."

Subtitle B—Related Provisions

SEC. 411. EPHEMERAL RECORDINGS.

Section 112(a) of title 17, United States Code, is amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) by inserting "(1)" after "(a)"; and

(3) by inserting after "114(a)," the following: "or for a transmitting organization that is a broadcast radio or television station licensed as such by the Federal Communications Commission that broadcasts a performance of a sound recording in a digital format on a nonsubscription basis,"; and

(4) by adding at the end the following:

"(2) In a case in which a transmitting organization entitled to make a copy or phonorecord under paragraph (1) in connection with the transmission to the public of a performance or display of a work is prevented from making such copy or phonorecord by reason of the application by the copyright owner of technical measures that prevent the reproduction of the work, the copyright owner shall make available to the transmitting organization the necessary means for permitting the making of such copy or phonorecord as permitted under that paragraph, if it is technologically feasible and economically reasonable for the copyright owner to do so. If the copyright owner fails to do so in a timely manner in light of the transmitting organization's reasonable business requirements, the transmitting organization shall not be liable for a violation of section 1201(a)(1) of this title for engaging in such activities as are necessary to make such copies or phonorecords as permitted under paragraph (1) of this subsection.".

SEC. 412. LIMITATIONS ON EXCLUSIVE RIGHTS; DISTANCE EDUCATION.

(a) RECOMMENDATIONS BY REGISTER OF COPYRIGHTS.—Not later than 6 months after the date of the enactment of this Act, the Register of Copyrights, after consultation with representatives of copyright owners, nonprofit educational institutions, and nonprofit libraries and archives, shall submit to the Congress recommendations on how to promote distance education through digital technologies, including interactive digital networks, while maintaining an appropriate balance between the rights of copyright owners and the needs of users of copyrighted works. Such recommendations shall include any legislation the Register of Copyrights considers appropriate to achieve the objective described in the preceding sentence.

(b) FACTORS.—In formulating recommendations under subsection (a), the Register of Copyrights shall consider—

(1) the need for an exemption from exclusive rights of copyright owners for distance education through digital networks;

(2) the categories of works to be included under any distance education exemption;

(3) the extent of appropriate quantitative limitations on the portions of works that may be used under any distance education exemption;

(4) the parties who should be entitled to the benefits of any distance education exemption;

(5) the parties who should be designated as eligible recipients of distance education materials under any distance education exemption;

(6) whether and what types of technological measures can or should be employed to safeguard against unauthorized access to, and use or retention of, copyrighted materials as a condition of eligibility for any distance education exemption, including, in light of developing technological capabilities, the exemption set out in section 110(2) of title 17, United States Code;

(7) the extent to which the availability of licenses for the use of copyrighted works in distance education through interactive digital networks should be considered in assessing eligibility for any distance education exemption; and

(8) such other issues relating to distance education through interactive digital networks that the Register considers appropriate.

SEC. 413. EXEMPTION FOR LIBRARIES AND ARCHIVES.

Section 108 of title 17, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "Notwithstanding" and inserting "Except as otherwise provided in this title and notwithstanding";

(B) by inserting after "no more than one copy or phonorecord of a work" the following: ", except as provided in subsections (b) and (c)"; and

(C) in paragraph (3) by inserting after "copyright" the following: "that appears on the copy or phonorecord that is reproduced under the provisions of this section, or includes a legend stating that the work may be protected by copyright if no such notice can be found on the copy or phonorecord that is reproduced under the provisions of this section";

(2) in subsection (b)—

(A) by striking "a copy or phonorecord" and inserting "three copies or phonorecords";

(B) by striking "in facsimile form"; and

(C) by striking "if the copy or phonorecord reproduced is currently in the collections of the library or archives." and inserting "if—

"(1) the copy or phonorecord reproduced is currently in the collections of the library or archives; and

"(2) any such copy or phonorecord that is reproduced in digital format is not otherwise distributed in that format and is not made available to the public in that format outside the premises of the library or archives."; and

(3) in subsection (c)—

(A) by striking "a copy or phonorecord" and inserting "three copies or phonorecords";

(B) by striking "in facsimile form";

(C) by inserting "or if the existing format in which the work is stored has become obsolete," after "stolen,"; and

(D) by striking "if the library or archives has, after a reasonable effort, determined that an unused replacement cannot be obtained at a fair price." and inserting "if—

"(1) the library or archives has, after a reasonable effort, determined that an unused replacement cannot be obtained at a fair price; and

"(2) any such copy or phonorecord that is reproduced in digital format is not made available to the public in that format outside the premises of the library or archives in lawful possession of such copy."; and

(E) by adding at the end the following:

"For purposes of this subsection, a format shall be considered obsolete if the machine or device necessary to render perceptible a work stored in that format is no longer manufactured or is no longer reasonably available in the commercial marketplace.".

SEC. 414. FAIR USE.

Section 107 of title 17, United States Code, is amended in the first sentence by striking ", including such use" and all that follows through "section,".

SEC. 415. SCOPE OF EXCLUSIVE RIGHTS IN SOUND RECORDINGS; EPHEMERAL RECORDINGS.

(a) SCOPE OF EXCLUSIVE RIGHTS IN SOUND RECORDINGS.—Section 114 of title 17, United States Code, is amended as follows:

(1) Subsection (d) is amended—

(A) by striking subparagraph (A) and inserting the following:

"(A) a nonsubscription broadcast transmission;"; and

(B) by amending paragraph (2) to read as follows:

"(2) STATUTORY LICENSING OF CERTAIN TRANSMISSIONS.—The performance of a sound recording publicly by means of a subscription digital audio transmission not exempt under paragraph (1) or an eligible nonsubscription digital audio transmission shall be subject to statutory licensing, in accordance with subsection (f) if—

"(A) in the case of a subscription transmission not exempt under paragraph (1) or an eligible nonsubscription transmission—

"(i) the transmission is not part of an interactive service;

"(ii) except in the case of a transmission to a business establishment, the transmitting entity does not automatically and intentionally cause any device receiving the transmission to switch from one program channel to another; and

"(iii) except as provided in section 1002(e), the transmission of the sound recording is accompanied by the information encoded in that sound recording, if any, by or under the authority of the copyright owner of that sound recording, that identifies the title of the sound recording, the featured recording artist who performs on the sound recording, and related information, including information concerning the underlying musical work and its writer;

"(B) in the case of a subscription transmission not exempt under paragraph (1) by a preexisting subscription service in the same transmission medium used by such service on July 31, 1998—

"(i) the transmission does not exceed the sound recording performance complement;

"(ii) the transmitting entity does not cause to be published by means of an advance program schedule or prior announcement the titles of the specific sound recordings or phonorecords embodying such sound recordings to be transmitted; and

"(C) in the case of an eligible nonsubscription transmission or a subscription transmission not exempt under paragraph (1) by a new subscription service or by a preexisting subscription service other than in the same transmission medium used by such service on July 31, 1998—

"(i) the transmission does not exceed the sound recording performance complement, except that this requirement shall not apply in the case of a retransmission of a broadcast transmission if the retransmission is made by a transmitting entity that does not have the right or ability to control the programming of the broadcast station making the broadcast transmission, unless the broadcast station makes broadcast transmissions—

"(I) in digital format that regularly exceed the sound recording performance complement; or

"(II) in analog format, a substantial portion of which, on a weekly basis, exceed the sound recording performance complement;

Provided, however, That the sound recording copyright owner or its representative has notified the transmitting entity in writing that broadcast transmissions of the copyright owner's sound recordings exceed the sound recording complement as provided in this clause;

"(ii) the transmitting entity does not cause to be published, or induce or facilitate the publication, by means of an advance program schedule or prior announcement, the titles of the specific sound recordings to be transmitted, the phonorecords embodying such sound recordings, or, other than for illustrative purposes, the names of the featured recording artists, except that this clause does not disqualify a transmitting entity that makes a prior announcement that a particular artist will be featured within an unspecified future time period and, in any 1-hour period, no more than 3 such announcements are made with respect to no more than 2 artists in each announcement;

"(iii) the transmission is not part of—

"(I) an archived program of less than 5 hours duration;

"(II) an archived program of greater than 5 hours duration that is made available for a period exceeding 2 weeks;

"(III) a continuous program which is of less than 3 hours duration; or

"(IV) a program, other than an archived or continuous program, that is transmitted at a scheduled time more than 3 additional times in a 2-week period following the first transmission of the program and for an additional 2-week period more than 1 month following the end of the first such 2-week period;

"(iv) the transmitting entity does not knowingly perform the sound recording in a manner that is likely to cause confusion, to cause mistake, or to deceive, as to the affiliation, connection, or association of the copyright owner or featured recording artist with the transmitting entity or a particular product or service advertised by the transmitting entity, or as to the origin, sponsorship, or approval by the copyright owner or featured recording artist of the activities of the transmitting entity other than the performance of the sound recording itself;

"(v) the transmitting entity cooperates to prevent, to the extent feasible without imposing substantial costs or burdens, a transmission recipient or any other person or entity from automatically scanning the transmitting entity's transmissions together with transmissions by other transmitting entities to select a particular sound recording to be transmitted to the transmission recipient;

"(vi) the transmitting entity takes reasonable steps to ensure, to the extent within its control, that the transmission recipient cannot make a phonorecord in a digital format of the transmission, and the transmitting entity takes no affirmative steps to cause or induce the making of a phonorecord by the transmission recipient;

"(vii) phonorecords of the sound recording have been distributed to the public in the United States under the authority of the copyright owner or the copyright owner authorizes the transmitting entity to transmit the sound recording, and the transmitting entity makes the transmission from a phonorecord lawfully made under this title;

"(viii) the transmitting entity accommodates and does not interfere with the transmission of technical measures that are widely used by sound recording copyright owners to identify or protect copyrighted works, and that are technically feasible of being transmitted by the transmitting entity without imposing substantial costs on the transmitting entity or resulting in perceptible aural or visual degradation of the digital signal; and

"(ix) in the case of an eligible nonsubscription transmission, the transmitting entity identifies the sound recording during, but not before, the time it is performed, including the title of the sound recording, the title of the phonorecord embodying such sound recording, if any, and the featured recording artist in a manner to permit it to be perceived by the transmission recipient, except that the obligation in this clause shall not take effect until 1 year after the date of the enactment of the Digital Millennium Copyright Act.".

(2) Subsection (f) is amended to read as follows:

(A) in paragraph (1)—

(i) in the first sentence—

(I) by striking "(1) No" and inserting "(1)(A) No";

(II) by striking "the activities" and inserting "subscription transmissions by preexisting subscription services"; and

(III) by striking "2000" and inserting "2001"; and

(ii) by amending the third sentence to read as follows: "Any copyright owners of sound recordings or any preexisting subscription services may submit to the Librarian of Congress licenses covering such subscriptions transmissions with respect to such sound recordings."; and

(B) by striking paragraphs (2), (3), (4), and (5) and inserting the following:

"(B) In the absence of license agreements negotiated under subparagraph (A), during the 60-day period commencing 6 months after publication of the notice specified in subparagraph (A), and upon the filing of a petition in accordance with section 803(a)(1), the Librarian of Congress shall, pursuant to chapter 8, convene a copyright arbitration

royalty panel to determine and publish in the Federal Register a schedule of rates and terms which, subject to paragraph (3), shall be binding on all copyright owners of sound recordings and preexisting subscription services. In establishing rates and terms for preexisting subscription services, in addition to the objectives set forth in section 801(b)(1), the copyright arbitration royalty panel may consider the rates and terms for comparable types of subscription digital audio transmission services and comparable circumstances under voluntary license agreements negotiated as provided in subparagraph (A).

"(C)(i) Publication of a notice of the initiation of voluntary negotiation proceedings as specified in subparagraph (A) shall be repeated, in accordance with regulations that the Librarian of Congress shall prescribe—

"(I) no later than 30 days after a petition is filed by any copyright owners of sound recordings or any preexisting subscription services indicating that a new type of subscription digital audio transmission service on which sound recordings are performed is or is about to become operational; and

"(II) in the first week of January, 2001, and at 5-year intervals thereafter.

"(ii) The procedures specified in subparagraph (B) shall be repeated, in accordance with regulations that the Librarian of Congress shall prescribe, upon filing of a petition in accordance with section 803(a)(1) during a 60-day period commencing—

"(I) 6 months after publication of a notice of the initiation of voluntary negotiation proceedings under subparagraph (A) pursuant to a petition under clause (i)(I) of this subparagraph; or

"(II) on July 1, 2001, and at 5-year intervals thereafter.

"(iii) The procedures specified in subparagraph (B) shall be concluded in accordance with section 802.

"(2)(A) No later than 30 days after the date of the enactment of the Digital Millennium Copyright Act, the Librarian of Congress shall cause notice to be published in the Federal Register of the initiation of voluntary negotiation proceedings for the purpose of determining reasonable terms and rates of royalty payments for eligible nonsubscription transmissions and transmissions by new subscription services specified by subsection (d)(2) during the period beginning on the date of the enactment of such Act and ending on December 31, 2000, or such other date as the parties may agree. Such rates and terms shall distinguish among the different types of eligible nonsubscription transmission services then in operation and shall include a minimum fee for each such type of service. Any copyright owners of sound recordings or any entities performing sound recordings affected by this section may submit to the Librarian of Congress licenses covering such eligible nonsubscription transmissions with respect to such sound recordings. The parties to each negotiation proceeding shall bear their own costs.

"(B) In the absence of license agreements negotiated under subparagraph (A), during the 60-day period commencing 6 months after publication of the notice specified in subparagraph (A), and upon the filing of a petition in accordance with section 803(a)(1), the Librarian of Congress shall, pursuant to chapter 8, convene a copyright arbitration royalty panel to determine and publish in the Federal Register a schedule of rates and terms which, subject to paragraph (3), shall be binding on all copyright owners of sound recordings and entities performing sound recordings during the period beginning on the date of the enactment of the Digital Millennium Copyright Act and ending on December 31, 2000, or such other date as the parties may agree. Such rates and terms shall distinguish among the different types of eligible nonsubscription, transmission services then in operation and shall include a minimum fee for each such type of service, such differences to be based on criteria, including, but not limited to, the quantity and nature of the use of sound recordings and the degree to which use of the service may substitute for or may promote the purchase of phonorecords by consumers. In establishing rates and terms for transmissions by eligible nonsubscription services and new subscription services, the copyright arbitration royalty panel shall establish rates and terms that most clearly represent the rates and terms that would have been negotiated in the marketplace between a willing buyer and a willing seller. In determining such rates and terms, the copyright arbitration royalty panel shall base its decision on economic, competitive and programming information presented by the parties, including—

"(i) whether use of the service may substitute for or may promote the sales of phonorecords or otherwise may interfere with or may enhance the sound recording copyright owner's other streams of revenue from its sound recordings; and

"(ii) the relative roles of the copyright owner and the copyright user in the copyrighted work and the service made available to the public with respect to relative creative contribution, technological contribution, capital investment, cost, and risk.

"(C)(i) Publication of a notice of the initiation of voluntary negotiation proceedings as specified in subparagraph (A) shall be repeated in accordance with regulations that the Librarian of Congress shall prescribe—

"(I) no later than 30 days after a petition if filed by any copyright owners of sound recordings or any eligible nonsubscription service or new subscription service indicating that a new type of eligible nonsubscription service or new subscription service on which sound recordings are performed is or is about to become operational; and

"(II) in the first week of January 2000, and at 2-year intervals thereafter, except to the extent that different years for the repeating of such proceedings may be determined in accordance with subparagraph (A).

"(ii) The procedures specified in subparagraph (B) shall be repeated, in accordance with regulations that the Librarian of Congress shall prescribe, upon filing of a petition in accordance with section 803(a)(1) during a 60-day period commencing—

"(I) 6 months after publication of a notice of the initiation of voluntary negotiation proceedings under subparagraph (A) pursuant to a petition under clause (i)(I); or

"(II) on July 1, 2000, and at 2-year intervals thereafter, except to the extent that different years for the repeating of such proceedings may be determined in accordance with subparagraph (A).

"(iii) The procedures specified in subparagraph (B) shall be concluded in accordance with section 802.

"(3) License agreements voluntarily negotiated at any time between 1 or more copyright owners of sound recordings and 1 or more entities performing sound recordings shall be given effect in lieu of any determination by a copyright arbitration royalty panel or decision by the Librarian of Congress.

"(4)(A) The Librarian of Congress shall also establish requirements by which copyright owners may receive reasonable notice of the use of their sound recordings under this section, and under which records of such use shall be kept and made available by entities performing sound recordings.

"(B) Any person who wishes to perform a sound recording publicly by means of a transmission eligible for statutory licensing under this subsection may do so without infringing the exclusive right of the copyright owner of the sound recording—

"(i) by complying with such notice requirements as the Librarian of Congress shall prescribe by regulation and by paying royalty fees in accordance with this subsection; or

"(ii) if such royalty fees have not been set, by agreeing to pay such royalty fees as shall be determined in accordance with this subsection.

"(C) Any royalty payments in arrears shall be made on or before the twentieth day of the month next succeeding the month in which the royalty fees are set.".

(3) Subsection (g) is amended—

(A) in the subsection heading by striking "SUBSCRIPTION";

(B) in paragraph (1) in the matter preceding subparagraph (A), by striking "subscription transmission licensed" and inserting "transmission licensed under a statutory license";

(C) in subparagraphs (A) and (B) by striking "subscription"; and

(D) in paragraph (2) by striking "subscription".

(4) Subsection (j) is amended—

(A) by redesignating paragraphs (2), (3), (5), (6), (7), and (8) as paragraphs (3), (5), (9), (11), (12), and (13), respectively;

(B) by inserting after paragraph (1) the following:

"(2) An 'archived program' is a prerecorded program that is available repeatedly on demand and that is performed in the same predetermined order from the beginning.";

(C) by inserting after paragraph (3), as so redesignated, the following:

"(4) A 'continuous program' is a prerecorded program that is continuously performed in the same predetermined order and the point in the program at which it is accessed is beyond the control of the transmission recipient.";

(D) by inserting after paragraph (5), as so redesignated, the following:

"(6) An 'eligible nonsubscription transmission' is a noninteractive, nonsubscription transmission made as part of a service that provides audio programming consisting, in whole or in part, of performances of sound recordings, including retransmissions of broadcast transmissions, if the primary purpose of the service is to provide to the public such audio or other entertainment programming, and the primary purpose of the service is not to sell, advertise, or promote particular products or services other than sound recordings, live concerts, or other music-related events.

"(7) An 'interactive service' is one that enables a member of the public to receive a transmission of a program specially created for the recipient, or on request, a transmission of a particular sound recording, whether or not as part of a program, which is selected by or on behalf of the recipient. The ability of individuals to request that particular sound recordings be performed for reception by the public at large does not make a service interactive, if the programming on each channel of the service does not substantially consist of sound recordings

that are performed within 1 hour of the request or at a time designated by either the transmitting entity or the individual making such request. If an entity offers both interactive and noninteractive services (either concurrently or at different times), the noninteractive component shall not be treated as part of an interactive service.

"(8) A 'new subscription service' is a service that performs sound recordings by means of subscription digital audio transmissions and that is not a preexisting subscription service.";

(E) by inserting after paragraph (9), as so redesignated, the following:

"(10) A 'preexisting subscription service' is a service that performs sound recordings by means of noninteractive audio-only subscription digital audio transmissions, which was in existence and was making such transmission to the public for a fee on or before July 31, 1998."; and

(F) by adding at the end the following:

"(14) A 'transmission' is either an initial transmission or a retransmission.".

(b) EPHEMERAL RECORDINGS.—Section 112 of title 17, United States Code, is amended by adding at the end the following:

"(f) STATUTORY LICENSE.—(1) An ephemeral recording of a sound recording by a transmitting organization entitled to transmit to the public a performance of that sound recording by means of a digital audio transmission under a statutory license in accordance with section 114(f) or an exemption provided in section 114(d)(1)(B) or (C) is subject to statutory licensing under the conditions specified by this subsection.

"(2) A statutory license under this subsection grants a transmitting organization entitled to transmit to the public a performance of a sound recording by means of a digital audio transmission under a statutory license in accordance with section 114(f) or an exemption provided in section 114(d)(1)(B) or (C) the privilege of making no more than 1 phonorecord of the sound recording (unless the terms and conditions of the statutory license allow for more), if—

"(A) the phonorecord is retained and used solely by the transmitting organization that made it, and no further phonorecords are reproduced from it; and

"(B) the phonorecord is used solely for the transmitting organization's own transmissions in the United States under a statutory license in accordance with section 114(f) or an exemption provided in section 114(d)(1)(B) or (C);

"(C) unless preserved exclusively for purposes of archival preservation, the phonorecord is destroyed within 6 months from the date the sound recording was first transmitted to the public using the phonorecord; and

"(D) phonorecords of the sound recording have been distributed to the public in the United States under the authority of the copyright owner or the copyright owner authorizes the transmitting entity to transmit the sound recording, and the transmitting entity makes the transmission from a phonorecord lawfully made and acquired under this title.

"(3) Notwithstanding any provision of the antitrust laws, any copyright owners of sound recordings and any transmitting organizations entitled to obtain a statutory license under this subsection may negotiate and agree upon royalty rates and license terms and conditions for ephemeral recordings of such sound recordings and the proportionate division of fees paid among copyright owners, and may designate common agents to negotiate, agree to, pay, or receive such royalty payments.

"(4) No later than 30 days after the date of the enactment of the Digital Millennium Copyright Act, the Librarian of Congress shall cause notice to be published in the Federal Register of the initiation of voluntary negotiation proceedings for the purpose of determining reasonable terms and rates of royalty payments for the activities specified by paragraph (2) of this subsection during the period beginning on the date of the enactment of such Act and ending on December 31, 2000, or such other date as the parties may agree. Such rates shall include a minimum fee for each type of service. Any copyright owners of sound recordings or any transmitting organizations entitled to obtain a statutory license under this subsection may submit to the Librarian of Congress licenses covering such activities with respect to such sound recordings. The parties to each negotiation proceeding shall bear their own costs.

"(5) In the absence of license agreements negotiated under paragraph (3), during the 60-day period commencing 6 months after publication of the notice specified in paragraph (4), and upon the filing of a petition in accordance with section 803(a)(1), the Librarian of Congress shall, pursuant to chapter 8, convene a copyright arbitration royalty panel to determine and publish in the Federal Register a schedule of reasonable rates and terms which, subject to paragraph (6), shall be binding on all copyright owners of sound recordings and transmitting organizations entitled to obtain a statutory license under this subsection during the period beginning on the date of the enactment of the Digital Millennium Copyright Act and ending on December 31, 2000, or such other date as the parties may agree. Such rates shall include a minimum fee for each type of service. The copyright arbitration royalty panel shall establish rates that most clearly represent the fees that would have been negotiated in the marketplace between a willing buyer and a willing seller. In determining such rates and terms, the copyright arbitration royalty panel shall base its decision on economic, competitive, and programming information presented by the parties, including—

"(A) whether use of the service may substitute for or may promote the sales of phonorecords or otherwise interferes with or enhances the copyright owner's traditional streams of revenue;

"(B) the relative rules of the copyright owner and the copyright user in the copyrighted work and the service made available to the public with respect to relative creative contribution, technological contribution, capital investment, cost, and risk.

In establishing such rates and terms, the copyright arbitration royalty panel may consider the rates and terms under voluntary license agreements negotiated as provided in paragraphs (3) and (4). The Librarian of Congress shall also establish requirements by which copyright owners may receive reasonable notice of the use of their sound recordings under this section, and under which records of such use shall be kept and made available by transmitting organizations entitled to obtain a statutory license under this subsection.

"(6) License agreements voluntarily negotiated at any time between 1 or more copyright owners of sound recordings and 1 or more transmitting organizations entitled to obtain a statutory license under this subsection shall be given effect in lieu of any determination by a copyright arbitration royalty panel or decision by the Librarian of Congress.

"(7) Publication of a notice of the initiation of voluntary negotiation proceedings as specified in paragraph (4) shall be repeated, in accordance with regulations that the Librarian of Congress shall prescribe, in the first week of January 2000, and at 2-year intervals thereafter, except to the extent that different years for the repeating of such proceedings may be determined in accordance with paragraph (4). The procedures specified in paragraph (5) shall be repeated, in accordance with regulations that the Librarian of Congress shall prescribe, upon filing of a petition in accordance with section 803(a)(1) during a 60-day period commencing on July 1, 2000, and at 2-year intervals thereafter, except to the extent that different years for the repeating of such proceedings may be determined in accordance with paragraph (4). The procedures specified in paragraph (5) shall be concluded in accordance with section 802.

"(8)(A) Any person who wishes to make an ephemeral recording of a sound recording under a statutory license in accordance with this subsection may do so without infringing the exclusive right of the copyright owner of the sound recording under section 106(1)—

"(i) by complying with such notice requirements as the Librarian of Congress shall prescribe by regulation and by paying royalty fees in accordance with this subsection; or

"(ii) if such royalty fees have not been set, by agreeing to pay such royalty fees as shall be determined in accordance with this subsection.

"(B) Any royalty payments in arrears shall be made on or before the 20th day of the month next succeeding the month in which the royalty fees are set.

"(9) If a transmitting organization entitled to make a phonorecord under this subsection is prevented from making such phonorecord by reason of the application by the copyright owner of technical measures that prevent the reproduction of the sound recording, the copyright owner shall make available to the transmitting organization the necessary means for permitting the making of such phonorecord within the meaning of this subsection, if it is technologically feasible and economically reasonable for the copyright owner to do so. If the copyright owner fails to do so in a timely manner in light of the transmitting organization's reasonable business requirements, the transmitting organization shall not be liable for a violation of section 1201(a)(1) of this title for engaging in such activities as are necessary to make such phonorecords as permitted under this subsection.".

SEC. 416. ASSUMPTION OF CONTRACTUAL OBLIGATIONS RELATED TO TRANSFERS OF RIGHTS IN MOTION PICTURES.

(a) IN GENERAL.—Part VI of title 28, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 180—ASSUMPTION OF CERTAIN CONTRACTUAL OBLIGATIONS

"Sec.
"4001. Assumption of contractual obligations related to transfers of rights in motion pictures.

"§ 4001. Assumption of contractual obligations related to transfers of rights in motion pictures

"(a) ASSUMPTION OF OBLIGATIONS.—In the case of a transfer of copyright ownership in a motion picture (as defined in section 101 of title 17) that is produced subject to 1 or more

collective bargaining agreements negotiated under the laws of the United States, if the transfer is executed on or after the effective date of this chapter and is not limited to public performance rights, the transfer instrument shall be deemed to incorporate the assumption agreements applicable to the copyright ownership being transferred that are required by the applicable collective bargaining agreement, and the transferee shall be subject to the obligations under each such assumption agreement to make residual payments and provide related notices, accruing after the effective date of the transfer and applicable to the exploitation of the rights transferred, and any remedies under each such assumption agreement for breach of those obligations, as those obligations and remedies are set forth in the applicable collective bargaining agreement, if—

"(1) the transferee knows or has reason to know at the time of the transfer that such collective bargaining agreement was or will be applicable to the motion picture; or

"(2) in the event of a court order confirming an arbitration award against the transferor under the collective bargaining agreement, the transferor does not have the financial ability to satisfy the award within 90 days after the order is issued.

"(b) FAILURE TO NOTIFY.—If the transferor under subsection (a) fails to notify the transferee under subsection (a) of applicable collective bargaining obligations before the execution of the transfer instrument, and subsection (a) is made applicable to the transferee solely by virtue of subsection (a)(2), the transferor shall be liable to the transferee for any damages suffered by the transferee as a result of the failure to notify.

"(c) DETERMINATION OF DISPUTES AND CLAIMS.—Any dispute concerning the application of subsection (a) and any claim made under subsection (b) shall be determined by an action in United States district court, and the court in its discretion may allow the recovery of full costs by or against any party and may also award a reasonable attorney's fee to the prevailing party as part of the costs.".

(b) CONFORMING AMENDMENT.—The table of chapters for part VI of title 28, United States Code, is amended by adding at the end the following:

"180. Assumption of Certain Contractual Obligations ..... 4001".

SEC. 417. FIRST SALE CLARIFICATION.

Section 109(a) of title 17, United States Code, is amended by striking the first sentence and inserting the following: "Notwithstanding the provisions of section 106(3), the owner of a particular lawfully made copy or phonorecord that has been distributed in the United States by the authority of the copyright owner, or any person authorized by the owner of that copy or phonorecord, is entitled, without the authority of the copyright owner, to sell or otherwise dispose of the possession of that copy or phonorecord.".

TITLE V—COLLECTIONS OF INFORMATION ANTIPIRACY ACT

SEC. 501. SHORT TITLE.

This title may be cited as the "Collections of Information Antipiracy Act".

SEC. 502. MISAPPROPRIATION OF COLLECTIONS OF INFORMATION.

Title 17, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 13—MISAPPROPRIATION OF COLLECTIONS OF INFORMATION

"Sec.
"1301. Definitions.
"1302. Prohibition against misappropriation.
"1303. Permitted acts.
"1304. Exclusions.
"1305. Relationship to other laws.
"1306. Civil remedies.
"1307. Criminal offenses and penalties.
"1308. Limitations on actions.

"§ 1301. Definitions

"As used in this chapter:

"(1) COLLECTION OF INFORMATION.—The term 'collection of information' means information that has been collected and has been organized for the purpose of bringing discrete items of information together in one place or through one source so that users may access them.

"(2) INFORMATION.—The term 'information' means facts, data, works of authorship, or any other intangible material capable of being collected and organized in a systematic way.

"(3) POTENTIAL MARKET.—The term 'potential market' means any market that a person claiming protection under section 1302 has current and demonstrable plans to exploit or that is commonly exploited by persons offering similar products or services incorporating collections of information.

"(4) COMMERCE.—The term 'commerce' means all commerce which may be lawfully regulated by the Congress.

"(5) PRODUCT OR SERVICE.—A product or service incorporating a collection of information does not include a product or service incorporating a collection of information gathered, organized, or maintained to address, route, forward, transmit, or store digital online communications or provide or receive access to connections for digital online communications.

"§ 1302. Prohibition against misappropriation

"Any person who extracts, or uses in commerce, all or a substantial part, measured either quantitatively or qualitatively, of a collection of information gathered, organized, or maintained by another person through the investment of substantial monetary or other resources, so as to cause harm to the actual or potential market of that other person, or a successor in interest of that other person, for a product or service that incorporates that collection of information and is offered or intended to be offered for sale or otherwise in commerce by that other person, or a successor in interest of that person, shall be liable to that person or successor in interest for the remedies set forth in section 1306.

"§ 1303. Permitted acts

"(a) INDIVIDUAL ITEMS OF INFORMATION AND OTHER INSUBSTANTIAL PARTS.—Nothing in this chapter shall prevent the extraction or use of an individual item of information, or other insubstantial part of a collection of information, in itself. An individual item of information, including a work of authorship, shall not itself be considered a substantial part of a collection of information under section 1302. Nothing in this subsection shall permit the repeated or systematic extraction or use of individual items or insubstantial parts of a collection of information so as to circumvent the prohibition contained in section 1302.

"(b) GATHERING OR USE OF INFORMATION OBTAINED THROUGH OTHER MEANS.—Nothing in this chapter shall restrict any person from independently gathering information or using information obtained by means other than extracting it from a collection of information gathered, organized, or maintained by another person through the investment of substantial monetary or other resources.

"(c) USE OF INFORMATION FOR VERIFICATION.—Nothing in this chapter shall restrict any person from extracting or using a collection of information within any entity or organization, for the sole purpose of verifying the accuracy of information independently gathered, organized, or maintained by that person. Under no circumstances shall the information so used be extracted from the original collection and made available to others in a manner that harms the actual or potential market for the collection of information from which it is extracted or used.

"(d) NONPROFIT EDUCATIONAL, SCIENTIFIC, OR RESEARCH USES.—Notwithstanding section 1302, no person shall be restricted from extracting or using information for nonprofit educational, scientific, or research purposes in a manner that does not harm directly the actual market for the product or service referred to in section 1302.

"(e) NEWS REPORTING.—Nothing in this chapter shall restrict any person from extracting or using information for the sole purpose of news reporting, including news gathering, dissemination, and comment, unless the information so extracted or used is time sensitive and has been gathered by a news reporting entity, and the extraction or use is part of a consistent pattern engaged in for the purpose of direct competition.

"(f) TRANSFER OF COPY.—Nothing in this chapter shall restrict the owner of a particular lawfully made copy of all or part of a collection of information from selling or otherwise disposing of the possession of that copy.

"§ 1304. Exclusions

"(a) GOVERNMENT COLLECTIONS OF INFORMATION.—

"(1) EXCLUSION.—Protection under this chapter shall not extend to collections of information gathered, organized, or maintained by or for a government entity, whether Federal, State, or local, including any employee or agent of such entity, or any person exclusively licensed by such entity, within the scope of the employment, agency, or license. Nothing in this subsection shall preclude protection under this chapter for information gathered, organized, or maintained by such an agent or licensee that is not within the scope of such agency or license, or by a Federal or State educational institution in the course of engaging in education or scholarship.

"(2) EXCEPTION.—The exclusion under paragraph (1) does not apply to any information required to be collected and disseminated—

"(A) under the Securities Exchange Act of 1934 by a national securities exchange, a registered securities association, or a registered securities information processor, subject to section 1305(g) of this title; or

"(B) under the Commodity Exchange Act by a contract market, subject to section 1305(g) of this title.

"(b) COMPUTER PROGRAMS.—

"(1) PROTECTION NOT EXTENDED.—Subject to paragraph (2), protection under this chapter shall not extend to computer programs, including, but not limited to, any computer program used in the manufacture, production, operation, or maintenance of a collection of information, or any element of a computer program necessary to its operation.

"(2) INCORPORATED COLLECTIONS OF INFORMATION.—A collection of information that is otherwise subject to protection under this chapter is not disqualified from such protection solely because it is incorporated into a computer program.

"§ 1305. Relationship to other laws

"(a) OTHER RIGHTS NOT AFFECTED.—Subject to subsection (b), nothing in this chapter shall affect rights, limitations, or remedies concerning copyright, or any other rights or obligations relating to information, including laws with respect to patent, trademark, design rights, antitrust, trade secrets, privacy, access to public documents, and the law of contract.

"(b) PREEMPTION OF STATE LAW.—On or after the effective date of this chapter, all rights that are equivalent to the rights specified in section 1302 with respect to the subject matter of this chapter shall be governed exclusively by Federal law, and no person is entitled to any equivalent right in such subject matter under the common law or statutes of any State. State laws with respect to trademark, design rights, antitrust, trade secrets, privacy, access to public documents, and the law of contract shall not be deemed to provide equivalent rights for purposes of this subsection.

"(c) RELATIONSHIP TO COPYRIGHT.—Protection under this chapter is independent of, and does not affect or enlarge the scope, duration, ownership, or subsistence of, any copyright protection or limitation, including, but not limited to, fair use, in any work of authorship that is contained in or consists in whole or part of a collection of information. This chapter does not provide any greater protection to a work of authorship contained in a collection of information, other than a work that is itself a collection of information, than is available to that work under any other chapter of this title.

"(d) ANTITRUST.—Nothing in this chapter shall limit in any way the constraints on the manner in which products and services may be provided to the public that are imposed by Federal and State antitrust laws, including those regarding single suppliers of products and services.

"(e) LICENSING.—Nothing in this chapter shall restrict the rights of parties freely to enter into licenses or any other contracts with respect to the use of collections of information.

"(f) COMMUNICATIONS ACT OF 1934.—Nothing in this chapter shall affect the operation of the provisions of the Communications Act of 1934 (47 U.S.C. 151 et seq.), or shall restrict any person from extracting or using subscriber list information, as such term is defined in section 222(f)(3) of the Communications Act of 1934 (47 U.S.C. 222(f)(3)), for the purpose of publishing telephone directories in any format.

"(g) SECURITIES AND COMMODITIES MARKET INFORMATION.—

"(1) FEDERAL AGENCIES AND ACTS.—Nothing in this Act shall affect:

"(A) the operation of the provisions of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) or the Commodity Exchange Act (7 U.S.C. 1 et seq.);

"(B) the jurisdiction or authority of the Securities and Exchange Commission and the Commodity Futures Trading Commission; or

"(C) the functions and operations of self-regulatory organizations and securities information processors under the provisions of the Securities Exchange Act of 1934 and the rules and regulations thereunder, including making market information available pursuant to the provisions of that Act and the rules and regulations promulgated thereunder.

"(2) PROHIBITION.—Notwithstanding any provision in subsection (a), (b), (c), (d), or (f) of section 1303, nothing in this chapter shall permit the extraction, use, resale, or other disposition of real-time market information except as the Securities Exchange Act of 1934, the Commodity Exchange Act, and the rules and regulations thereunder may otherwise provide. In addition, nothing in subsection (e) of section 1303 shall be construed to permit any person to extract or use real-time market information in a manner that constitutes a market substitute for a real-time market information service (including the real-time systematic updating of or display of a substantial part of market information) provided on a real-time basis.

"(3) DEFINITION.—As used in this subsection, the term 'market information' means information relating to quotations and transactions that is collected, processed, distributed, or published pursuant to the provisions of the Securities Exchange Act of 1934 or by a contract market that is designated by the Commodity Futures Trading Commission pursuant to the Commodity Exchange Act and the rules and regulations thereunder.

"§ 1306. Civil remedies

"(a) CIVIL ACTIONS.—Any person who is injured by a violation of section 1302 may bring a civil action for such a violation in an appropriate United States district court without regard to the amount in controversy, except that any action against a State governmental entity may be brought in any court that has jurisdiction over claims against such entity.

"(b) TEMPORARY AND PERMANENT INJUNCTIONS.—Any court having jurisdiction of a civil action under this section shall have the power to grant temporary and permanent injunctions, according to the principles of equity and upon such terms as the court may deem reasonable, to prevent a violation of section 1302. Any such injunction may be served anywhere in the United States on the person enjoined, and may be enforced by proceedings in contempt or otherwise by any United States district court having jurisdiction over that person.

"(c) IMPOUNDMENT.—At any time while an action under this section is pending, the court may order the impounding, on such terms as it deems reasonable, of all copies of contents of a collection of information extracted or used in violation of section 1302, and of all masters, tapes, disks, diskettes, or other articles by means of which such copies may be reproduced. The court may, as part of a final judgment or decree finding a violation of section 1302, order the remedial modification or destruction of all copies of contents of a collection of information extracted or used in violation of section 1302, and of all masters, tapes, disks, diskettes, or other articles by means of which such copies may be reproduced.

"(d) MONETARY RELIEF.—When a violation of section 1302 has been established in any civil action arising under this section, the plaintiff shall be entitled to recover any damages sustained by the plaintiff and defendant's profits not taken into account in computing the damages sustained by the plaintiff. The court shall assess such profits or damages or cause the same to be assessed under its direction. In assessing profits the plaintiff shall be required to prove defendant's gross revenue only and the defendant shall be required to prove all elements of cost or deduction claims. In assessing damages the court may enter judgment, according to the circumstances of the case, for any sum above the amount found as actual damages, not exceeding three times such amount. The court in its discretion may award reasonable costs and attorney's fees to the prevailing party and shall award such costs and fees where it determines that an action was brought under this chapter in bad faith against a nonprofit educational, scientific, or research institution, library, or archives, or an employee or agent of such an entity, acting within the scope of his or her employment.

"(e) REDUCTION OR REMISSION OF MONETARY RELIEF FOR NONPROFIT EDUCATIONAL, SCIENTIFIC, OR RESEARCH INSTITUTIONS.—The court shall reduce or remit entirely monetary relief under subsection (d) in any case in which a defendant believed and had reasonable grounds for believing that his or her conduct was permissible under this chapter, if the defendant was an employee or agent of a nonprofit educational, scientific, or research institution, library, or archives acting within the scope of his or her employment.

"(f) ACTIONS AGAINST UNITED STATES GOVERNMENT.—Subsections (b) and (c) shall not apply to any action against the United States Government.

"(g) RELIEF AGAINST STATE ENTITIES.—The relief provided under this section shall be available against a State governmental entity to the extent permitted by applicable law.

"§ 1307. Criminal offenses and penalties

"(a) VIOLATION.—

"(1) IN GENERAL.—Any person who violates section 1302 willfully, and—

"(A) does so for direct or indirect commercial advantage or financial gain; or

"(B) causes loss or damage aggregating $10,000 or more in any 1-year period to the person who gathered, organized, or maintained the information concerned,

shall be punished as provided in subsection (b).

"(2) INAPPLICABILITY.—This section shall not apply to an employee or agent of a nonprofit educational, scientific, or research institution, library, or archives acting within the scope of his or her employment.

"(b) PENALTIES.—An offense under subsection (a) shall be punishable by a fine of not more than $250,000 or imprisonment for not more than 5 years, or both. A second or subsequent offense under subsection (a) shall be punishable by a fine of not more than $500,000 or imprisonment for not more than 10 years, or both.

"§ 1308. Limitations on actions

"(a) CRIMINAL PROCEEDINGS.—No criminal proceeding shall be maintained under this chapter unless it is commenced within three years after the cause of action arises.

"(b) CIVIL ACTIONS.—No civil action shall be maintained under this chapter unless it is commenced within three years after the cause of action arises or claim accrues.

"(c) ADDITIONAL LIMITATION.—No criminal or civil action shall be maintained under this chapter for the extraction or use of all or a substantial part of a collection of information that occurs more than 15 years after the investment of resources that qualified the portion of the collection of information for protection under this chapter that is extracted or used.".

SEC. 503. CONFORMING AMENDMENT.

The table of chapters for title 17, United States Code, is amended by adding at the end the following:

"13. Misappropriation of Collections of Information ..... 1301".

SEC. 504. CONFORMING AMENDMENTS TO TITLE 28, UNITED STATES CODE.

(a) DISTRICT COURT JURISDICTION.—Section 1338 of title 28, United States Code, is amended—

(1) in the section heading by inserting "**misappropriations of collections of information,**" after "**trade-marks,**"; and

(2) by adding at the end the following:

"(d) The district courts shall have original jurisdiction of any civil action arising under chapter 13 of title 17, relating to misappropriation of collections of information. Such jurisdiction shall be exclusive of the courts of the States, except that any action against a State governmental entity may be brought in any court that has jurisdiction over claims against such entity.".

(b) CONFORMING AMENDMENT.—The item relating to section 1338 in the table of sections for chapter 85 of title 28, United States Code, is amended by inserting "misappropriations of collections of information," after "trademarks,".

(c) COURT OF FEDERAL CLAIMS JURISDICTION.—Section 1498(e) of title 28, United States Code, is amended by inserting "and to protections afforded collections of information under chapter 13 of title 17" after "chapter 9 of title 17".

SEC. 505. EFFECTIVE DATE.

(a) IN GENERAL.—This title and the amendments made by this title shall take effect on the date of the enactment of this Act, and shall apply to acts committed on or after that date.

(b) PRIOR ACTS NOT AFFECTED.—No person shall be liable under chapter 13 of title 17, United States Code, as added by section 502 of this Act, for the use of information lawfully extracted from a collection of information prior to the effective date of this Act, by that person or by that person's predecessor in interest.

TITLE VI—PROTECTION OF CERTAIN ORIGINAL DESIGNS

SEC. 601. SHORT TITLE.

This Act may be referred to as the "Vessel Hull Design Protection Act".

SEC. 602. PROTECTION OF CERTAIN ORIGINAL DESIGNS.

Title 17, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 14—PROTECTION OF ORIGINAL DESIGNS

"Sec.
"1401. Designs protected.
"1402. Designs not subject to protection.
"1403. Revisions, adaptations, and rearrangements.
"1404. Commencement of protection.
"1405. Term of protection.
"1406. Design notice.
"1407. Effect of omission of notice.
"1408. Exclusive rights.
"1409. Infringement.
"1410. Application for registration.
"1411. Benefit of earlier filing date in foreign country.
"1412. Oaths and acknowledgments.
"1413. Examination of application and issue or refusal of registration.
"1414. Certification of registration.
"1415. Publication of announcements and indexes.
"1416. Fees.
"1417. Regulations.
"1418. Copies of records.
"1419. Correction of errors in certificates.
"1420. Ownership and transfer.
"1421. Remedy for infringement.
"1422. Injunctions.
"1423. Recovery for infringement.
"1424. Power of court over registration.
"1425. Liability for action on registration fraudulently obtained.
"1426. Penalty for false marking.
"1427. Penalty for false representation.
"1428. Enforcement by Treasury and Postal Service.
"1429. Relation to design patent law.
"1430. Common law and other rights unaffected.
"1431. Administrator; Office of the Administrator.
"1432. No retroactive effect.

"§ 1401. Designs protected

"(a) DESIGNS PROTECTED.—

"(1) IN GENERAL.—The designer or other owner of an original design of a useful article which makes the article attractive or distinctive in appearance to the purchasing or using public may secure the protection provided by this chapter upon complying with and subject to this chapter.

"(2) VESSEL HULLS.—The design of a vessel hull, including a plug or mold, is subject to protection under this chapter, notwithstanding section 1402(4).

"(b) DEFINITIONS.—For the purpose of this chapter, the following terms have the following meanings:

"(1) A design is 'original' if it is the result of the designer's creative endeavor that provides a distinguishable variation over prior work pertaining to similar articles which is more than merely trivial and has not been copied from another source.

"(2) A 'useful article' is a vessel hull, including a plug or mold, which in normal use has an intrinsic utilitarian function that is not merely to portray the appearance of the article or to convey information. An article which normally is part of a useful article shall be deemed to be a useful article.

"(3) A 'vessel' is a craft, especially one larger than a rowboat, designed to navigate on water, but does not include any such craft that exceeds 200 feet in length.

"(4) A 'hull' is the frame or body of a vessel, including the deck of a vessel, exclusive of masts, sails, yards, and rigging.

"(5) A 'plug' means a device or model used to make a mold for the purpose of exact duplication, regardless of whether the device or model has an intrinsic utilitarian function that is not only to portray the appearance of the product or to convey information.

"(6) A 'mold' means a matrix or form in which a substance for material is used, regardless of whether the matrix or form has an intrinsic utilitarian function that is not only to portray the appearance of the product or to convey information.

"§ 1402. Designs not subject to protection

"Protection under this chapter shall not be available for a design that is—

"(1) not original;

"(2) staple or commonplace, such as a standard geometric figure, a familiar symbol, an emblem, or a motif, or another shape, pattern, or configuration which has become standard, common, prevalent, or ordinary;

"(3) different from a design excluded by paragraph (2) only in insignificant details or in elements which are variants commonly used in the relevant trades;

"(4) dictated solely by a utilitarian function of the article that embodies it; or

"(5) embodied in a useful article that was made public by the designer or owner in the United States or a foreign country more than 1 year before the date of the application for registration under this chapter.

"§ 1403. Revisions, adaptations, and rearrangements

"Protection for a design under this chapter shall be available notwithstanding the employment in the design of subject matter excluded from protection under section 1402 if the design is a substantial revision, adaptation, or rearrangement of such subject matter. Such protection shall be independent of any subsisting protection in subject matter employed in the design, and shall not be construed as securing any right to subject matter excluded from protection under this chapter or as extending any subsisting protection under this chapter.

"§ 1404. Commencement of protection

"The protection provided for a design under this chapter shall commence upon the earlier of the date of publication of the registration under section 1413(a) or the date the design is first made public as defined by section 1410(b).

"§ 1405. Term of protection

"(a) IN GENERAL.—Subject to subsection (b), the protection provided under this chapter for a design shall continue for a term of 10 years beginning on the date of the commencement of protection under section 1404.

"(b) EXPIRATION.—All terms of protection provided in this section shall run to the end of the calendar year in which they would otherwise expire.

"(c) TERMINATION OF RIGHTS.—Upon expiration or termination of protection in a particular design under this chapter, all rights under this chapter in the design shall terminate, regardless of the number of different articles in which the design may have been used during the term of its protection.

"§ 1406. Design notice

"(a) CONTENTS OF DESIGN NOTICE.—(1) Whenever any design for which protection is sought under this chapter is made public under section 1410(b), the owner of the design shall, subject to the provisions of section 1407, mark it or have it marked legibly with a design notice consisting of—

"(A) the words 'Protected Design', the abbreviation 'Prot'd Des.', or the letter 'D' with a circle, or the symbol *D*;

"(B) the year of the date on which protection for the design commenced; and

"(C) the name of the owner, an abbreviation by which the name can be recognized, or a generally accepted alternative designation of the owner.

Any distinctive identification of the owner may be used for purposes of subparagraph (C) if it has been recorded by the Administrator before the design marked with such identification is registered.

"(2) After registration, the registration number may be used instead of the elements specified in subparagraphs (B) and (C) of paragraph (1).

"(b) LOCATION OF NOTICE.—The design notice shall be so located and applied as to give reasonable notice of design protection while the useful article embodying the design is passing through its normal channels of commerce.

"(c) SUBSEQUENT REMOVAL OF NOTICE.—When the owner of a design has complied with the provisions of this section, protection under this chapter shall not be affected by the removal, destruction, or obliteration by others of the design notice on an article.

"§ 1407. Effect of omission of notice

"(a) ACTIONS WITH NOTICE.—Except as provided in subsection (b), the omission of the notice prescribed in section 1406 shall not cause loss of the protection under this chapter or prevent recovery for infringement under this chapter against any person who, after receiving written notice of the design protection, begins an undertaking leading to infringement under this chapter.

"(b) ACTIONS WITHOUT NOTICE.—The omission of the notice prescribed in section 1406

shall prevent any recovery under section 1423 against a person who began an undertaking leading to infringement under this chapter before receiving written notice of the design protection. No injunction shall be issued under this chapter with respect to such undertaking unless the owner of the design reimburses that person for any reasonable expenditure or contractual obligation in connection with such undertaking that was incurred before receiving written notice of the design protection, as the court in its discretion directs. The burden of providing written notice of design protection shall be on the owner of the design.

"§ 1408. Exclusive rights

"The owner of a design protected under this chapter has the exclusive right to—

"(1) make, have made, or import, for sale or for use in trade, any useful article embodying that design; and

"(2) sell or distribute for sale or for use in trade any useful article embodying that design.

"§ 1409. Infringement

"(a) ACTS OF INFRINGEMENT.—Except as provided in subjection (b), it shall be infringement of the exclusive rights in a design protected under this chapter for any person, without the consent of the owner of the design, within the United States and during the term of such protection, to—

"(1) make, have made, or import, for sale or for use in trade, any infringing article as defined in subsection (e); or

"(2) sell or distribute for sale or for use in trade any such infringing article.

"(b) ACTS OF SELLERS AND DISTRIBUTORS.—A seller or distributor of an infringing article who did not make or import the article shall be deemed to have infringed on a design protected under this chapter only if that person—

"(1) induced or acted in collusion with a manufacturer to make, or an importer to import such article, except that merely purchasing or giving an order to purchase such article in the ordinary course of business shall not of itself constitute such inducement or collusion; or

"(2) refused or failed, upon the request of the owner of the design, to make a prompt and full disclosure of that person's source of such article, and that person orders or reorders such article after receiving notice by registered or certified mail of the protection subsisting in the design.

"(c) ACTS WITHOUT KNOWLEDGE.—It shall not be infringement under this section to make, have made, import, sell, or distribute, any article embodying a design which was created without knowledge that a design was protected under this chapter and was copied from such protected design.

"(d) ACTS IN ORDINARY COURSE OF BUSINESS.—A person who incorporates into that person's product of manufacture an infringing article acquired from others in the ordinary course of business, or who, without knowledge of the protected design embodied in an infringing article, makes or processes the infringing article for the account of another person in the ordinary course of business, shall not be deemed to have infringed the rights in that design under this chapter except under a condition contained in paragraph (1) or (2) of subsection (b). Accepting an order or reorder from the source of the infringing article shall be deemed ordering or reordering within the meaning of subsection (b)(2).

"(e) INFRINGING ARTICLE DEFINED.—As used in this section, an 'infringing article' is any article the design of which has been copied from a design protected under this chapter, without the consent of the owner of the protected design. An infringing article is not an illustration or picture of a protected design in an advertisement, book, periodical, newspaper, photograph, broadcast, motion picture, or similar medium. A design shall not be deemed to have been copied from a protected design if it is original and not substantially similar in appearance to a protected design.

"(f) ESTABLISHING ORIGINALITY.—The party to any action or proceeding under this chapter who alleges rights under this chapter in a design shall have the burden of establishing the design's originality whenever the opposing party introduces an earlier work which is identical to such design, or so similar as to make prima facie showing that such design was copied from such work.

"(g) REPRODUCTION FOR TEACHING OR ANALYSIS.—It is not an infringement of the exclusive rights of a design owner for a person to reproduce the design in a useful article or in any other form solely for the purpose of teaching, analyzing, or evaluating the appearance, concepts, or techniques embodied in the design, or the function of the useful article embodying the design.

"§ 1410. Application for registration

"(a) TIME LIMIT FOR APPLICATION FOR REGISTRATION.—Protection under this chapter shall be lost if application for registration of the design is not made within two years after the date on which the design is first made public.

"(b) WHEN DESIGN IS MADE PUBLIC.—A design is made public when an existing useful article embodying the design is anywhere publicly exhibited, publicly distributed, or offered for sale or sold to the public by the owner of the design or with the owner's consent.

"(c) APPLICATION BY OWNER OF DESIGN.—Application for registration may be made by the owner of the design.

"(d) CONTENTS OF APPLICATION.—The application for registration shall be made to the Administrator and shall state—

"(1) the name and address of the designer or designers of the design;

"(2) the name and address of the owner if different from the designer;

"(3) the specific name of the useful article embodying the design;

"(4) the date, if any, that the design was first made public, if such date was earlier than the date of the application;

"(5) affirmation that the design has been fixed in a useful article; and

"(6) such other information as may be required by the Administrator.

The application for registration may include a description setting forth the salient features of the design, but the absence of such a description shall not prevent registration under this chapter.

"(e) SWORN STATEMENT.—The application for registration shall be accompanied by a statement under oath by the applicant or the applicant's duly authorized agent or representative, setting forth, to the best of the applicant's knowledge and belief—

"(1) that the design is original and was created by the designer or designers named in the application;

"(2) that the design has not previously been registered on behalf of the applicant or the applicant's predecessor in title; and

"(3) that the applicant is the person entitled to protection and to registration under this chapter.

If the design has been made public with the design notice prescribed in section 1406, the statement shall also describe the exact form and position of the design notice.

"(f) EFFECT OF ERRORS.—(1) Error in any statement or assertion as to the utility of the useful article named in the application under this section, the design of which is sought to be registered, shall not affect the protection secured under this chapter.

"(2) Errors in omitting a joint designer or in naming an alleged joint designer shall not affect the validity of the registration, or the actual ownership or the protection of the design, unless it is shown that the error occurred with deceptive intent.

"(g) DESIGN MADE IN SCOPE OF EMPLOYMENT.—In a case in which the design was made within the regular scope of the designer's employment and individual authorship of the design is difficult or impossible to ascribe and the application so states, the name and address of the employer for whom the design was made may be stated instead of that of the individual designer.

"(h) PICTORIAL REPRESENTATION OF DESIGN.—The application for registration shall be accompanied by two copies of a drawing or other pictorial representation of the useful article embodying the design, having one or more views, adequate to show the design, in a form and style suitable for reproduction, which shall be deemed a part of the application.

"(i) DESIGN IN MORE THAN ONE USEFUL ARTICLE.—If the distinguishing elements of a design are in substantially the same form in different useful articles, the design shall be protected as to all such useful articles when protected as to one of them, but not more than one registration shall be required for the design.

"(j) APPLICATION FOR MORE THAN ONE DESIGN.—More than one design may be included in the same application under such conditions as may be prescribed by the Administrator. For each design included in an application the fee prescribed for a single design shall be paid.

"§ 1411. Benefit of earlier filing date in foreign country

"An application for registration of a design filed in the United States by any person who has, or whose legal representative or predecessor or successor in title has, previously filed an application for registration of the same design in a foreign country which extends to designs of owners who are citizens of the United States, or to applications filed under this chapter, similar protection to that provided under this chapter shall have that same effect as if filed in the United States on the date on which the application was first filed in such foreign country, if the application in the United States is filed within 6 months after the earliest date on which any such foreign application was filed.

"§ 1412. Oaths and acknowledgments

"(a) IN GENERAL.—Oaths and acknowledgments required by this chapter—

"(1) may be made—

"(A) before any person in the United States authorized by law to administer oaths; or

"(B) when made in a foreign country, before any diplomatic or consular officer of the United States authorized to administer oaths, or before any official authorized to administer oaths in the foreign country concerned, whose authority shall be proved by a certificate of a diplomatic or consular officer of the United States; and

"(2) shall be valid if they comply with the laws of the State or country where made.

"(b) WRITTEN DECLARATION IN LIEU OF OATH.—(1) The Administrator may by rule prescribe that any document which is to be filed under this chapter in the Office of the Administrator and which is required by any law, rule, or other regulation to be under oath, may be subscribed to by a written declaration in such form as the Administrator may prescribe, and such declaration shall be in lieu of the oath otherwise required.

"(2) Whenever a written declaration under paragraph (1) is used, the document containing the declaration shall state that willful false statements are punishable by fine or imprisonment, or both, pursuant to section 1001 of title 18, and may jeopardize the validity of the application or document or a registration resulting therefrom.

"§ 1413. Examination of application and issue or refusal of registration

"(a) DETERMINATION OF REGISTRABILITY OF DESIGN; REGISTRATION.—Upon the filing of an application for registration in proper form under section 1410, and upon payment of the fee prescribed under section 1416, the Administrator shall determine whether or not the application relates to a design which on its face appears to be subject to protection under this chapter, and, if so, the Register shall register the design. Registration under this subsection shall be announced by publication. The date of registration shall be the date of publication.

"(b) REFUSAL TO REGISTER; RECONSIDERATION.—If, in the judgment of the Administrator, the application for registration relates to a design which on its face is not subject to protection under this chapter, the Administrator shall send to the applicant a notice of refusal to register and the grounds for the refusal. Within 3 months after the date on which the notice of refusal is sent, the applicant may, by written request, seek reconsideration of the application. After consideration of such a request, the Administrator shall either register the design or send to the applicant a notice of final refusal to register.

"(c) APPLICATION TO CANCEL REGISTRATION.—Any person who believes he or she is or will be damaged by a registration under this chapter may, upon payment of the prescribed fee, apply to the Administrator at any time to cancel the registration on the ground that the design is not subject to protection under this chapter, stating the reasons for the request. Upon receipt of an application for cancellation, the Administrator shall send to the owner of the design, as shown in the records of the Office of the Administrator, a notice of the application, and the owner shall have a period of 3 months after the date on which such notice is mailed in which to present arguments to the Administrator for support of the validity of the registration. The Administrator shall also have the authority to establish, by regulation, conditions under which the opposing parties may appear and be heard in support of their arguments. If, after the periods provided for the presentation of arguments have expired, the Administrator determines that the applicant for cancellation has established that the design is not subject to protection under this chapter, the Administrator shall order the registration stricken from the record. Cancellation under this subsection shall be announced by publication, and notice of the Administrator's final determination with respect to any application for cancellation shall be sent to the applicant and to the owner of record.

"§ 1414. Certification of registration

"Certificates of registration shall be issued in the name of the United States under the seal of the Office of the Administrator and shall be recorded in the official records of the Office. The certificate shall state the name of the useful article, the date of filing of the application, the date of registration, and the date the design was made public, if earlier than the date of filing of the application, and shall contain a reproduction of the drawing or other pictorial representation of the design. If a description of the salient features of the design appears in the application, the description shall also appear in the certificate. A certificate of registration shall be admitted in any court as prima facie evidence of the facts stated in the certificate.

"§ 1415. Publication of announcements and indexes

"(a) PUBLICATIONS OF THE ADMINISTRATOR.—The Administrator shall publish lists and indexes of registered designs and cancellations of designs and may also publish the drawings or other pictorial representations of registered designs for sale or other distribution.

"(b) FILE OF REPRESENTATIVES OF REGISTERED DESIGNS.—The Administrator shall establish and maintain a file of the drawings or other pictorial representations of registered designs. The file shall be available for use by the public under such conditions as the Administrator may prescribe.

"§ 1416. Fees

"The Administrator shall by regulation set reasonable fees for the filing of applications to register designs under this chapter and for other services relating to the administration of this chapter, taking into consideration the cost of providing these services and the benefit of a public record.

"§ 1417. Regulations

"The Administrator may establish regulations for the administration of this chapter.

"§ 1418. Copies of records

"Upon payment of the prescribed fee, any person may obtain a certified copy of any official record of the Office of the Administrator that relates to this chapter. That copy shall be admissible in evidence with the same effect as the original.

"§ 1419. Correction of errors in certificates

"The Administrator may, by a certificate of correction under seal, correct any error in a registration incurred through the fault of the Office, or, upon payment of the required fee, any error of a clerical or typographical nature occurring in good faith but not through the fault of the Office. Such registration, together with the certificate, shall thereafter have the same effect as if it had been originally issued in such corrected form.

"§ 1420. Ownership and transfer

"(a) PROPERTY RIGHT IN DESIGN.—The property right in a design subject to protection under this chapter shall vest in the designer, the legal representatives of a deceased designer or of one under legal incapacity, the employer for whom the designer created the design in the case of a design made within the regular scope of the designer's employment, or a person to whom the rights of the designer or of such employer have been transferred. The person in whom the property right is vested shall be considered the owner of the design.

"(b) TRANSFER OF PROPERTY RIGHT.—The property right in a registered design, or a design for which an application for registration has been or may be filed, may be assigned, granted, conveyed, or mortgaged by an instrument in writing, signed by the owner, or may be bequeathed by will.

"(c) OATH OR ACKNOWLEDGEMENT OF TRANSFER.—An oath or acknowledgment under section 1412 shall be prima facie evidence of the execution of an assignment, grant, conveyance, or mortgage under subsection (b).

"(d) RECORDATION OF TRANSFER.—An assignment, grant, conveyance, or mortgage under subsection (b) shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, unless it is recorded in the Office of the Administrator within 3 months after its date of execution or before the date of such subsequent purchase or mortgage.

"§ 1421. Remedy for infringement

"(a) IN GENERAL.—The owner of a design is entitled, after issuance of a certificate of registration of the design under this chapter, to institute an action for any infringement of the design.

"(b) REVIEW OF REFUSAL TO REGISTER.—(1) Subject to paragraph (2), the owner of a design may seek judicial review of a final refusal of the Administrator to register the design under this chapter by bringing a civil action, and may in the same action, if the court adjudges the design subject to protection under this chapter, enforce the rights in that design under this chapter.

"(2) The owner of a design may seek judicial review under this section if—

"(A) the owner has previously duly filed and prosecuted to final refusal an application in proper form for registration of the design;

"(B) the owner causes a copy of the complaint in the action to be delivered to the Administrator within 10 days after the commencement of the action; and

"(C) the defendant has committed acts in respect to the design which would constitute infringement with respect to a design protected under this chapter.

"(c) ADMINISTRATOR AS PARTY TO ACTION.—The Administrator may, at the Administrator's option, become a party to the action with respect to the issue of registrability of the design claim by entering an appearance within 60 days after being served with the complaint, but the failure of the Administrator to become a party shall not deprive the court of jurisdiction to determine that issue.

"(d) USE OF ARBITRATION TO RESOLVE DISPUTE.—The parties to an infringement dispute under this chapter, within such time as may be specified by the Administrator by regulation, may determine the dispute, or any aspect of the dispute, by arbitration. Arbitration shall be governed by title 9. The parties shall give notice of any arbitration award to the Administrator, and such award shall, as between the parties to the arbitration, be dispositive of the issues to which it relates. The arbitration award shall be unenforceable until such notice is given. Nothing in this subsection shall preclude the Administrator from determining whether a design is subject to registration in a cancellation proceeding under section 1413(c).

§ 1422. Injunctions

"(a) IN GENERAL.—A court having jurisdiction over actions under this chapter may grant injunctions in accordance with the principles of equity to prevent infringement of a design under this chapter, including, in its discretion, prompt relief by temporary restraining orders and preliminary injunctions.

"(b) DAMAGES FOR INJUNCTIVE RELIEF WRONGFULLY OBTAINED.—A seller or distributor who suffers damage by reason of injunctive relief wrongfully obtained under

this section has a cause of action against the applicant for such injunctive relief and may recover such relief as may be appropriate, including damages for lost profits, cost of materials, loss of good will, and punitive damages in instances where the injunctive relief was sought in bad faith, and, unless the court finds extenuating circumstances, reasonable attorney's fees.

"§ 1423. Recovery for infringement

"(a) DAMAGES.—Upon a finding for the claimant in an action for infringement under this chapter, the court shall award the claimant damages adequate to compensate for the infringement. In addition, the court may increase the damages to such amount, not exceeding $50,000 or $1 per copy, whichever is greater, as the court determines to be just. The damages awarded shall constitute compensation and not a penalty. The court may receive expert testimony as an aid to the determination of damages.

"(b) INFRINGER'S PROFITS.—As an alternative to the remedies provided in subsection (a), the court may award the claimant the infringer's profits resulting from the sale of the copies if the court finds that the infringer's sales are reasonably related to the use of the claimant's design. In such a case, the claimant shall be required to prove only the amount of the infringer's sales and the infringer shall be required to prove its expenses against such sales.

"(c) STATUTE OF LIMITATIONS.—No recovery under subsection (a) or (b) shall be had for any infringement committed more than 3 years before the date on which the complaint is filed.

"(d) ATTORNEY'S FEES.—In an action for infringement under this chapter, the court may award reasonable attorney's fees to the prevailing party.

"(e) DISPOSITION OF INFRINGING AND OTHER ARTICLES.—The court may order that all infringing articles, and any plates, molds, patterns, models, or other means specifically adapted for making the articles, be delivered up for destruction or other disposition as the court may direct.

"§ 1424. Power of court over registration

"In any action involving the protection of a design under this chapter, the court, when appropriate, may order registration of a design under this chapter or the cancellation of such a registration. Any such order shall be certified by the court to the Administrator, who shall make an appropriate entry upon the record.

"§ 1425. Liability for action on registration fraudulently obtained

"Any person who brings an action for infringement knowing that registration of the design was obtained by a false or fraudulent representation materially affecting the rights under this chapter, shall be liable in the sum of $10,000, or such part of that amount as the court may determine. That amount shall be to compensate the defendant and shall be charged against the plaintiff and paid to the defendant, in addition to such costs and attorney's fees of the defendant as may be assessed by the court.

"§ 1426. Penalty for false marking

"(a) IN GENERAL.—Whoever, for the purpose of deceiving the public, marks upon, applies to, or uses in advertising in connection with an article made, used, distributed, or sold, a design which is not protected under this chapter, a design notice specified in section 1406, or any other words or symbols importing that the design is protected under this chapter, knowing that the design is not so protected, shall pay a civil fine of not more than $500 for each such offense.

"(b) SUIT BY PRIVATE PERSONS.—Any person may sue for the penalty established by subsection (a), in which event one-half of the penalty shall be awarded to the person suing and the remainder shall be awarded to the United States.

"§ 1427. Penalty for false representation

"Whoever knowingly makes a false representation materially affecting the rights obtainable under this chapter for the purpose of obtaining registration of a design under this chapter shall pay a penalty of not less than $500 and not more than $1,000, and any rights or privileges that individual may have in the design under this chapter shall be forfeited.

"§ 1428. Enforcement by Treasury and Postal Service

"(a) REGULATIONS.—The Secretary of the Treasury and the United States Postal Service shall separately or jointly issue regulations for the enforcement of the rights set forth in section 1408 with respect to importation. Such regulations may require, as a condition for the exclusion of articles from the United States, that the person seeking exclusion take any one or more of the following actions:

"(1) Obtain a court order enjoining, or an order of the International Trade Commission under section 337 of the Tariff Act of 1930 excluding, importation of the articles.

"(2) Furnish proof that the design involved is protected under this chapter and that the importation of the articles would infringe the rights in the design under this chapter.

"(3) Post a surety bond for any injury that may result if the detention or exclusion of the articles proves to be unjustified.

"(b) SEIZURE AND FORFEITURE.—Articles imported in violation of the rights set forth in section 1408 are subject to seizure and forfeiture in the same manner as property imported in violation of the customs laws. Any such forfeited articles shall be destroyed as directed by the Secretary of the Treasury or the court, as the case may be, except that the articles may be returned to the country of export whenever it is shown to the satisfaction of the Secretary of the Treasury that the importer had no reasonable grounds for believing that his or her acts constituted a violation of the law.

"§ 1429. Relation to design patent law

"The issuance of a design patent under title 35 for an original design for an article of manufacture shall terminate any protection of the original design under this chapter.

"§ 1430. Common law and other rights unaffected

"Nothing in this chapter shall annul or limit—

"(1) common law or other rights or remedies, if any, available to or held by any person with respect to a design which has not been registered under this chapter; or

"(2) any right under the trademark laws or any right protected against unfair competition.

"§ 1431. Administrator; Office of the Administrator

"In this chapter, the 'Administrator' is the Register of Copyrights, and the 'Office of the Administrator' and the 'Office' refer to the Copyright Office of the Library of Congress.

"§ 1432. No retroactive effect

"Protection under this chapter shall not be available for any design that has been made public under section 1410(b) before the effective date of this chapter.".

SEC. 603. CONFORMING AMENDMENTS.

(a) TABLE OF CHAPTERS.—The table of chapters for title 17, United States Code, is amended by adding at the end the following:

"14. Protection of Original Designs .... 1401".

(b) JURISDICTION OF DISTRICT COURTS OVER DESIGN ACTIONS.—(1) Section 1338(c) of title 28, United States Code, is amended by inserting ", and to exclusive rights in designs under chapter 14 of title 17," after "title 17".

(2)(A) The section heading for section 1338 of title 28, United States Code, is amended by inserting "**designs,**" after "**mask works,**".

(B) The item relating to section 1338 in the table of sections at the beginning of chapter 85 of title 28, United States Code, is amended by inserting "designs," after "mask works,".

(c) PLACE FOR BRINGING DESIGN ACTIONS.—Section 1400(a) of title 28, United States Code, is amended by inserting "or designs" after "mask works".

(d) ACTIONS AGAINST THE UNITED STATES.—Section 1498(e) of title 28, United States Code, is amended by inserting ", and to exclusive rights in designs under chapter 14 of title 17," after "title 17".

SEC. 604. EFFECTIVE DATE.

The amendments made by sections 602 and 603 shall take effect one year after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from North Carolina (Mr. COBLE) and the gentleman from Massachusetts (Mr. FRANK) each will control 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. COBLE).

GENERAL LEAVE

Mr. COBLE. Madam Speaker, I ask unanimous consent that all Members may have 10 legislative days within which to revise and extend their remarks on the bill under consideration.

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

There was no objection.

Mr. COBLE. Madam Speaker, I ask unanimous consent that the gentleman from Virginia (Mr. BLILEY), the chairman of the Committee on Commerce, be allowed to control 10 of my 20 minutes.

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

There was no objection.

Mr. COBLE. Madam Speaker, I yield myself such time as I may consume. Oftentimes when significant legislation comes to the floor, it is described as landmark legislation. At the risk of being presumptuous and immodest, I think this may well indeed be landmark legislation.

This bill will implement two treaties which are extremely important to ensure the adequate protection for American works in countries around the world, particularly at a time when the digital environment now allows users to send and retrieve perfect copies of copyrighted material over the Internet. While digital dissemination of copies will benefit owners and consumers, it will unfortunately also facilitate pirates who aim to destroy the value of

American intellectual property. In compliance with the treaties, H.R. 2281 makes it unlawful to defeat technological protections used by copyright owners to protect their works, including preventing unlawful access and targeting devices made to circumvent encrypted copyrighted material. It also makes it unlawful to deliberately alter or delete information provided by a copyright owner which identifies a work, its owners, and its permissible use.

H.R. 2281, Madam Speaker, is a comprehensive copyright bill that adds substantial value to our copyright law. It represents five years of research, debate, hearings and negotiations. It is only the beginning of Congress' evaluation of the impact of the digital age on copyrighted works. Although it is just a beginning, it is essential to maintain the United States' position as the world leader in the protection of intellectual property in the digital environment.

H.R. 2281 also represents the collective efforts of many. In particular I want to commend the gentleman from Illinois (Mr. HYDE), the chairman of the Committee on the Judiciary; the gentleman from Michigan (Mr. Conyers), the ranking member of the Committee on the Judiciary; and the gentleman from Massachusetts (Mr. FRANK), the ranking member of the Subcommittee on Courts and Intellectual Property.

H.R. 2281, Madam Speaker, in my opinion is necessary legislation to ensure the protection of copyrighted works as the world moves into the digital environment. I urge its passage.

Madam Speaker, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I first want to note that this is a matter that the Committee on the Judiciary has been working on for some time. It then went, under our rules, to the Committee on Commerce. Both committees and indeed both parties in both committees bring this bill forward. I note that because people who have been unduly addicted to the media would not, I think, have an understanding of what has been happening. We have here some very complex issues dealing with the economy and how we adapt some fundamental principles, intellectual property principles which are very important to us, to modern technology. There were some sharp disagreements. There were some conflicting and competing values, as is often the case. What has happened is for a period of some time, first in the Committee on the Judiciary and then in the Committee on Commerce, people have worked on this and come up with what I believe is a very good set of solutions.

I note that because I do think the public is entitled to know that the portrayals of the Congress in general, the Committee on the Judiciary in particular as somehow the set of a Three Stooges movie or the scene of ferocious battles simply is not true. One of the problems we have today is that there is an inattention on the part of our friends in the media to what is the actual business of this place. I think it is important for people to understand. These are very serious issues that had to be dealt with, conflicting values.

For example, many of us feel very strongly on the need to protect intellectual property. If we do not see that authors and composers and singers and musicians and other creative people are rewarded for their work, not only is that unfair, to many of us, but the amount of work we get will diminish.

□ 1345

There may be some people fortunate enough to be able to create out of love without regard to compensation. We cannot depend only on the independently wealthy to be our creative people. It is important for us as a vibrant society to sustain that, and one way to sustain that is to recognize the property that people have in the product of their intellectual labors, their creative intellectual labors.

That was, to some extent, threatened by modern technology, by technological change which makes it easier for that minority of people who do not respect others' intellectual property to steal it because of the collection of technology we now use, the short end of the Internet. What we wanted to do was to come up with ways to adapt the protection of intellectual property to a modern technological era without unduly diminishing people's rights to enjoy things. We do not want to prevent the public from having the enjoyment of these products.

Madam Speaker, I have one thing that bothered me in particular, and I am pleased that this bill addresses it in a reasonable way because there was no guarantee that it would.

One of the things we do here is to say:

"If you are an on-line service provider, if you are responsible for the production of all of this out to the public, you will not be held automatically responsible if someone misuses the electronic airway you provide to steal other people's property.

There is a balance here. We want to protect property, but we do not want to deter people from making this widely available. We have a problem here of making sure that intellectual property is protected, but we do not want freedom of expression impinged upon.

Madam Speaker, I found that particularly important for this reason, and I think this is a point that I want very much to stress:

We live in as free a society from the standpoint of expression as I believe has ever existed in the world. The level of freedom of expression which Americans enjoy is very, very profound, and that is very important to us.

The problem is we have had two doctrines of freedom of expression. We have had one which covered all speech and written speech, newspapers, magazines, theater, billboards; that has been very free.

Beginning in the 1930s when radio came to play, we started a new form of speech, and that was speech electronically transmitted. And because we started with a limited spectrum, because we started with physical limitations on the amount of speech that could go out, we began with electronically-communicated speech in the 1930s to develop a parallel doctrine which gave less protection to speech electronically transmitted. Over time we had a tradition of constitutionally very protected speech, and then speech transmitted electronically that was less protected.

The problem here is that as this society goes forward, an increasingly high percentage of what we say to each other will be electronically transmitted through E-mail and through other ways. It seems to me important for us to reverse this notion that electronically-transmitted speech is entitled to a lesser degree of protection in the area of freedom of expression than all other forms of speech or we will be, 30 years from now, a less free society. That has application to legislation of various kinds, and we will deal with that in another context.

But one of the things that was a potential danger here was that by protecting intellectual property, a very important job, we would have imposed on the on-line service providers such a degree of liability as, in fact, to diminish to some extent the freedom they felt in presenting things.

What I am most happy about in this bill is I think we have hit about the right balance. We have hit a balance which fully protects intellectual property, which is essential to the creative life of America, to the quality of our life, because if we do not protect the creators, there will be less creation. But at the same time we have done this in a way that will not give to the people in the business of running the on-line service entities and running Internet, it will not give them either an incentive or an excuse to censor.

No bill is perfect. There are some tensions here. This will go to conference, and then there will be room for some further changes.

But for achieving that essential balance I am very pleased, and I want to note again the two committees of this House and the parties represented in both committees worked very closely together to bring forward legislation without rancor, without partisanship, in fact serving very well the needs of this country.

Madam Speaker, I reserve the balance of the time.

Mr. BLILEY. Madam Speaker, I yield myself 2 minutes.

Madam Speaker, I rise in support of H.R. 2281, and would like to begin by commending my good friend and colleague, the gentleman from Illinois (Mr. HYDE), the chairman of the House Committee on the Judiciary, and his very able subcommittee chairman, the gentleman from Greensboro, North Carolina (Mr. COBLE), the chairman of the Subcommittee on Courts and Intellectual Property of the Committee on the Judiciary.

And I would also like to thank two members of the Committee on Commerce in addition to my ranking member, the gentleman from Michigan (Mr. DINGELL), but I would also like to thank the gentleman from Wisconsin (Mr. KLUG) and the gentleman from Virginia (Mr. BOUCHER) whom I believe through their work have improved this legislation. It is because of the steadfast commitment to enacting this important legislation that we are here today on the brink of enactment.

I would like to thank the gentleman from Massachusetts (Mr. FRANK), the ranking member of the subcommittee, for his work, as well as the gentleman from Massachusetts (Mr. MARKEY) for his contributions. It shows that we can work together and we can achieve very important legislation.

As my colleagues know, Madam Speaker, with the growth of electronic commerce having such a profound effect on the economy, the Committee on Commerce has been engaged in a wide-ranging review of the subject, including the issues raised by H.R. 2281. The Committee on Commerce's version of this bill strikes an appropriate balance between the goal of promoting electronic commerce and the interests of copyright owners.

Let me specifically highlight two of the most important changes that the Committee on Commerce added to the bill before us today:

First, the Committee on Commerce included a strong fair use provision to ensure that consumers as well as libraries and institutions of higher learning will be able to continue to exercise their historical fair use rights. The bill before us today contains the substance of the Committee on Commerce provision on fair use, and I am pleased to say that major newspapers such as the New York Times and the Washington Post have strongly endorsed the Committee on Commerce's language on fair use.

Madam Speaker, I include those editorials following my statement in the RECORD.

The editorials referred to are as follows:

[From the New York Times, July 24, 1998]

PROTECTING DIGITAL COPYRIGHTS

Traditional copyright concepts that have served this nation well for centuries should guide the debate on copyright in the digital universe. As Congress fashions ways to protect commercial interests in the digital realm, it must be careful also to protect the larger public interest in broad access to information.

Digital copyright legislation, required to institute two international treaties that would protect movies, music and other intellectual property from piracy, passed the Senate and the House Judiciary Committee this spring. But controversy continues to swirl around a provision in the legislation that would make it a crime to circumvent encryption used to control access to digital material or to manufacture or sell devices that could be used to circumvent protection measures.

Movie and music producers argue that making circumvention illegal is the only way to prevent consumer theft of on-line movies, recordings and other products. But libraries and schools believe that the prohibition is so broad that it could greatly limit access to electronic information that copyright law would otherwise allow.

Existing law assures producers the right to profit from their creative works. But the law does not allow a creator to control who looks at the material or prevent the material from being circulated or lent to others. It specifically allows the "fair use" of copyrighted materials for commentary, criticism, teaching, news reporting, scholarship and research under certain circumstances without permission from the copyright owner.

Thus a library can purchase a book, allow hundreds of patrons to borrow it and let teachers make copies of material in it for classroom use, all without infringing the copyright. Preserving these user rights is important in the digital world where copyright owners, with the right technology, could limit or prevent access to information.

The content producers dismiss fears that the Internet could become a strictly pay-for-use world as unrealistic, but neither they nor Congress can predict how the Internet will develop. That is why legislation needs to be flexible enough to deal with rapid evolution in technology and electronic commerce.

A prudent compromise approved by the House Commerce Committee last week would delay the anti-circumvention rule for two years while the Commerce Department and the Federal patent and copyright officers study the effect of the prohibition on users. The Commerce Secretary could waive the rule for any class of works where technological shields were impeding the lawful use of copyrighted matter. The situation would be reviewed every two years. Both the content producers and the libraries and schools are willing to accept this more fluid approach. Congress should adopt this plan in the final version of the digital copyright legislation.

[From The Washington Post, Aug. 4, 1998]

A PAY-PER-VIEW WORLD

Congress has been trying for most of this year to ratify the international treaties that are supposed to bring copyright law into the digital age. It's been a large and complicated endeavor, requiring people to rethink such fundamental aspects of intellectual property rights as what constitutes "copying" in a digital environment (is it copying a document just to read it on your computer? To print it out to read later?) and when such copying represents a copyright violation. But the major snag is none of these weighty issues but, rather, a fierce face-off between libraries and big-time copyright-holding interests over a seemingly minor provision that would make it a crime to break any technological locking device designed to prevent unauthorized copying.

This debate over the "anti-circumvention" provision is now the main item of disagreement between versions of the copyright bill produced by the Judiciary and Commerce committees. (The Senate passed copyright legislation in May.) Those who expect movies, songs, software and even books to be eventually delivered mainly over the Internet want to make sure that this will not mean widespread unauthorized copying and the subsequent collapse of any market for the work. (Newspapers, as creators of copyrighted material, have an interest here as well.) They picture every piece of intellectual property being distributed with some kind of "lock" that would permit, say, just one viewing of a downloaded movie. It's the disabling of this lock that would be made a crime, except in specified circumstances.

There's room for doubt whether it makes sense to make the lock-breaking a crime here rather than merely, as till now, the actual copyright violation. But the real problem is more pragmatic. This "transition to a pay-per-view world," as one enthusiastic movie distributor put it, works fine for the entertainment industries and the commercial market. Where it doesn't work is in libraries and other places where use of books and research material is not pay-per-view but, till now, free.

Libraries are worried that the "fair use" exemption that allows limited use of copyrighted material without permission for such purposes as comment, criticism, education or research—though technically unchanged in the law—would become sharply limited in practice if all material were distributed with "locks" and libraries were prohibited from "unlocking" it. What happens, they ask if a chart of environmental data that now can be photocopied for use in a class were made available only on a CD from which printouts can't be made? What if research journals are provided to libraries on a pay-per-view basis that keeps independent researchers from making photocopies for their own use?

Language in the Commerce bill sought to address this problem by creating a mandatory review every two years of the provision's effect on "fair use" in various contexts. On the floor or in conference, these protections from a permanent "pay-per-review world" ought to be maintained.

As the Chairman of the Committee which was principally responsible for rewriting H.R. 2281 and eliminating the most harmful aspects of the bill as proposed by the Administration, I want to share with my colleagues the Committee's perspective on the scope of this legislation and to note, where appropriate, the instances in which we sought to clarify the bills as reported by the Committee on the Judiciary and as approved by the Senate.

As noted at the outset, the Committee has been engaged in a wide-ranging review of all the issues affecting the growth of electronic commerce. Our Committee has a long-standing, well-established role in assessing the impact of possible changes in law on the use and availability of the products and services that have made our information technology industry the envy of the world. We therefore paid particular attention to the potential harmful impacts on electronic commerce of the bill as reported by the Committee on the Judiciary.

Today, the U.S. information technology industry is developing exciting new products to enhance the lives of individuals throughout the world, and our telecommunications industry is developing new means of distributing information to these consumers in every part of the globe. In this environment, the development of new laws and regulations could well have a profound impact on the growth of electronic commerce.

In recognition of these developments and as part of the effort to begin updating national laws for the digital era, delegates from over 150 countries (including the United States) convened in December 1996 to negotiate two separate treaties under the auspices of the World Intellectual Property Organization: the Copyright Treaty and the Performance and Phonograms Treaty. In July 1997, the Clinton Administration submitted the treaties to the Senate for ratification and submitted proposed implementing legislation to both the House and the Senate. The Committee on the Judiciary largely reported out the bill as proposed by the Administration.

In holding hearings, it became apparent to our Committee that this and the Senate version of the legislation contained serious flaws. Not surprisingly, these bills were opposed by significant private and public sector interests, including libraries, institutions of higher learning, consumer electronics and computer product manufacturers, and others with a vital stake in the growth of electronic commerce. It also became apparent that the main provisions of the treaties to be implemented have little to do with copyright law. In fact, the "anti-circumvention" provisions of the Administration's bill created entirely new rights for content providers that are wholly divorced from copyright law. These new provisions (and the accompanying penalty provisions for violations of them) would be separate from, and cumulative to, the claims available to copyright owners under the Copyright Act.

In carrying out its responsibilities under the Constitution. Congress has historically regulated the use of information—not the devices or means by which information is delivered or used by information consumers—and has ensured an appropriate balance between the interests of copyright owners and information users. Section 106 of the Copyright Act of 1976, for example, establishes certain rights copyright owners have in their works, including limitations on the use of these works without their authorization. Sections 107 through 121 of the Copyright Act set forth the circumstances in which such uses are deemed lawful even though unauthorized.

In general, all of these provisions are technology neutral. They do not regulate commerce in information technology, i.e., products and devices for transmitting, storing, and using information. Instead, they prohibit certain actions and create exceptions to permit certain conduct deemed to be in the greater public interest, all in a way that balances the interests of copyright owners and users of copyrighted works.

In writing its bill, the Committee sought to preserve that tradition. We worked hard to reduce the risk that enactment of H.R. 2281 could establish the legal framework that would inexorably create a "pay-per-use" society. In short, the Committee endeavored to specify, with as much clarity as possible, how the anti-circumvention right in particular would be qualified to maintain balance between the interests of content creators and information users.

The Committee considered it particularly important to ensure that the concept of fair use would remain firmly established in the law. Section 1201(a)(1) is one of the most important provisions of this legislation, and one that must be included in any version of this bill eventually sent to the President for signature. It was crafted by the Commerce Committee to protect "fair use" and other users of information now lawful under the Copyright Act. Let us make no mistake about the scope of what we are doing here today in adopting H.R. 2281, about the tremendously powerful new right to control access to information that we are granting to information owners for the very first time.

If left unqualified, this new right, as the Commerce Committee heard in testimony from the public and private sectors alike, could well prove to be the legal foundation for a society in which information becomes available only on a "pay-per-use" basis. That's why this bill assures that institutions like schools and libraries, and the public, will have an opportunity in a credible and permanent process to make the case that the new right we've adopted is interfering with fair use and other rights now enjoyed by information users under current law. Moreover, the Commerce Committee's report, I note for the record makes clear that the showing that must be made in this process is not intended to be unduly burdensome for either institutions or the public. Indeed, the Committee took pains to make clear that evidence of loss of access to a "particular class of works"—intended to be gauged narrowly—would result in relief from the prohibition otherwise imposed on access to information by this legislation.

That's also why—in express recognition of the importance of the Commerce Committee's work—today's Washington Post carries an editorial urging that "on the floor, or in conference, these protections from a permanent 'pay-per-view world ought to be maintained.'" Copyright law is not just about protecting information. It's just as much about affording reasonable access to it as a means of keeping our democracy healthy and doing what the Constitution says copyright law is all about: promoting "Progress in Science and the useful Arts." If this bill ceases to strike that balance, it will no longer deserve Congress' or the public's support.

Section 1201(a)(2) makes it illegal to manufacture, import, offer to the public, provide, or otherwise traffic in any technology, product, service, device, component, or part thereof that is primarily designed or produced for the purpose of circumventing a technological measure that effectively controls access to certain works; has only limited commercially significant purposes or uses other than to circumvent such a measure; or is marketed for use in circumventing such a measure. Section 1201(b)(1) similarly makes it illegal to manufacture, import, offer to the public, provide, or otherwise traffic in any technology, product, service, device, component, or part thereof that is primarily designed or produced for the purpose of circumventing a protection measure that protects certain rights of copyright owners under title 17, United States Code; has only limited commercially significant purposes or uses other than to circumvent such a measure; or is marketed for use in circumventing such a measure.

In our report, the Committee stressed that section 1201(a)(2) is aimed fundamentally at outlaying so-called "black boxes" that are expressly intended to facilitate circumvention of protection measures for purposes of gaining access to a work. This provision is not aimed at products that are capable of commercially significant noninfringing uses, such as the consumer electronics, telecommunications, and computer products—including videocassette recorders, telecommunications switches, personal computers, and servers—used by businesses and consumers everyday for perfectly legitimate purposes. Moreover, as section 1201(c)(3) makes clear, such a device does not need to be designed or assembled, or parts or components for inclusion in a device be designed, selected, or assembled, so as affirmatively to accommodate or respond to any particular technological measure.

Section 2101(a)(3) of H.R. 2281 defines certain terms used throughout Section 1201(a). As we made clear in our report, the measures that would be deemed to "effectively control access to a work" would be those based on encryption, scrambling, authentication, or some other measure which requires the use of a "key" provided by a copyright owner to gain access to a work.

Section 2101(b)(1) of H.R. 2281 makes it illegal to manufacture, import, offer to the public, provide, or otherwise traffic in any technology, product, service, device, component, or part thereof that is primarily designed or produced for the purpose of circumventing a protection measure that protects certain rights of copyright owners under title 17, United States Code; has only limited commercially significant purposes or uses other than to circumvent such a measure; or is marketed for use in circumventing such a measure. The Committee believes it is very important to emphasize that this section, like section 1201(a)(2), is aimed fundamentally at outlawing so-called "black boxes" that are expressly intended to facilitate circumvention of protection measures. Thus, this section similarly would not outlaw the manufacturing, importing, or distributing of standard videocassette recorders and computer products.

Section 1201(b)(2) of H.R. 2281 defines important phrases, including when a protection measure "effectively protects a right of a copyright owner under title 17, United States Code." In our view, the measures that would be deemed to "effectively" protect such rights would be those based on encryption, scrambling, authentication, or some other measure which requires the use of a "key" to copy a work.

With respect to the effectiveness of the measures covered by the legislation, the Committee stressed in its report that those measures that cause noticeable and recurring adverse effects on the authorized display or performance of works should not be deemed to be effective. Given our keen interest in the development of new products, in particular digital

television monitors, the Committee is particularly concerned that the introduction of such measures not frustrate consumer expectations and that this legislation not be interpreted to in any way limit the authority of manufacturers and retailers to address the legitimate concerns of their customers.

Based on prior experience, the Committee on Commerce was concerned that manufacturers, retailers, and consumers may be adversely affected by the introduction of some technological measures and systems for preserving copyright management information. In fact, the Committee learned as part of its review of H.R. 2281 that, as initially proposed, a proprietary copy protection scheme that is today widely used to protect analog motion pictures could have caused significant viewability problems, including noticeable artifacts, with certain television sets until it was modified with the cooperation of the consumer electronics industry.

As advances in technology occur, consumers will enjoy additional benefits if devices are able to interact and share information. Achieving interoperability in the consumer electronics environment will be a critical factor in the growth of electronic commerce. In our view, manufacturers, consumers, retailers, and servicers should not be prevented from correcting an interoperability problem resulting from a protection measure causing one or more devices in the home or in a business to fail to interoperate with other technologies.

Under the bill under consideration today, nothing would make it illegal for a manufacturer of a product or device (to which section 1201 would otherwise apply) to design or modify the product or device solely to the extent necessary to mitigate a frequently occurring and noticeable adverse effect on the authorized performance or display of a work that is caused by a protection measure in the ordinary course of its design and operation. Similarly, recognizing that a technological measure may cause a problem with a particular device, or combination of devices, used by a consumer, it is our view that nothing in the bill should be interpreted to make it illegal for a retailer or individual consumer to modify a product or device solely to the extent necessary to mitigate a noticeable adverse effect on the authorized performance or display of a work that is communicated to or received by that particular product or device if that adverse effect is caused by a protection measure in the ordinary course of its design and operation. I might add that nothing in section 1202 makes it illegal for such a person to design or modify a product or device solely to the extent necessary to mitigate a frequently occurring and noticeable adverse effect on the authorized performance or display of a work that is caused by the use of copyright management information.

I wish to stress that I and other Members of the Committee on Commerce believe that the affected industries should be able to work together to avoid such problems. We know that multi-industry efforts to develop copy control technologies that are both effective and avoid such noticeable and recurring adverse effects have been underway over the past two years. We strongly encourage the continuation of those efforts, which should offer substantial benefits to copyright owners in whose interest it is to achieve the introduction of effective protection (and copyright management information) measures that do not interfere with the normal operations of affected products. We look forward to working with interested parties to the extent additional legislation is required to implement such technologies or to avoid their circumvention.

As the Chairman of the Committee that eliminated the inherent ambiguity in the Senate's version of this legislation, I also want to put section 1201(c)(3) in context. It provides that nothing in section 1201 requires that the design of, or design and selection of parts and components for, a consumer electronics, telecommunications, or computer product provide for a response to any particular protection measure. We specifically modified the Senate version of this provision because of our strong belief that product manufacturers should remain free to design and produce consumer electronics, telecommunications, and computing products without the threat of incurring liability for their design decisions. Imposing design requirements on product and component manufacturers would have a dampening effect on innovation, on the research and development of new products, and hence on the growth of electronic commerce.

As the hearing record demonstrates, there is a fundamental difference between a device that does not respond to a protection measure and one that affirmatively removes such a measure. Section 1202(c)(3) is intended to make clear that nothing in section 1201 requires that the design of, or design and selection of parts and components for, a consumer electronics, telecommunications, or computing product provide for a response to any particular technological measure that might be used to control access to or the copying of a work protected under title 17, United States Code. Of course, this provision is not intended to create a loophole to remove from the proscriptions of section 1201 devices, or components or parts thereof, that circumvent by, for example, affirmatively decrypting an encrypted work or descrambling a scrambled work.

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

Mr. COBLE. Madam Speaker, I yield 3½ minutes to the gentleman from Virginia (Mr. GOODLATTE) a member of the subcommittee and the full committee.

Mr. GOODLATTE. Madam Speaker, I rise today in support of H.R. 2281, the World Intellectual Property Organization Copyright Treaties Implementation Act. I would like to thank the gentleman from North Carolina (Mr. COBLE) and the gentleman from Illinois (Mr. HYDE), as well as the gentleman from Virginia (Mr. BLILEY) and the gentleman from Massachusetts (Mr. FRANK) for their leadership on this issue.

Additionally, I would like to thank the gentleman from North Carolina (Mr. COBLE) for asking me to lead the negotiations between the various parties on the issue of on-line service provider liability for copyright infringement which is included in this important bill. Madam Speaker, the issue of liability for on-line copyright infringement, especially where it involves third parties, is difficult and complex.

For me personally this issue is not a new one. During the 104th Congress then-Chairman Carlos Moorhead asked me to lead negotiations between the parties. Although I held numerous meetings involving members of the content community and members of the service provider community, unfortunately we were not able to resolve this issue.

At the beginning of the 105th Congress the gentleman from North Carolina (Mr. COBLE) asked me to again lead the negotiations between the parties on this issue. After a great deal of meetings and negotiation sessions, the copyright community and the service provider community were able to successfully reach agreement. That agreement is included in the bill we are considering today. No one is happier, except maybe those in each community who spent countless hours and a great deal of effort trying to reach agreement, than I am with the agreement contained in this bill.

Madam Speaker, this is a critical issue to the development of the Internet, and I believe that both sides in this debate need each other. If America's creators do not believe that their works will be protected when they put them on-line, then the Internet will lack the creative content it needs to reach its true potential; and if America's service providers are subject to litigation for the acts of third parties at the drop of a hat, they will lack the incentive to provide quick and sufficient access to the Internet.

The provisions of H.R. 2281 will allow the Internet to flourish and I believe will prove to be a win-win not only for both sides, but for consumers and Internet users throughout the Nation.

I would also like to discuss the importance of the World Intellectual Property Organization treaties and this accompanying implementing legislation which are critical to protecting U.S. copyrights overseas.

The United States is the world leader in intellectual property. We export billions of dollars worth of creative works every year in the form of software books, tapes, videotapes and records. Our ability to create so many quality products has become a bulwark of our national economy, and it is vital that copyright protection for these products not stop at our borders. International protection of U.S. copyrights will be of tremendous benefit to our economy, but we need to ratify the WIPO treaties for this to happen.

I would like to state for the record my understanding that sections 102(a)(2) and 102(b)(1) of this bill are not intended to address computer system security, such as devices used to crack into computer security systems such as firewalls or discover log-on passwords

that protect an entire system. The ban contained in these provisions is intended to cover circumvention devices aimed at technological protection measures that protect particular works covered under Title 17 such as movies, songs or computer programs. Unauthorized hacking into computer programs is already covered by other laws.

This bill is critical not only because it will allow the Internet to flourish but also because it ensures that America will remain the world leader in the development of intellectual property. I urge each of my colleagues to support this legislation.

Mr. FRANK of Massachusetts. Madam Speaker, I yield 4 minutes to the gentleman from Virginia (Mr. BOUCHER).

Mr. BOUCHER. Madam Speaker, I thank the gentleman from Massachusetts (Mr. FRANK) for yielding this time to me, and I am pleased to rise today in support of the passage of H.R. 2281, which will extend new protections against the theft of their works to copyright owners.

Madam Speaker, new protections are needed due to the ease with which flawless copies of copyrighted materials can both be made and transmitted in the digital network environment. Essential, however, to the creation of new guarantees for copyright owners is the retention of the traditional rights of the users of intellectual property. A balance has always existed in our law between these conflicting interests, and the major challenge in the writing of this legislation is to assure that no fundamental altering of that delicate balance takes place.

Another challenge is to ensure that in the effort to eliminate devices that are designed and produced to make illegal copies of copyrighted materials, that legitimate consumer electronics products are not also placed in a category of legal uncertainty.

Today I want to offer congratulations primarily to the Members of the House Committee on Commerce who have devoted long hours in the effort to assure that these challenges are met. Specifically, the Committee on Commerce has added provisions that protect personal privacy by clearly permitting personal computer owners to disable cookies that are placed on their disks by others; that allow the encryption research that will lead to a new generation of trusted and secure systems; that give equipment manufacturers the certainty that their consumer electronics products need not affirmatively accommodate all technological protection measures; and that creative procedure for assuring the continuation of the fair use rights of the American public, a procedure that will prevent material that is generally available today under fair use being locked away in a pay-per-use regime in future years.

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Report language also specifies that the technological protection measure circumvention restrictions will not apply when manufacturers, retailers and technicians need to make adjustments to devices to ensure that their performance is not degraded as a consequence of the installation of a technological protection measure. These changes, taken together, significantly improve the original legislation.

The gentleman from Virginia (Chairman BLILEY), the gentleman from Michigan (Mr. DINGELL), the gentleman from Wisconsin (Mr. KLUG), the gentleman from Florida (Mr. STEARNS) and the gentleman from Massachusetts (Mr. MARKEY), among others, deserve thanks for their successful efforts to create new copyright protections, while ensuring that traditional user rights are not undermined.

The Committee on Commerce has, in the manner for which it is known, mastered the intricate details of this complex subject and has produced a balanced result. I want to offer my congratulations to all who have been involved in that outstanding effort.

It is my pleasure to urge passage of H.R. 2281.

Madam Speaker, I will insert in the record correspondence from the subcommittee chairman, the gentleman from North Carolina (Mr. COBLE), to the gentleman from California (Mr. CAMPBELL) and myself, which further defines the terminology that is used in the statute.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, June 16, 1998.

Hon. TOM CAMPBELL,
U.S. Representative for the 15th District of California, Washington, DC.

Hon. RICK BOUCHER,
U.S. Representative for the 9th District of Virginia, Washington, DC.

DEAR TOM AND RICK: Thank you for visiting with me in my office recently regarding H.R. 2281, the "WIPO Copyright Treaties Implementation Act." I appreciate the concerns you expressed with respect to H.R. 2281 as it was reported from the House Committee on the Judiciary.

I expressed to you that I would consider your thoughts and respond to you in detail, and am pleased to do so in this letter.

I believe that many of your concerns, which are enumerated in your substitute bill, H.R. 3048, have been addressed already in a reasonable manner in amendments to the bill adopted by the Subcommittee on Courts and Intellectual Property and the Committee on the Judiciary in the House and by the Committee on the Judiciary and on the floor in the Senate (regarding the Senate companion bill, S. 2037). Others have been addressed in legislative history in House Report 105–551 (Part I) which accompanies the bill, as well as in Senate Report 105–190, which accompanies the Senate companion bill. Still others may be addressed as the House Committee on Commerce exercises its sequential jurisdiction over limited portions of the bill and as I work with interested members on developing a manager's amendment to be considered by the whole House. I anticipate including many of the amendments made by the Senate in the manager's amendment, along with other provisions. I also anticipate that a conference will be necessary to reconcile the House and Senate versions of the bills.

While I am unable to support the specific provisions of H.R. 3048, for reasons I will explain in this letter, I am willing to work with you in the coming weeks to address additional concerns regarding the impact of this legislation on the application of the "fair use" doctrine in the digital environment and on the consumer electronics industry. I wish to stress, however, that I believe the bill, as amended by the House and Senate thus far, and explained by both the House and the Senate Judiciary Committee reports, already addresses these issues in several constructive ways.

I believe it is important, in order to recognize properly the efforts undertaken by the Congress and the Administration to address the concerns of the consumer electronics and fair use communities, to review the history of H.R. 2281 and to evaluate all of the provisions that have been either added to or deleted from the bill since its development leading to introduction in this Congress. As I am sure you will appreciate, I am sensitive to your concerns and have worked diligently with members and all parties involved to create a balanced and fair proposal that will result in the enactment of legislation this Congress.

In February, 1993, the Administration formed the Information Infrastructure Task Force to implement Administration policies regarding the emergence of the Internet and other digital technologies. This task force formed a Working Group on Intellectual Property Rights to investigate and report on the effect of this new technology on copyright and other rights and to recommend any changes in law or policy. The working group held a public hearing in November, 1993, at which 30 witnesses testified. These witnesses represented the views of copyright owners, libraries and archives, educators, and other interested parties. The working group also solicited written comments and received over 70 statements during a public comment period. Based on oral and written testimony, the working group released a "Green Paper" on July 7, 1994. After releasing the Green Paper, the working group again heard testimony from the public through four days of hearings held around the country. More than 1,500 pages of written testimony were filed during a four-month comment period by more than 150 individuals and organizations.

In March, 1995, then-Chairman Carlos Moorhead solicited informal comments from parties who had submitted testimony regarding the Green Paper, including library and university groups, and computer and electronics group, in order to work effectively with the Administration on jointly developing any proposed updates to U.S. copyright law that might be necessary in light of emerging technologies.

In summer, 1995, the working group released a "White Paper" based on the oral and written testimony it has received after releasing the Green Paper. The White Paper contained legislative recommendations which were developed from public comment in conjunction with consultations between the House and Senate Judiciary Committees, the Copyright Office and the Administration.

In September, 1995, Chairman Moorhead in the House and Chairman Hatch in the Senate introduced legislation which embodied the recommendations contained in the White

Paper and held a joint hearing on November 15, 1995. Testimony was received from the Administration, the World Intellectual Property Organization and the Copyright Office. The House Subcommittee on Courts and Intellectual Property held two days of further hearings in February, 1996. Testimony was received from copyright owners, libraries and archives, educators and other interested parties. in May, 1996, the Senate Judiciary Committee held a further hearing. Testimony was received from copyright owners, libraries and other interested parties. These hearings were supplemented with negotiations in both bodies led by Representative Goodlatte (as authorized by Chairman Moorhead) in the House and by Chairman Hatch in the Senate. Further negotiations were held by the Administration in late summer and fall of 1996.

During consideration of the "NII Copyright Protection Act of 1995," Chairman Moorhead requested that Mr. Boucher and Mr. Berman of California lead negotiations between interested parties regarding the issue of circumvention. While these negotiations were helpful in streamlining and clarifying the issues to be discussed, they ultimately did not result in an agreement.

It is important to note that shortly after its establishment, the Administration task force's working group convened, as part of its consideration, a Conference on Fair Use (CONFU) to explore the effect of digital technologies on the doctrine of fair use, and to develop guidelines for uses of works by libraries and educators. Because of the complexities involved in developing broad-based policies for the adaptation of the fair use doctrine to the digital environment, and due to much disagreement among the participants (including within the library and educational communities), CONFU did not issue its full report until nearly two years after it was convened. An Interim Report was released by CONFU in September 1997 on the first phase of its work. No consensus was reached on how to apply the fair use doctrine to the digital age. In fact, the CONFU working group on interlibrary loan and document delivery concluded in a report to its Chair that it is "premature to draft guidelines for digital transmission of digital documents." The work of CONFU continues today and a final report should be released soon with no agreed conclusions. As you can see, developing sweeping legislation, rather than relying on court-based "case or controversy" applications of the doctrine, is exceedingly difficult to do.

Since before the debate began with the establishment of a task force in the United States in 1993, the international community had also been considering what updates should be made to the Berne Convention on Artistic and Literary Works in order to provide adequate and balanced protection to copyrighted works in the digital age. This culminated in a Diplomatic Conference hosted by the World Intellectual Property Organization at which over 150 countries agreed on changes needed to accomplish this goal.

This goal was not reached easily, however, and many of the issues being debated by the Administration and the Congress in the United States concerning fair use and circumvention were aired at the Diplomatic Conference, with significant changes made to accommodate fair use concerns and the effect on the consumer electronic industries. Representatives of both groups participated in the Conference and aggressively sought to maintain proper limitations on copyright. They succeeded. For example, language was added to ensure that exceptions such as fair use could be extended into the digital environment. The treaty also originally contained very specific language regarding obligations to outlaw circumvention. It was changed to state that all member countries "shall provide adequate legal protection and effective legal remedies against the circumvention of effective technological measures that are used by authors in connection with the exercise of their rights under this Treaty." This left to each country the development of domestic legislation to accomplish this goal.

After the United States signed the WIPO Treaties, the Administration again began negotiations led by the Department of Commerce and the Patent and Trademark Office, in consultiation with the Copyright Office and the Congress, to develop domestic implementing legislation for the treaties. It built upon the efforts already accomplished by the release of the Green Paper and the White Paper and all of the testimony and comments heard as part of that process, the House and Senate bills introduced in the 104th Congress and all of the hearing testimony and negotiations associated with them, and the negotiations held by the Administration leading up to and during the Diplomatic Conference. Again, comments were solicited from fair use and consumer electronics groups. In the summer of 1997, the Administration submitted to the Congress draft legislation to implement the treaties. In July, 1997, Chairman Hatch and I introduced the current pending legislation in each house. Importantly, the legislation was tailored to match the treaty language by establishing legal protection and remedies not against any technological measures whatsoever, but only "against the circumvention of effective technological measures that are used by authors in connection with the exercise of their rights."

The fair use and consumer electronics groups succeeded, just as they had at the Diplomatic Conference, in assuring in the introduced version of the bills the maintenance of proper limitations on copyright. The Administration had considered originally banning both the manufacture and use of devices which circumvent effective technological measures and had no specific provision on fair use, since Section 107 of the Copyright Act would, of course, continue to exist after enactment of the legislation. The word "use" was eliminated in the device provision and a specific provision relating to the adoption of the fair use doctrine in the digital environment was added.

As it was introduced, H.R. 2281 contained two important safeguards for fair use. First, the bill dealt separately with technological measures that prevent access and technological measures that prevent copying. As to the latter, the bill contained no prohibition on the act of circumbention itself, leaving users free to circumvent such measures in order to make fair use copies. Second, the savings clause in subsection 1201(d) ensures that defenses to copyright protection, including fair use, are unaffected by the prohibitions on circumvention. For example, circumvention of an effective technological measure that controls access to a work does not preclude, or affect in any way, a defense of fair use for copying the work. Moreover, the bill as introduced did not expand exclusive rights or diminish exceptions and limitations on exclusive rights.

Again, a series of legislative hearings were held by the House and Senate Judiciary Committees at which testimony was again heard from copyright owners, libraries and archives, educators, consumer electronics groups and other interested parties. In February, 1998, almost five years to the date of the establishment of the Administration's working group, taking into account all of the concessions and negotiations leading up to it, the first markup was finally held in Congress by the Subcommittee on Courts and Intellectual Property on this important legislation. As is evident by the timetable involved in the development of this legislation, and considering the number of hearings, negotiations and conferences dedicated to its contents, this bill certainly has not been placed on any "fast-track."

In the course of Subcommittee and Committee consideration of the bill in the House, the gentleman from Massachusetts, the Ranking Democratic member of the Subcommittee, Mr. Frank, and I, proposed a number of improvements to the bill, which were adopted by the Committee, that benefit libraries and nonprofit educational institutions. We introduced a special "shopping privilege" exemption that permits nonprofit libraries and archives to circumvent effective technological measures in order to decide whether they wish to acquire lawfully a copy of the work. We added a provision that requires a court to remit monetary damages for innocent violations of sections 1201 or 1202. And we eliminated any possibility that nonprofit libraries and archives or educational institutions can be held criminally liable for any violation of sections 1201 or 1202, even when such violations are willful.

These changes add protection to language already included in the bill which safeguard manufacturers of legitimate consumer electronic devices. Unlike the "NII Copyright Protection Act of 1995," which would have prohibited devices "the primary purpose or effect of which is to circumvent," H.R. 2281 sets out three narrow bases for prohibiting devices. A device is prohibited under section 1201 only if it is primarily designed or produced to circumvent, has limited commercially significant use other than to circumvent, or is marketed specifically for use in circumventing. This formulation means that under H.R. 2281, it is not enough for the primary effect of the device to be circumvention. It therefore excludes legitimate multipurpose devices from the prohibition of section 1201. Devices such as VCRs, and personal computers do not fall within any of these three categories (unless they are, in reality, black boxes masquerading as VCRs or PCs).

In addition, H.R. 2281 as introduced does not require any manufacturer of a consumer electronic device to accommodate existing or future technological protection measures. "Circumvention," as defined in the bill, requires an affirmative step of "avoiding, bypassing, removing, deactivating, or otherwise impairing a technological protection measure." Language added in the Senate, referred to below, clarified this even further.

In addition to all of the foregoing, there are a number of amendments that were made in the Senate bill that will be included in the manager's amendment to H.R. 2281. These include:

An expansion of the exemptions of nonprofit libraries and archives in 17 U.S.C. §108 to cover the making of digital copies without authorization, for purposes of preservation, security or replacement of damaged, lost or stolen copies;

An expansion of section 108 to cover the making of digital copies without authorization in order to replace copies in the collection that are in an obsolete format;

A provision directing the Register of Copyrights to make recommendations as to any statutory changes needed to apply the limitations on liability of online service providers to nonprofit educational institutions that act in the capacity of service providers;

A provision directing the Register of Copyrights to consult with nonprofit libraries and nonprofit educational institutions and submit recommendations on how to promote distance education through digital technologies, including any appropriate statutory changes;

A savings provision stating that nothing in section 1201 enlarges or diminishes vicarious or contributory liability for copyright infringement in connection with any technology, product, service, device, component or part thereof;

A provision that states explicitly that nothing in section 1201 requires accommodation of present or future technological protection measures;

A provision to ensure that the prohibition on circumvention does not limit the ability to decompile computer programs to the extent permitted currently under the doctrine of fair use; and

A provision ensuring that technology will be available to enable parents to prevent children's access to indecent material on the Internet.

I believe that these are constructive provisions that precisely and carefully address specific concerns you have raised in H.R. 3048. In order to assure that fair use applies in the digital environment, in addition to the above changes, I have also agreed to include in the manager's amendment an amendment to Section 107 of the Copyright Act to make it continue to be technology-neutral with respect to means of exploitation.

It may be helpful, in addition to discussing what is contained in H.R. 2281 and the Senate companion, and what will be included in the manager's amendment, to raise directly with you some of the identifiable problems I see associated with H.R. 3048 as introduced.

In my opinion, this extension of the first sale doctrine is antithetical to the policies the doctrine was intended to further. The alienability of tangible property is not at issue, since no tangible property changes hands in a transmission. Further, it does not address specifically the ability to control the after-market for resales of the same copy of a work, since in this case distribution of a work by digital transmission necessarily requires a reproduction—it is not the same copy. The bill's answer to this quandary—that the original copy must be destroyed—is unenforceable and certainly not a substitute for disposition of a tangible copy. Destruction involves an affirmative act, generally in the privacy of a home, that is difficult to police and would involve significant invasions of privacy if it were policed effectively.

Further, regardless of whether the original copy is destroyed, the new copy would be free of contractual or other controls placed on the original copy by the copyright owner. It is also likely that this provision would have a much greater impact on an owner's primary market for new copies of a work than the current first sale doctrine has on the primary market for physical copies. Unlike used books, digital information is not subject to wear and tear. The "used" copy is just as desirable as the new one because they are indistinguishable. For this reason, Congress has curtailed the first sale doctrine as it applies to the rental of sound recordings and software in the past, to prevent posing so great a burden on a copyright owner so as to undermine the incentive to create works which is the driving force behind the Copyright Act.

H.R. 3048 would also broaden Section 110(2) of the Copyright Act so that the performance, display, or distribution of any work (rather than just the performance of a nondramatic literary or musical work and the display of any work) through digital transmission (rather than just through audio broadcasts) would be allowed without the permission of the copyright holder, as long as it is received by students, or by government employees as part of their duties. This broad expansion of the distance learning provisions currently codified in the Copyright Act would permit the transmission of a wide variety of Internet-based or other remote-access digital transmission formats for distance education and raises serious questions about safeguards to prevent such transmissions from unauthorized access. In other words, it may facilitate piracy.

Both CONFU and the Senate have discussed the intricacies involved in safeguarding transmissions used for distance learning purposes and have agreed that it is premature to enact specific legislation at this time. As discussed earlier, the Senate has included a provision in its companion bill, which I plan to include in the House manager's amendment, that will provide for a study with legislative recommendations on this issue, within a six-month time frame. This study will be better able to address the complex problems I have identified.

Section 7 of H.R. 3048 would amend Section 301(a) of the Copyright Act to preempt enforcement of certain license terms under state law. Specifically, it would preempt any state statute or common law that would enforce a "non-negotiable license term" governing a "work distributed to the public" if such term limited the copying of material that is not subject to copyright protection or if it restricted the limitations to copyright contained in the Copyright Act. In effect, it would prohibit standard form agreements, used in the context of copies distributed to the public, that purport to govern use of noncopyrightable subject matter or limit certain exceptions and limitations, such as fair use.

The use of standard form licensing agreements has become prevalent in the software and information industries, as owners seek to protect their investment in these products against the risk of unauthorized copying. Section 7 would result in destroying the ability of the producer of a work to create specific licenses tailored to the circumstances of the marketplace, or, in the case of factual databases and other valuable but noncopyrightable works, destroy the most significant form of protection currently available. This could result, for example, in the loss of crucial revenues to stock and commodity exchanges who rely on such contracts to disseminate information.

Attempts to introduce language similar to Section 7 of H.R. 3048 into Article 2B of the Uniform Commercial Code (UCC) have been rejected repeatedly by the UCC Article 2B Drafting Committee on several occasions. The National Conference of Commissioners on Uniform State Laws also rejected a proposal similar to the one you propose as has the American Law Institute. I agree with these bodies that restricting the freedom to contract in the manner proposed in H.R. 3048 would have a negative effect on the availability of information to consumers.

H.R. 3048 also proposes several changes to Section 108 of the Copyright Act regarding archiving and library activities. As you are aware, library groups and copyright owners have come to an agreement regarding changes in this section to update the Act for the digital environment and those changes were incorporated by the Senate in the companion bill. I will include those same provisions in the manager's amendment in the House.

Finally, the new Section 1201 contained in H.R. 3048 would not prohibit manufacturing or trafficking in devices purposely created to gain unauthorized access to copyrighted works, and insofar as it prohibits conduct, would permit circumvention in the fist instance for purposes of fair use. In other words, H.R. 3048, as I discussed earlier, would grant to users a right never before allowed—free access to copyrighted works in order to make a fair use. I believe that is unwise policy and tilts the balance away from the protection of works in a free market economy toward the free provision of works to anyone claiming to make a fair use. This would, I believe, ultimately lead to much more litigation against libraries and others who lawfully engage in fair use and ultimately would diminish the number of works made available over new media.

While it would be impossible to communicate to you all of the problems contained in the exact language of H.R. 3048, I wanted to, in truncated form, reveal my serious concerns with the bill. In its current form, for the above reasons and others, I would oppose it as a substitute to H.R. 2281, as amended. I remain dedicated, however, to working with you, as I have in the past, to address your concerns in a reasonable manner that will result successfully in changes to our nation's copyright law that will benefit both owners and users of works.

I truly believe that we are at the beginning of a long process of addressing adaptation to the digital environment. It is not possible at this point to enact legislation that will contemplate all uses of a work and, as CONFU members aptly point out, many will have to be addressed as we move forward. I am committed, however, to preserving fair use in the digital age and thank you for your valuable and continuing insight and interest.

Sincerely,

HOWARD COBLE,
Chairman, Subcommittee on Courts and Intellectual Property.

Mr. BLILEY. Madam Speaker, I yield one minute to the gentleman from Colorado (Mr. DAN SCHAEFER).

Mr. DAN SCHAEFER of Colorado. Madam Speaker, I thank the gentleman for yielding me time.

Madam Speaker, the webcasting is a new use of the digital works this bill deals with, and even most recent copyright amendments in 1995 do not really address it clearly. Under current law it is difficult for webcasters and record companies to know their rights and their responsibilities for negotiating new licenses. This provision makes it clear what each party must do and sets a statutory licensing program to make it as easy as possible to comply with.

I want to thank the gentleman from Washington (Mr. WHITE) and the gentleman from North Carolina (Mr. COBLE) for working with them to make sure this was all included, and I strictly urge my colleagues to carefully respect and preserve the delicate compromise that we have worked so hard

to agree on as we move through this legislative process in the conference committee.

Mr. COBLE. Madam Speaker, I yield 1½ minutes to the gentleman from Florida (Mr. FOLEY), the chairman of the House Entertainment Task Force.

Mr. FOLEY. Madam Speaker, I thank the chairman and also all the Members who have participated in this very, very important debate, and particularly the leadership, the gentleman from Georgia (Mr. GINGRICH), the gentleman from Texas (Mr. ARMEY), and others who have helped bring this platter to the floor today for full and fair debate.

Businesses and industries that depend on copyright protection, including publishing, music and recording, film and video and computer software companies, are among the fastest growing segment of our society. These creative industries contribute nearly $280 billion to the gross domestic product yearly and provide jobs for some 3.5 million Americans. Moreover, they are among our biggest export earners, accounting for some $60 billion in foreign sales.

What has been plaguing this huge and important industry is piracy, the outright theft of copyrighted works. Not piracy on the high seas, it is today's version, piracy on the Internet. American companies are losing nearly $20 billion yearly because of the international piracy of these copyrighted on-line works, and that is what this bill helps to stop.

It has been a long process which has been carefully and thoughtfully negotiated. What we now have is a balanced measure that protects both the interests of the users and the consumers, and the property rights of the creators.

As chairman of the Entertainment Industry Task Force, I know how important the enactment of this bill is to one of America's most promising industries. I would like it thank the chairman of the Committee on the Judiciary, the chairman of the Committee on Commerce, the gentleman from North Carolina (Mr. COBLE) and others who have worked tirelessly on this effort, as well as Members of the other side of the aisle, the gentleman from Massachusetts (Mr. FRANK) and others, who have taken into consideration all the concerns of both the users and end users of the product, as well as those who provide the intellectual content, if you will, to striking what is a fair balance for Americans, a fair balance for consumers, but, more importantly, will allow the very appropriate and important works to be put on the Internet for future generations to come.

Mr. FRANK of Massachusetts. Madam Speaker, I yield three minutes to the gentleman from California (Mr. BERMAN).

Mr. BERMAN. Madam Speaker, this day has been a long time coming. Going back nine years as the technological capacity to make unauthorized copies of copyrights works was rapidly expanding, some of us anticipated the need to enact legislation to protect technological measures used by copyright holders to protect their works.

Last Congress, our former colleagues, Carlos Moorehead and Pat Schroeder, laid further groundwork for today's WIPO bill with their efforts to enact national information infrastructure legislation. Then in December 1996, the U.S. victory that produced two new international treaties, made the enactment of implementing legislation an urgent task.

Today, under the leadership of the gentleman from North Carolina (Mr. COBLE) and the gentleman from Massachusetts (Mr. FRANK), the gentleman from Illinois (Mr. HYDE) and the gentleman from Michigan (Mr. CONYERS), our efforts have come top fruition.

Passage of this bill is essential to implementation of the treaties around the world. Our leadership is necessary in order to gain passage of the treaties in other countries where the standards for intellectual property is much lower than our own.

Make no mistake, American intellectual property and the almost unsurpassed contribution it makes to our balance of trade is at risk around the world. Piracy costs American creators $15 billion in sales. In a digital era which brings the capacity to make perfect copies of copyrighted works, we must enact this legislation to fight overseas piracy and the toll it takes in export revenues and American jobs.

Madam Speaker, I think the gentleman from Massachusetts (Mr. FRANK) had it right. In the context of trying to protect this property, we needed to come to reasonable balances with providers of these services, with people who have legitimate interests in the fair use. This is, at least at this particular point, the best effort we can make to try to come to those kinds of balances and still provide the essential protection that this bill provides. I urge its adoption.

Mr. BLILEY. Madam Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Madam Speaker, I thank my good friend for yielding to me.

Because of an act of extraordinary lack of comity of the part of the managers of the bill on this side, and because of some extraordinary discourtesy, the Committee on Commerce has not been afforded our share of the time on this bill. I am therefore compelled to request time from the Republicans for this unanimous consent request. I express my thanks.

I hope that the next time our two committees deal with each other, there will be more courtesy shown by the Committee on the Judiciary. I intend to remember this event.

Mr. DINGELL. Madam Speaker, I rise in support of H.R. 2281, the "Digital Millennium Copyright Act," and I urge my colleagues to join me. This legislation is vitally important to the livelihoods of authors, musicians, filmmakers, software developers, and countless other creators of copyrighted works. However, just as important, this bill will preserve the legal right of information consumers to make "fair use" of copyrighted works just as they have done for over one hundred years.

Why is this treaty and its implementing legislation important? The digital age has vastly improved the quality of these works that we all enjoy. Today limitless copies can be made with virtually no reduction in quality. Unfortunately, these improvements in technology do not come without a cost. Piracy of copyrighted works, particularly overseas, has increased dramatically, and copyright owners are desperately in need of additional protection to protect their property from thieves who increasingly prey on their creative ingenuity.

However, there is another side to this story. As copyrighted works are afforded more protection, they will be encrypted in "digital wrappers" that make them impenetrable to anyone other than those who are willing to pay the going rate. While that may sound like the American way, it is not. United States copyright law historically has carved out important exceptions to the rights of copyright owners to have exclusive control over the use of their property.

The most notable exception is "fair use." Libraries and universities, for example, are permitted to freely use portions of copyrighted works legally for research and study. This practice has been a bedrock of our copyright law for over a century. Both Congress and the courts repeatedly have recognized this important balance in the law between the right of copyright owners to be compensated for their efforts, and the right of information consumers to use these works in limited ways to increase knowledge and understanding for the benefit of our whole society.

We can now take great comfort in the fact that H.R. 2281 will continue to recognize this important balance. The "fair use" debate, though heated at times, was negotiated to an acceptable conclusion in the Commerce Committee, and this key compromise between the content and "fair use" communities is reflected in the bill on the floor today. Other critical matters were also resolved, such as protecting consumer privacy interests, electronic device manufacturing, and encryption research.

I would like to commend my good friend from Virginia, Chairman BLILEY, for his fine work on this bill. In addition, I would also like to give special thanks to Mr. BOUCHER and Mr. KLUG who contributed so much to the resolution of the "fair use" issue, as well as Mr. MARKEY and Mr. TAUZIN for their important efforts. Also, special thanks goes to all the staff who worked so hard on this legislation, in particular Justin Lilley with the Commerce Committee majority, Andy Levin and Kyra Fischbeck with the Commerce Committee minority, Ann Morton with Mr. BOUCHER, Kathy Hahn with Mr. KLUG, Whitney Fox with Mr. TAUZIN, and Colin Crowell with Mr. MARKEY, to name just a few.

Mr. BLILEY. Madam Speaker, I yield one minute to the gentleman from Ohio (Mr. OXLEY).

Mr. OXLEY. Madam Speaker, I rise in strong support of H.R. 2281, the WIPO enabling legislation. I want to pay special tribute to the chairman of the full committee, the gentleman from Virginia (Mr. BLILEY), as well as the gentleman from Illinois (Chairman HYDE), for their work as well, as my good friend the gentleman from Michigan (Mr. DINGELL) on the other side of the aisle.

The digital revolution presents special opportunities and special challenges for copyright holders and users of copyrighted works. Working with the Committee on the Judiciary, I think we put together a bill that we can all be proud of that deals with issues like fair use, encryption research and temporary and ephemeral copies.

This legislation will extend copyright protections for intellectual property into the digital age, while simultaneously protecting fair use of such works. It will provide an important foundation for the growth of electronic commerce on the Internet.

The bill also includes an important provision preserving the authority of the SEC over the mechanisms by which the public obtains information about our securities markets, including stock quotes. This ensures that the commission will be able to ensure that investors have ready access to the information they need to make their investment decisions.

I again thank the work of both the Committee on Commerce and the Committee on the Judiciary for bringing us where we are today.

Mr. FRANK of Massachusetts. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I had intended to stick to the merits, but I did want to respond to the ranking member of the Committee on Commerce. Unfortunately, the public got a look at some of the turf battles that I do not think serve us very well.

The gentleman made some reference to comity. I do not know how that was spelled. But had the gentleman wanted me to yield him some time, I would have been glad to do it. I did not, because I had not been instructed by the ranking member of my full committee to split the time in terms of control. But I am glad to yield time to anyone who wants. Indeed, I yielded four minutes right away to the gentleman from Virginia. Now, the gentleman serves on both the Committee on the Judiciary and the Committee on Commerce, but he used his four minutes for a tribute to the work of the Committee on Commerce that was lyrical in its composition, and I am sure will go down in the annals as one of the best tributes to a committee ever given.

So, at this point I would reserve the balance of my time, but if Members want to speak, I would be glad to yield them time.

Mr. BLILEY. Madam Speaker, I yield one minute to the gentleman from Wisconsin (Mr. KLUG), who did an extraordinary amount of work on this piece of legislation.

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

Madam Speaker, we have in front of us a very difficult balancing act, essentially trying to protect the American creative community across the world, people who make movies and television shows, book publishers and the recording industry. But in an era of exploding information, we also have to guarantee access to libraries and also university researchers, to make sure we do not enter a new era of pay per view, where the use of a library card always carries a fee and where the flow of information comes with a meter that rings up a charge every time the Internet is accessed.

Today we have a reasonable compromise in front of us, and I want to thank the gentleman from Virginia (Mr. BLILEY) and the gentleman from Michigan (Mr. DINGELL) for their leadership.

If I also could indulge the committee to single out several other people, Justin Lilley of the committee staff, Kathy Hahn of my staff, for working so hard on this compromise, and in particular the support of my colleague, the gentleman from Virginia (Mr. BOUCHER). I urge adoption of the bill.

I rise in support of H.R. 2281, the Digital Millennium Copyright Act of 1998 and request permission to revise and extend my remarks and to submit additional materials into the RECORD.

I especially want to acknowledge the many significant contributions that the Commerce Committee has made to this bill, under the leadership of Chairmen BLILEY and TAUZIN and Representatives DINGELL and MARKEY, and Justin Lilly, Kathy Hahn on my staff.

The bill that came to the Commerce Committee for consideration was a flawed bill in a number of respects: Most important, it created a flat prohibition against circumventing "technological protection measures" for any reason.

This original prohibition passed by the Judiciary Committee sharply skews the balance in favor of copyright owners. It would have required each user of information to negotiate with the copyright owner for access to information. I assume that the copyright owner would grant that permission, but would extract a price in exchange.

The Copyright Clause of the Constitution grants a limited preference to copyright owners. But this clause has consistently been interpreted to grant an incentive for the purposes of advancing knowledge or, in the words of the Constitution, "to promote the Progress of Science and the Useful Arts."

This incentive has always been interpreted to be of secondary importance to "allow the public access to the products of genius."

As the New York Times noted recently:

> As Congress fashions ways to protect commercial interests in the digital realm, it must be careful also to protect the larger public interests in broad access to information. * * * The law does not allow a creator to control who looks at the material or prevent the material from being circulated or lent to others. It specifically allows the "fair use" of copyrighted materials for commentary, criticism, teaching, news reporting, scholarship and research under certain circumstances without permission from the copyright owner.

And, as the Washington Post notes this morning:

> this transition to a pay-per-view world, * * * works fine for the entertainment industries and the commercial market. Where it doesn't work is in libraries and other places where use of books and research material is not pay-per-view but, till now, free.

The Commerce Committee corrected this automatic transition to a pay-per-view world by creating an exception for persons having gained lawful access who are or are likely to be adversely affected by the prohibition. In interpreting "lawful access", it is my hope that this term is broadly construed to include students at a university, patrons in a library, and investigative journalists who obtain critical information, among others.

Unlike the version reported by the Judiciary Committee, the approach taken by the Commerce Committee and reflected in the bill before us not only is an appropriate balance between the rights of copyright owners and users of information, it is also strongly supported by the treaty preamble that recognizes, "the need to maintain balance between the rights of authors and the larger public interest, particularly education, research, and access to information."

I also want to single out several other important contributions of the Commerce Committee. We have clarified that product designers and manufacturers should be able to design their products based on consumer demand. In so doing, we have eliminated any ambiguity or presumption that products must be designed to affirmatively respond to or accommodate any technological measures. It also ensures that lawyers, judges and juries do not become the principal designers of consumer products in this country. In the end, this language ensures that product designers and manufacturers will have the freedom to innovate.

As a related matter, consumers will continue to expect that the products they buy will perform to expectations, whether that be high resolution on high definition television or sound on-key for compact disks and digital video disks. Nothing in this bill, as clarified by the Commerce Committee in its report, should be read as interfering with a product manufacturer, designer, or retailer's ability to adjust any product that is experiencing material distortions caused by technological measures. We have an obligation up here to protect consumer interests, and ensuring that products play as promised is a critical step for consumer protection.

The compromise that is before us today is a thoughtful, well-crafted approach to a complicated problem. I not only urge my colleagues to vote for this compromise legislation, I strongly urge Chairman HYDE to adhere

to this compromise language in its entirety, not just today, but when the House meets in conference with the Senate.

Mr. FRANK of Massachusetts. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I did want to say that the ranking member of the full Committee on the Judiciary, the gentleman from Michigan (Mr. CONYERS), is in Michigan today because it is primary day in Michigan, and only that kept him from being here. The gentleman has been for a long time now one of the staunchest advocates of intellectual property rights. He is a man who has a great feel for American culture, and fully understands the role of intellectual property correctly understood in fostering our cultural traditions.

So I did want to express the strong support of the gentleman from Michigan and note that his leadership in this was very, very important, and to explain his absence as being due entirely to the fact that he had to be in Michigan for his primary.

Mr. BLILEY. Madam Speaker, I yield one minute to the gentleman from Washington (Mr. WHITE), who also put in a lot of work on this piece of legislation.

Mr. WHITE. Madam Speaker, I thank the chairman for yielding me time.

Madam Speaker, pretty much no matter what we do, this bill would be a big win for our country, because what this bill does in essence is it implements a treaty under which the rest of the world finally adopts our view of intellectual property. That is a big win for the United States.

But we also have the advantage that this bill actually turned out to be a pretty good bill, thanks to the gentleman from Virginia (Chairman BLILEY) and the gentleman from North Carolina (Chairman COBLE), the gentleman from Illinois (Chairman HYDE), and many of the other people who worked on it.

The thing I like the most about it is that it moves intellectual property protection into the digital age. I was proud to play a small part in improving the bill. We adopted a special program for webcasting, this is broadcasting on the Internet. We will now have clear rules for how those sorts of things are supposed to be done.

I think this should be a day when all of us are very pleased that we are moving through the House a bill that will make big progress around the world for intellectual property, which is a big improvement for things in the United States.

Mr. BLILEY. Madam Speaker, I yield one minute to the gentleman from Florida (Mr. STEARNS), a member of the committee.

Mr. STEARNS. Madam Speaker, I also rise in support of the bill and compliment our chairman, the gentleman from Virginia (Mr. BLILEY), and, of course, I compliment my good friend the gentleman from North Carolina (Mr. COBLE), for their activities.

I participated in some of the areas dealing with technological protection measures, defining this actually: The no-mandate provision, which makes clear that manufacturers need not design their products to respond to any particular technological protection measure was included in the report; language to the compromise on "fair use" which seeks to protect consumers from a pay-per-view world in the digital area; and, three, provisions ensuring activities important to our economy and national security such as reversed engineering and encryption research will not be stifled by the new prohibition on circumventing technological protection measure.

I appreciate also the gentleman from Virginia (Mr. BOUCHER), who was very helpful and diligent in approving our amendments and working together. I recognize his efforts, and I rise in strong support of the bill.

Mr. Speaker, I rise in support of the final legislative product to implement the World Intellectual Property Organization Treaty to provide legal protection to the millions of American copyright holders and American companies.

I would also like to congratulate the efforts and the hard work of the key players to forge a compromise and bring this bill to the floor: Chairman BLILEY of the Commerce Committee and Chairman COBLE of the Intellectual Property Subcommittee deserve particular praise.

It has been a long and hard process to get us to this point. I had numerous concerns with the original bill that I believed needed correction.

During consideration of H.R. 2281, the Commerce Committee heard from many concerned groups including libraries, educators, researchers, consumer groups, advocates for families such as Eagle Forum and the Christian Coalition, and representatives of manufacturers of legitimate consumer electronics products. All of these groups raised legitimate concerns which the Commerce Committee has sought to address.

The bill we consider today represents many hours of debate and compromise.

It is not a perfect solution, but it includes important provisions designed to protect consumers and legitimate manufacturers of consumer electronics while providing important new protections to copyright owners so that their works may thrive in the digital environment.

Among the important provisions in the legislation are:

(1) The "no mandate" provision which makes clear that manufacturers need not design their products to respond to any particular technological protection measure;

(2) The compromise on "fair use" which seeks to protect consumers from a "pay-per-view" world in the digital era; and

(3) Provisions ensuring that activities important to our economy and national security such as reverse engineering and encryption research will not be stifled by the new prohibition on circumventing technological protection measures.

I would also like to note that during consideration of the WIPO legislation in the Commerce Committee, I had joined with my good friend from Virginia, Mr. BOUCHER, in offering an amendment that would have defined the term "technological protection measure," because such a definition was lacking in the original bill.

Mr. BOUCHER and I worked diligently to improve our amendment and to seek a compromise position for a definition that would have enjoyed the support of the content community, as well as from the product manufacturers. We succeeded.

In order to push the bill forward and out of the Commerce Committee, we agreed to withdraw the amendment in exchange for Chairman BLILEY's support of report language that would have expanded on the proper definition of a "technological protection measure."

Although I believe the bill could have been further improved had we had the chance to define this term before bringing the bill to the floor, I believe the report of the Commerce Committee very clearly identifies the types of technological protection measures which are entitled to the special protections of this legislation.

In addition, I am confident that the federal courts that consider the meaning of the term "technological protection measure" will find sufficient guidance in the Commerce Committee's report.

I thank Chairman BLILEY for following through on his commitment and allowing such report language to be drafted, inserted, and negotiated with the Judiciary Committee.

I ask unanimous consent that my extended and revised remarks appear in the RECORD as if spoken.

Mr. BLILEY. Madam Speaker, I yield one minute to the gentleman from Massachusetts (Mr. MARKEY).

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

I want to congratulate all of the Members who have worked on this legislation, Madam Speaker. As the digital revolution sweeps over countries and industries, we are going to see a dramatic change in the nature of the American economy, because we are the clearcut leader in the post-GATT post-NAFTA world.

As we cut this implicit deal with the American people where we are going to let the low-end jobs go, it is critical for us to garner the lion's share of the high-end jobs. We are the world's leader in software, without question. In these computer, movie, books, video areas, we are the unquestioned dominant leader. It is our job to make sure that we construct treaties, laws, that protect our high end, our products that are related to the high education level which we are giving the citizens of the United States.

Built into this law are protections for the privacy of Americans, as well.

We do not want corporations being able to insinuate themselves into the privacy of Americans, finding out where they go, what they do, as they use these new software technologies.

I think we have struck a nice balance, which is going to give marketplace incentives to industries to ensure that individuals have the knowledge on information that is being gathered about them, know that it may be reused, but also have the right to say no. I think it is going to be a good compromise forged.

I urge a very strong yes for all Members of Congress on this very important piece of legislation.

Mr. FRANK of Massachusetts. Madam Speaker, I yield myself such time as I may consume.

I am glad to turn away from the turf battles, which are to be of interest to no one outside this Chamber and very few inside, to talk a little more about substance.

Madam Speaker, I said earlier that one of the things I liked about this bill was that we reversed or at least stopped this trend to impinge on free speech. We have reduced the tendency to restrict speech which is electronically transmitted to a lesser degree of constitutional protection. But this is not the only bill relevant. I want to talk here about the danger in some other legislation of our continuing the unfortunate tendency of holding electronically transmitted speech to a lesser standard of protection.

I am told working its way through this body is legislation which would deny Federal aid to libraries and schools which do not impose various kinds of filtering devices on their own equipment. That it seems to me a very grave error. Of course, it makes a mockery of this profession of respect for States' rights which we occasionally hear, particularly when those who claim to be for States' rights do not like what the States are doing.

But the notion that we would impose a Federal judgment on schools and libraries, and make them use this very admittedly imperfect technology of filtration so that they would be less than fully free in what they gave people, is an example of this unfortunate tendency to say that electronically transmitted speech has a lesser order of protection.

I hope no one would propose that Congress would say libraries would not get any money unless they censored books, unless they censored public speeches. Why, then, do we insist, and I hope we do not, that libraries can only get Federal funds if they agree to censure their electronic devices?

We already passed as part of the Telecommunications Act something called the Communications Decency Act, which was stricken by a 9 to nothing vote in the Supreme Court as unconstitutional. Indeed, some of the most ardent defenders of free speech during the campaign finance debate enthusiastically supported this, which was obviously unconstitutional at the time, and the Supreme Court held it to be.

I would just say in closing, Madam Speaker, that while I am pleased that here we took great pains to protect intellectual property while avoiding giving any additional incentive to censor, we may be undoing that in other pieces of legislation.

I would urge my colleagues to follow elsewhere the guide that I think we have set forth here: Do not adopt restrictions on electronically transmitted speech that we would not apply to written speech and to oral speech, to newspapers, to magazines, to theater, to other forums of public debate.

As this society continues to increase the percentage of our communication with each other that is electronically transmitted, it is essential that we give electronically transmitted speech the same high degree of protection from censorship and regulation that we give other speech, or we will be a less free society in consequence.

Madam Speaker, I reserve the balance of my time.

Mr. BLILEY. Madam Speaker, I yield 1½ minutes to the gentleman from Michigan (Mr. KNOLLENBERG).

Mr. KNOLLENBERG. Madam Speaker, I thank the chairman for being so gracious in relinquishing that time. I will not take all of it.

I will say, Madam Speaker, that I rise in full support of this bill. I want to thank the gentleman from North Carolina (Mr. COBLE) for his work in helping bring about the confection of this language. Included in the bill is a provision that I introduced to ensure that a computer owner may authorize the activation of their computer by a third party for the limited purpose of servicing computer hardware components. The bill provides language that authorizes third parties to make such a copy for the limited use of servicing computer hardware, the hardware components.

This provision does nothing to threaten the integrity of the Copyright Act, and maintains all the protections under the Act. The intent of the Copyright Act is to protect and encourage a free marketplace of ideas. However, without this provision, it hurts the free market by preventing the ISOs from servicing computers. Furthermore, it limits the computer users' choice of who can service their computer and how competitive a fee can be charged.

Again, I want to thank the gentleman from North Carolina (Mr. COBLE) for all of his work in helping us along on this.

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

Madam Speaker, I thank everybody who has contributed to this exercise today. The creative ingenuity of the people of this country is responsible for our identification, culture, and not insignificantly large trade surplus. This has only come about because this country, through the work of the congressional judiciary committees down through the years, has enacted laws which protect intellectual property.

Our Founding Fathers, Madam Speaker, knew that a constitutional protection would be necessary in order to encourage Congress to create an incentive for creators. I am proud that this Congress and our subcommittee on the Committee on the Judiciary specifically have stood up for property rights of all kinds, both real property and intellectual property. I urge passage of the bill.

Madam Speaker, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Madam Speaker, I yield the balance of my time to the gentleman from California (Mr. DREIER), and hope that he will remember me when he becomes chairman.

The SPEAKER pro tempore (Mrs. EMERSON). The gentleman from California (Mr. DREIER) is recognized for 2 minutes.

Mr. DREIER. Madam Speaker, I appreciate the gentleman yielding time to me, and I will, as we have amendments that conceivably could come forward from the gentleman from Massachusetts next year, consider them. I very much appreciate his acknowledging that I will be chairman next year.

Madam Speaker, let me rise in very strong support of this agreement. One of the most troubling aspects to this issue of global trade which is very important to the survival of our economy has been the issue of piracy. When we look at the impact that this has had on the entertainment industry and the biotechnology industry in my State of California, it is very, very troubling.

When we have ideas that emanate from individuals, the right to make sure that that is their property must be ensured. This WIPO agreement is in fact the best hope that we have to ensure that it will be acknowledged.

I simply rise to congratulate my friends who have been involved in this, the gentleman from North Carolina (Mr. COBLE), the gentleman from Illinois (Mr. HYDE), and of course, the Committee on Commerce, under the able leadership of the gentleman from Virginia (Mr. BLILEY), and a wide range of individuals in other industries, and of course, the gentleman from Massachusetts (Mr. FRANK).

This is a very important agreement, and I urge my colleagues to strongly support it.

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

Madam Speaker, I urge adoption of the bill.

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

Madam Speaker, I want to say to the gentleman from California, he said he would remember the gentleman from Massachusetts (Mr. FRANK). I hope he remembers that both of us worked to accommodate him today when he has the gavel in his hand next year.

Finally, this has obviously been a team effort, Madam Speaker. Oftentimes we hear charges accusing us of being a do-nothing Congress. I think this piece of legislation today pretty well refutes that charge. Much good has been done in this session of the Congress, and today has been no exception. I thank everyone again for having contributed very favorably to this dialogue today.

Mr. HASTERT. Madam Speaker, I am proud to rise in support of H.R. 2281, the Digital Millennium Copyright Act.

I am very pleased that Chairmen BLILEY, HYDE, COBLE and TAUZIN were able to reach a compromise on this bipartisan bill.

We all know that the strength of our copyright laws is fundamental to making our economy a success, while also allowing "fair use" of protected works for the common good.

Just because an authorized product is in a digitized form, we should not hinder a child's learning at St. Charles Public Library, or complicate an academic's research at Northern Illinois University, or prevent a high-tech engineer in Illinois from improving innovative products.

Specifically, this legislation includes new terminology vital to better resolving the issues ahead of us. The bill language on . . . "no mandates on design" . . . . reverse engineering" . . . "playability" . . . and "definition of protection measures" . . . will provide the framework for continuing the proper balance in the law.

By adopting these new terms, we can anticipate future policy concerns, and create a fair and balanced approach to solving the questions of the digital revolution.

Ms. SLAUGHTER. Madam Speaker, I rise in support of H.R. 2281, the Digital Millennium Copyright Act, which would raise the international standards of copyright protection so that we can help combat the devastating losses to American companies that are being caused by the international piracy of copyrighted works.

As Chair of the Congressional Member Organization for the Arts, I am greatly concerned about the grave effects of copyright violations on America's artists, writers, and software engineers. The dramatic growth of the Internet is providing us with tremendous new opportunities for electronic commerce and communication. But these same technological developments also carry significant risks, especially in the area of international copyright piracy. Today, American companies are losing $18–20 billion annual because copyrighted works can be stolen and distributed around the world by anyone capable of using a computer.

This legislation protects our nation's movie producers, record makers, and software designers from being forced to absorb more of these losses. At the same time, it protects lawful use of materials by classrooms and libraries, and allows individuals who perform encryption research to continue with their work. However, it does prohibit the sale, manufacture and use of devices and component parts that are specifically designed to gain unauthorized access to copyrighted works. It also addresses the issue of online service provider liability, incorporating language based on a compromise that has been reached among groups on all sides of the debate.

I urge my colleagues to vote yes on passage of H.R. 2281 so that we can protect the work of our nation's talented individuals from copyright violations while encouraging the growth of electronic commerce.

Mrs. MORELLA. Madam Speaker, although the Commerce Committee changes to H.R. 2281, the WIPO Copyright Treaties Implementation Act, vastly improved the bill from the original Judiciary Committee passed version, I am still deeply troubled that H.R. 2281 is being considered on the suspension calendar. As I indicated in a July 31 letter to the Majority Leader, signed by several other Members of the House, I was very interested in offering a distance education amendment to H.R. 2281 that has the support of every educational group, from the National Education Association to the National Center for Home Education.

As we enter the 21st Century, distance education will play an even more pivotal role in educating our children, and those individuals interested in life long learning. Distance education will fill an important gap for those individuals, either because of family obligations, work obligations, or other barriers, who are prevented from attending traditional classes. It will also allow educational institutions, from outlying rural towns to the heart of America's inner cities, to access a full range of academic subjects that would otherwise not be available to them.

The amendment that I was planning to offer would have updated the exceptions to copyright law regarding distance education to meet the new challenges and allow for the use of new and exciting technologies that will improve the education of our citizens, so that we are better prepared to compete in this more competitive global economy. This is particularly important in my district where we currently have a shortage of high-technology workers that is hindering our economic growth.

In 1976, as part of the general revision of the Copyright Law, the Congress recognized the importance of the burgeoning practice of distance learning. As the House Report on Copyright Law Revision (No. 94–1476) put it, in the context of higher education, these "telecourses are fast becoming a valuable adjunct of the normal college curriculum." (p. 84). The use of the term "telecourses" is, of course, significant. At the time, the only technology by means of which distance education could be conducted was that of television (either "open" or "closed-circuit") and in providing an exemption from copyright liability for illustrative uses of certain works in the course of distance learning lessons; typically, moreover, these lessons involved the transmission of text material, still images, or music. Against this background, the Congress proceeded to fashion the provisions of 17 U.S.C. 110(2).

The Copyright Act, in Section 106, provides for the various "exclusive rights" of the copyright owner. Because, as a matter of definition, TV broadcasting implicates only Section 106(4) "public performance" and the Section 106(5) "public display," the distance education exemption in Section 110(2) relieves educators of liability with respect to those two rights. Moreover, since educational TV broadcasts typically at assembled groups of students, Section 110(2) was drafted to apply to "reception in classrooms of similar places" (extending to home reception only in the case of disabled persons and others in "special circumstances"). Finally, Section 110(2) was written to apply only to performances of "nondramatic literary or musical works," categories from which the overwhelming proportion of illustrative excerpts required by teachers would have been drawn.

More than 20 years later, distance education practice has changed dramatically. Increasingly, distance learning has become a staple of K–12 as well as higher education, and digital networks have become the favored technology for the delivery of distance learning lessons. As a technical matter, network transmissions generally become available to recipients only because a temporary copy of their content is made in the so-called "random access memory" of those recipients' computer terminals; thus, network transmission of an excerpt from a copyrighted work in the course of a distance learning lesson may involve not only the performance or display of that work, but also its "distribution" (another right which is reserved to the copyright owner in Section 106(2), and not covered by existing Section 110(2)). Moreover, many contemporary distance learning transmissions are intended primarily for reception in the homes or offices of students who are neither disabled nor exhibit other "special circumstances"; indeed, many such transmissions are offered by institutions (like the Western Governors' University or various home-school networks) which have few or no physical "classrooms or similar places." Again, existing Section 110(2) would not appear to cover such instructional programs. Finally, in the age of multimedia, instructors must be able to illustrate their lessons with relevant excerpts not only from the conventional literary and musical works covered in existing Section 110(2), but from the full range of cultural materials to which protection under the Copyright Act extends.

As I mentioned before, the proposed amendment would legitimize the best current practice in the field of distance education and encourage further innovation in this important area by eliminating technologically or educationally outdated restrictions from Section 110(2). By adopting such an amendment, the Congress would be following through on the decision it took in 1976 to encourage the practice of distance education by providing educators with a clearly defined "safe harbor" within which they could design lessons with enhanced learning value, free from concerns about potential legal liability.

As amended, the Section 110(2) exemption would apply only to qualified not-for-profit institutions and home-schools. "Fly-by-night" commercial trade schools and sham entities without demonstrable educational purposes would

not qualify. Moreover, the amended sections would retain crucial restrictive language from the original, which limits its applicability to situations in which excerpts from copyrighted works are used "for purposes of illustration, and [are] directly related and of material assistance to the teaching content" of a distance learning lesson; indeed, the amended section would amplify that restriction with a new provision stating that the material used for illustrative purposes must be "limited to that portion of the work reasonably necessary to accomplish the teaching purpose." In other words, the amended section would not permit educators to put entire copyrighted textbooks on line; such conduct is an infringement of copyright today, and it would continue to be under the amended section.

Nor would the section allow distance education programming to become a gateway through which valuable copyrighted works, in their entirety, could flow out into the Internet and become generally available. This is all the more so because the amended section applies only to educators who had not taken reasonable steps to provide safeguards against distance education transmissions being received by non-students or copied for redistribution. Thus, the amended section actually would give distance educators a new incentive to upgrade the security features of their networks to discourage copyright infringement.

It also is noteworthy that the exemption which would be defined in the amended section would be available only in connection with the actual delivery of educational materials by educators and their institutions, or (in the case of home schools) by parents. It would not deprive copyright owners of revenues in connection with the licensing of their works for inclusion in "packaged" materials designed for use in connection with distance education. Just as textbook authors and publishers today must obtain appropriate copyright clearances in order to include excerpts from copyrighted works, so would the creators of tomorrow's "electronic texts."

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. COBLE) that the House suspend the rules and pass the bill, H.R. 2281, as amended.

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

The title of the bill was amended so as to read:

"A bill to amend title 17, United States Code, to implement the World Intellectual Property Organization Copyright Treaty and Performances and Phonograms Treaty, and for other purposes.".

A motion to reconsider was laid on the table.

SENSE OF CONGRESS THAT ELIMINATION OF TRADE RESTRICTIONS ON IMPORTATION OF U.S. AGRICULTURAL PRODUCTS SHOULD BE TOP PRIORITY

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, House Concurrent Resolution 213, as amended.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. CRANE) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 213, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 420, nays 4, not voting 10, as follows:

[Roll No. 380]

YEAS—420

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Traficant
Turner
Upton
Velazquez
Vento
Visclosky
Walsh
Wamp
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NAYS—4

Chenoweth
DeFazio
Paul
Waters

NOT VOTING—10

Burton
Conyers
Cunningham
Gonzalez
Goode
Kilpatrick
McCarthy (MO)
McInnis
Poshard
Towns

□ 1448

Mr. BONIOR and Mr. BOEHNER changed their vote from "nay" to "yea."

Mrs. CHENOWETH changed her vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

The title of the concurrent resolution was amended so as to read: "Concurrent resolution expressing the sense of the Congress that the elimination of restrictions on the importation of United States agricultural products by United States trading partners should be a top priority in trade negotiations.".

A motion to reconsider was laid on the table.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, AND JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to House Resolution 508 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4276.

□ 1450

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4276) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1999, and for other purposes, with Mr. PEASE (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole House rose on Monday, August 3, 1998, the demand for a recorded vote on the amendment by the gentleman from West Virginia (Mr. MOLLOHAN) had been postponed and the bill was open from page 2, line 23, through page 3, line 13.

AMENDMENT OFFERED BY MR. MOLLOHAN

The CHAIRMAN pro tempore. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from West Virginia (Mr. MOLLOHAN) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MOLLOHAN:

On page 2, line 25, after the dollar amount, insert the following: "(reduced by $40,000,000)".

On page 21, line 18, after the dollar amount, insert the following: "(reduced by $60,000,000)".

On page 25, line 14, after the dollar amount, insert the following: "(increased by $40,000,000)".

On page 64, line 23, after the dollar amount, insert the following: "(reduced by $20,000,000)".

On page 70, line 20, after the dollar amount, insert the following: "(reduced by $10,000,000)".

On page 85, line 19, after the dollar amount, insert the following: "(reduced by $9,000,000)".

On page 92, line 25, after the dollar amount, insert the following: "(reduced by $10,000,000)".

On page 99, line 8, after the dollar amount, insert the following: "(increased by $109,000,000)".

On page 99, line 9, after the dollar amount, insert the following: "(increased by $109,000,000)".

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 255, noes 170, not voting 9, as follows:

[Roll No. 381]

AYES—255

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bilbray
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Camp
Canady
Capps
Cardin
Carson
Castle
Chambliss
Clay
Clayton
Clement
Clyburn
Condit
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Ehlers
Ehrlich
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fawell
Fazio
Filner
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Ganske
Gejdenson
Gekas
Gephardt
Gilchrest
Gilman
Goodling
Gordon
Green
Greenwood
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Horn
Houghton
Hoyer
Hulshof
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
Kind (WI)
Kleczka
Klink
Klug
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Nethercutt
Ney
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Porter
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Regula
Reyes
Rivers
Rodriguez
Roemer
Ros-Lehtinen
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Scott
Serrano
Shays
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith (NJ)
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Tauzin
Thompson
Thurman
Tierney
Torres
Traficant
Turner
Upton
Velazquez
Vento
Visclosky
Walsh
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (PA)
Wexler
Weygand
White
Wilson
Wise
Woolsey
Wynn
Yates
Young (AK)

NOES—170

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilirakis
Bliley
Blunt
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Campbell
Cannon
Chabot
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Deal
DeLay
Dickey
Doolittle
Dreier
Duncan
Dunn
Emerson
English
Ensign
Everett
Ewing
Foley
Fossella
Gallegly
Gibbons
Gillmor
Goodlatte
Goss
Graham
Granger
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson, Sam
Jones
Kasich
Kelly
King (NY)
Kingston
Knollenberg
Kolbe
Latham
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Myrick
Neumann
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Portman
Radanovich
Redmond
Riggs
Riley
Rogan
Rogers
Rohrabacher
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Wamp
Watkins
Weldon (FL)
Weller
Whitfield
Wicker
Wolf
Young (FL)

NOT VOTING—9

Conyers
Cunningham
Gonzalez
Goode
Kilpatrick
McCarthy (MO)
McInnis
Schumer
Towns

□ 1508

Mrs. KELLY and Mr. SAXTON changed their vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. PEASE). The Clerk will read.

The Clerk read as follows:

ADMINISTRATIVE REVIEW AND APPEALS

For expenses necessary for the administration of pardon and clemency petitions and immigration related activities, $75,312,000.

In addition, $59,251,000, for such purposes, to remain available until expended, to be derived from the Violent Crime Reduction Trust Fund.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App.), $36,610,000; including not to exceed $10,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; and for the acquisition, lease, maintenance, and operation of motor vehicles, without regard to the general purchase price limitation for the current fiscal year: *Provided*, That up to one-tenth of one percent of the Department of Justice's allocation from the Violent Crime Reduction Trust Fund grant programs may be transferred at the discretion of the Attorney General to this account for the audit or other review of such grant programs, as authorized by section 130005 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322).

UNITED STATES PAROLE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission as authorized by law, $7,400,000.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; and rent of private or Government-owned space in the District of Columbia; $462,265,000; of which not to exceed $10,000,000 for litigation support contracts shall remain available until expended: *Provided*, That of the funds available in this appropriation, not to exceed $17,834,000 shall remain available until expended for office automation systems for the legal divisions covered by this appropriation, and for the United States Attorneys, the Antitrust Division, and offices funded through "Salaries and Expenses", General Administration: *Provided further*, That of the total amount appropriated, not to exceed $1,000 shall be available to the United States National Central Bureau, INTERPOL, for official reception and representation expenses: *Provided further*, That $813,333 of funds made available to the Department of Justice in this Act shall be transferred by the Attorney General to the Presidential Advisory Commission on Holocaust Assets in the United States: *Provided further*, That any transfer pursuant to the previous proviso shall be treated as a reprogramming under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

In addition, $8,160,000, to be derived from the Violent Crime Reduction Trust Fund, to remain available until expended for such purposes.

In addition, for reimbursement of expenses of the Department of Justice associated with processing cases under the National Childhood Vaccine Injury Act of 1986, as amended, not to exceed $4,028,000, to be appropriated from the Vaccine Injury Compensation Trust Fund.

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust and kindred laws, $68,275,000: *Provided*, That, notwithstanding any other provision of law, not to exceed $68,275,000 of offsetting collections derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18(a)) shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: *Provided further*, That the sum herein appropriated from the General Fund shall be reduced as such offsetting collections are received during fiscal year 1999, so as to result in a final fiscal year 1999 appropriation from the General Fund estimated at not more than $0: *Provided further*, That any fees received in excess of $68,275,000 in fiscal year 1999 shall remain available until expended, but shall not be available for obligation until October 1, 1999.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For necessary expenses of the Offices of the United States Attorneys, including intergovernmental and cooperative agreements, $1,037,471,000; of which not to exceed $2,500,000 shall be available until September 30, 2000, for (1) training personnel in debt collection; (2) locating debtors and their property; (3) paying the net costs of selling property; and (4) tracking debts owed to the United States Government: *Provided*, That, of the total amount appropriated, not to exceed $8,000 shall be available for official reception and representation expenses: *Provided further*, That not to exceed $10,000,000 of those funds available for automated litigation support contracts shall remain available until expended: *Provided further*, That, in addition to reimbursable full-time equivalent workyears available to the Offices of the United States Attorneys, not to exceed 9,044 positions and 9,312 full-time equivalent workyears shall be supported from the funds appropriated in this Act for the United States Attorneys.

AMENDMENT OFFERED BY MR. ENSIGN

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

The Clerk read as follows:

Amendment offered by Mr. ENSIGN:

Page 7, line 4, after the dollar amount, insert the following: "(increased by $1,676,000)"

Page 7, line 20, after the dollar amount, insert the following: "(reduced by $3,000,000)"

Page 26, line 17, after the dollar amount, insert the following: "(increased by $3,000,000)"

Page 30, line 3, after the dollar amount, insert the following: "(increased by $3,000,000)"

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

The CHAIRMAN pro tempore (Mr. PEASE). Is there objection to the request of the gentleman from Nevada?

There was no objection.

Mr. ENSIGN. Mr. Chairman, first let me say that I want to thank the gentleman from Kentucky (Mr. ROGERS), the subcommittee chairman, for working with me on this amendment.

What my amendment seeks to do is to increase funding for drug courts by $3 million. While I would like to have included a little more money for the drug courts, right now they are funded at $40 million, and my amendment takes them to $43 million for this year.

The drug courts are something that I truly believe in, and I am going to outline the reasons that I believe in them. But I do want to thank the chairman of the subcommittee for working with us on this amendment, coming up with an offset so that we can have this amendment paid for.

First of all, the drug courts, while they started about 10 years ago across the country in communities, have had a great effect on reducing crime throughout our communities. Every single community that has tried a drug court has found them to be successful: successful in reducing crime, reducing recidivism, as well as saving the taxpayer money.

Now, in my own State of Nevada, I want to praise one of the judges there, Judge Lehman. Although we have several drug courts across the State of Nevada, Judge Lehman is the person that I am the most familiar with.

Judge Lehman so far has had 931 people graduate from his program in the drug court program. Of those, only 13 percent have had rearrests after 6 years. Now, normally in our prison system we have about a 75 to 80 percent repeat-offender rate.

Let me give these numbers again. Normally in our prison system we have about a 75 to 80 percent recidivist, or repeat offender, rate. Under Judge Lehman's drug court, only 120 out of almost 1,000 people who have gone through the drug courts have actually been rearrested for any reason after 6 years. That is only a 13 percent repeat-offender rate.

I do not think that there is anything else in our criminal justice system that can point to that type of success.

What drug courts represent are local, State, and Federal Government coming together, because that is where the funding comes from, to say let us put some common sense back into our criminal justice system.

Across the country, criminal justice system professionals estimate that at least 45 percent of the defendants convicted of drug possession commit a similar offense within 2 or 3 years of release of jail.

Drug courts have proven truly remarkable in preventing hundreds of repeat drug offenses in the country. More than 70 percent of the drug court clients have successfully completed the program or remain as active participants, and recidivism rates from drug participants, this is across the country, range from 2 percent to 20 percent.

So we can see not only in Nevada we have had success in drug courts, but across the country. Not only do we save taxpayer money, we are also saving lives.

Let me point out something that most people would not think about. Many children in this country today are born with what we call fetal alcohol syndrome or fetal drug syndrome. These babies are born to addicted mothers, not only of alcoholics but also of drug addicts.

Every person that we can get off drugs through these programs or off alcohol through these programs, that is a life we could be changing. Because fetal alcohol syndrome, if my colleagues have talked to any parents that have adopted a child or any parents that have actually had one in their own family, these children go through some devastating consequences. As a matter of fact, in our criminal justice system today, people that were fetal alcohol syndrome babies turn out in many cases to actually be involved in the criminal justice system by committing crimes later.

We need to put a stop to fetal alcohol syndrome, to people using alcohol and drugs while they are pregnant; and one of the best ways to do that is to start at the preventive side. And the drug courts have been very successful in getting people off drugs, off of alcohol, so that we do not end up with this fetal alcohol syndrome.

□ 1515

I want to just conclude by saying that I appreciate what the gentleman from Kentucky (Mr. ROGERS) has done and to say that this amendment while it is just a small amount of money in the big picture is still something that is very significant because of the tremendous success that drug courts have had across the country.

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

Mr. Chairman, this amendment increases drug courts by $3 million. That is on top of the $10 million increase that we already have in the bill for a total of $43 million for drug courts, which is about a 33 percent increase. I agree with the gentleman, the drug court concept is working, and as more States and localities find out the benefits of the drug courts, more and more are applying for moneys. Consequently, that is the reason that we included a hefty increase already in the bill. But the gentleman's amendment, I think, is well placed and I am prepared to accept the amendment and so do at this time.

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

Mr. Chairman, we are strongly in favor of drug courts, and we think that the gentleman has crafted his amendment in the way it would be acceptable to us. We have no objection.

The CHAIRMAN pro tempore (Mr. PEASE). The question is on the amendment offered by the gentleman from Nevada (Mr. ENSIGN).

The amendment was agreed to.

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

Mr. Chairman, I rise to request that the gentleman from Kentucky (Mr. ROGERS) engage in a colloquy with me and the gentleman from Ohio (Mr. REGULA).

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

Mr. NETHERCUTT. I yield to the gentleman from Kentucky.

Mr. ROGERS. I am pleased to engage in a colloquy with both the gentleman from Washington and the gentleman from Ohio.

Mr. NETHERCUTT. Mr. Chairman, as the gentleman is aware, the committee report provides additional resources to the DARE program through the use of unobligated balances in the COPS program. I would like to thank the gentleman from Kentucky and the gentleman from West Virginia (Mr. MOLLOHAN) for their continued support of programs which will help reduce drug use among our Nation's youth.

Mr. Chairman, the committee has received a significant appropriation request for the DARE program in order to improve and expand the DARE curriculum to more middle schools.

Mr. ROGERS. Let me thank the gentleman from Washington for raising this issue and for his work on the Drug-Free America Task Force. The committee received a request from the task force on the day of our subcommittee markup for significant funds to expand the DARE program into middle schools and I have worked to provide additional funds for the DARE program. I will continue to work in conference with the Senate to see that DARE's curriculum continues to be improved and, to the extent, appropriate access to additional funds be made available.

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

Mr. NETHERCUTT. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, as a member of the subcommittee and a longtime supporter of the DARE program, I would like to associate myself with the remarks of the gentleman from Washington (Mr. NETHERCUTT). There is need for expanding the DARE program to middle schools and to ensure that the best available curriculum is used. Additionally, the success of the DARE program is not solely limited to Federal resources. In my district and across the country, DARE has the support and financial backing of communities and private industry.

Mr. ROGERS. Mr. Chairman, I would be happy to continue to work with both gentlemen on this issue, and I commend the gentleman for bringing it up.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

In addition, $54,231,000, to be derived from the Violent Crime Reduction Trust Fund, to remain available until expended for such purposes.

UNITED STATES TRUSTEE SYSTEM FUND

For necessary expenses of the United States Trustee Program, as authorized by 28 U.S.C. 589a(a), $114,248,000, to remain available until expended and to be derived from the United States Trustee System Fund: *Provided*, That, notwithstanding any other provision of law, deposits to the Fund shall be available in such amounts as may be necessary to pay refunds due depositors: *Provided further*, That, notwithstanding any other provision of law, $114,248,000 of offsetting collections derived from fees collected pursuant to 28 U.S.C. 589a(b) shall be retained and used for necessary expenses in this appropriation and remain available until expended: *Provided further*, That the sum herein appropriated from the Fund shall be reduced as such offsetting collections are received during fiscal year 1999, so as to result in a final fiscal year 1999 appropriation from the Fund estimated at $0: *Provided further*, That any such fees collected in excess of $114,248,000 in fiscal year 1999 shall remain available until expended, but shall not be available for obligation until October 1, 1999.

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109, $1,335,000.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For necessary expenses of the United States Marshals Service; including the acquisition, lease, maintenance, and operation of vehicles, and the purchase of passenger motor vehicles for police-type use, without regard to the general purchase price limitation for the current fiscal year, $477,611,000, as authorized by 28 U.S.C. 561(i); of which not to exceed $6,000 shall be available for official reception and representation expenses; and of which not to exceed $4,000,000 for development, implementation, maintenance and support, and training for an automated prisoner information system shall remain available until expended.

AMENDMENT OFFERED BY MR. SKAGGS

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

The Clerk read as follows:

Amendment offered by Mr. Skaggs:

Page 9, line 8, after "$477,611,000" insert "(increased by $100)".

Page 84, line 15, strike "the Television Broadcasting to Cuba Act,".

Page 84, line 20, strike "and television".

Page 84, line 21, strike "$383,957,000," and insert "$374,518,000,".

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

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. SKAGGS. Mr. Chairman, this amendment makes a very small addition to the Marshals Service fund and deletes $9.4 million in funding for TV Marti for a very simple reason: It is a complete waste of money.

I wish to amend the bill at this point in particular so that Members who may be looking for offsets for more worthy uses of funds later in the bill would be able to have this $9.4 million for more deserving application, or conceivably that our good chairman would have a little bit of working room when he gets to conference, which I suspect he would welcome.

For Members who may not be familiar with this program, I will first try to

explain the logical reasons that we ought to end TV Marti, but let me just acknowledge at the outset some advice that I got from a very informed staff person over at the United States Information Agency. He said, "Congressman, you know, you're trying to use logic to battle a cartoon." So if some of this seems a little bit surreal as we go along, that perhaps will help Members understand what is going on.

Mr. Chairman, TV Marti is broadcast out of a balloon hung over the Florida Keys most weekdays from 3:30 a.m., until 8 a.m., and it goes to, or tries to go to, the greater Havana area. But since TV Marti began broadcasting in 1990, virtually nobody has seen it because, sad to say, the Castro government is very successful in jamming it. To date we have spent over $110 million, real money, on this failed program.

I think it follows, quite logically, that since nobody sees this TV program, it really can make no contribution to bringing freedom and democracy to Cuba, a goal which we all share.

On the other hand, this amendment does not touch Radio Marti, the sister program of TV Marti, which does get through, just as Radio Free Europe got through despite jamming by the Soviets during the Cold War. My amendment has no effect on Radio Marti.

During the Cold War, radio transmissions had a significant audience in the Eastern Bloc because it is relatively easy to defeat jamming of radio. Television signals, on the other hand, are exclusively line of sight, easy to jam and as a practical matter there really is no alternative frequency.

TV Marti's broadcasts have been jammed from the beginning. At least seven, count them, seven objective studies by people without an ax to grind in this have been done since 1991. Not one of them has found any significant audience for TV Marti.

We should have disbanded this operation back in 1994 after an advisory panel found there was no significant audience. Instead, the backers of this program came up with, I think, the slightly nutty idea that if only we changed from a VHF, very high frequency, signal to an ultrahigh frequency, UHF signal, that that would solve the problem. We spent $1.7 million doing that, knowing full well that it would be even easier to jam the UHF signal than the VHF.

All it takes to do that is for some signal to be transmitted on the same frequency as TV Marti with a comparable field strength. Our own National Association of Broadcasters has told us it requires little more than a 100-watt transmitter and an off-the-shelf antenna and that that could deliver enough field strength in a 30-mile diameter to be effective.

Here is a map of the greater Havana area. The hash marks on the overlay indicate a 30-mile diameter. This is the area that can be jammed effectively with a 100-watt transmitter. It takes about 200 watts of power to yield the 100-watt signal. Members can see there is a little bit of area that is not quite covered, so maybe we need two jammers for a total of 400 watts. So for four light bulbs' worth of power, sad to say, the Castro government is able to completely nill this TV signal coming from the balloon over the Keys. While he is spending literally nickels and dimes on electricity to do this, we are spending about $25,000 a day wasting taxpayers' money sending invisible television to nowhere.

The CHAIRMAN pro tempore. The time of the gentleman from Colorado (Mr. SKAGGS) has expired.

(By unanimous consent, Mr. SKAGGS was allowed to proceed for 3 additional minutes.)

Mr. SKAGGS. Nonetheless we did this UHF to VHF conversion, and it was really no surprise that the signal still did not get through.

Let me just give my colleagues some visual evidence that was elicited by one of our own government technicians who went down to Cuba to check on what was going on technically. This is a picture of the TV Marti logo when it came on the air on Channel 64 while this USIA technician was monitoring signals. A couple of minutes later, once the jamming signal was put on the air by Castro's people, this was the jammed picture that came through. Likewise, sometimes we use a different channel. This is what Channel 50 of TV Marti looks like when the jamming is in place. There has been a survey done by the U.S. Interest Section at the Swiss Embassy where we have our presence in Havana showing that virtually no one sees this new UHF signal.

Now, there is some suggestion that this is still a bargain. Let me just tell Members, compared to the costs of our other international broadcasting efforts, TV Marti is not only a waste of money because the signal does not get through but it's also a very, very rich program in terms of our costs of producing an hour that we put on the air.

As Members can see, for each hour of programming by comparable efforts, Radio Marti 8 to 11 employees; Radio Free Asia, 8 to 15; Voice of America, 1.3. A real bargain. Just to give Members a television comparison, C–SPAN, about 9 employees. TV Marti in order to get one hour of programming on the air takes 40.6 employees.

There are other costs as well. Right now we have one balloon flying over the Keys for this purpose and for air interdiction, drug interdiction purposes. The National Security Council has decided that we will risk a hole in our air defenses by letting this one aerostat balloon instead be used on TV Marti.

As I said, we have already spent $110 million on this. If we fully fund it again we will have gone to about $120 million. This is simply a classic example of a failed program.

Supporters of this program say it will be a propaganda victory for the Castro regime if we eliminate it. I have got to believe that it is a much bigger victory for the American taxpayer if we stop this kind of waste. We are spending millions while he is spending nickels and dimes. We will continue to broadcast to Cuba with Radio Marti. This is not giving up on that effort.

I know many colleagues have heard my pitch on this before, but it is way past time to put this failed program out of its misery. I ask for Members' support on the amendment.

AMENDMENT OFFERED BY MR. MORAN OF VIRGINIA TO THE AMENDMENT OFFERED BY MR. SKAGGS

Mr. MORAN of Virginia. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. MORAN of Virginia to the amendment offered by Mr. SKAGGS:

Strike the last line of the amendment and insert "$374,520,000,".

Mr. MORAN of Virginia. Mr. Chairman, my amendment is simply a perfecting amendment. I agree with the gentleman from Colorado that TV Marti is an unfortunate waste of taxpayers' money. Because its broadcasts are jammed, TV Marti does not have a significant audience and in fact I would think it should be eliminated. Like the underlying amendment, my amendment deletes the funding for TV Marti but leaves just a bit more money in the international broadcasting operations for other programs.

□ 1530

Mr. Chairman, I would hope that the gentleman would accept my amendment.

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

Mr. MORAN of Virginia. I yield to the gentleman from Colorado.

Mr. SKAGGS. Mr. Chairman, I am pleased to accept the gentleman's amendment to my amendment, and if may I ask him to continue to yield, I think there is one other important consideration that ought to be brought to Members' attention as we deal with this whole issue.

Recently there was a survey done in Cuba under the auspices of the Broadcasting Board of Governors, the overall entity that supervises our international broadcasting activities. Based upon that survey, in which 4 people out of 284 surveyed said they may have seen TV Marti in the last few days, our own Broadcasting Board of Governors has determined and issued a report that this UHF signal is jammed just as easily as the old VHF was and there is no significant audience.

There is going to be, I suspect, some use of this survey, and I just think it is

important for Members to understand how this survey was done. The persons surveyed included only those who had come to the U.S. interest section in the Swiss Embassy in Havana to apply for visas to come to the United States, so that was not exactly a random sample. These are people that are trying to get out, understandably so.

Also of interest is the fact that in the waiting room for the U.S. interest section there is a television set there which broadcasts TV Marti because they have a satellite dish. So the idea that even these 4 people out of 284 give us any basis for hope that the signal is getting through I think is pretty well undermined by the way this survey was done.

Mr. MORAN of Virginia. Mr. Chairman, I thank the gentleman from Colorado (Mr. SKAGGS). It just boggles the mind how with all the priorities that we have in this country, that we would be spending millions and millions of dollars to maintain a system that serves no real function other than perhaps a political one.

I saw the chart up there, and would the gentleman confirm that we have more than 40 employees working on TV Marti compared to a handful on Radio Free Asia and some of the programs that actually are effective?

Mr. SKAGGS. If the gentleman will yield, that was a calculation of number of FTEs per hour of programming, and it is about 40 FTEs per hour for TV Marti. Its sister operation, radio, is way down there, around 8 employees per hour. Of course that is radio rather than TV, but even discounting for that, it is a very, very rich program.

Mr. MORAN of Virginia. This is really an unbelievable waste of taxpayers' money.

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

The CHAIRMAN pro tempore (Mr. PEASE). The time of the gentleman from Virginia (Mr. MORAN) has expired.

(On request of Mr. HEFNER, and by unanimous consent, Mr. MORAN of Virginia was allowed to proceed for 2 additional minutes.)

Mr. MORAN of Virginia. Mr. Chairman, I yield to the gentleman from North Carolina.

Mr. HEFNER. Mr. Chairman, without going into the technical part of broadcasting, I have some experience with broadcasting. I own radio stations, and sponsors that buy spots on one's radio station or television station, they have to justify that they are reaching so many people in their market.

There is not an investor, there is not a corporation in the United States that would pay the tariff to carry the television to Marti. This is absolutely a total waste of money. From a practical standpoint, this is money, and the priorities are absolutely ridiculous.

In the first place, it is probably the highest cost per listener of any station in the United States or anywhere else because unless the government pays it, one could not afford to broadcast this into this area, and to me we have our priorities kind of messed up here.

Mr. Chairman, in the Committee on Appropriations we did away with the heating assistance to our poor people and our older people, and we are spending these millions of dollars on Television Marti that is absolutely producing no results. And to me that is a total waste of money, a total waste of priorities, and we should go ahead, just go ahead and kill this thing and be done with it because it is absolutely useless for the purpose that it was supposedly set up to do.

Mr. Chairman, it is absolutely not working, and it is a waste of taxpayers' money.

Mr. MORAN of Virginia. Reclaiming my time, Mr. Chairman, it really is a scandal. I think the only reason that it continues is that most taxpayers just have no idea that this is going on. They have no idea of the facts. They trust the Congress is going to do the right thing with their tax money.

But I cannot imagine any objective observer, any average taxpayer who would want their money wasted in such a scandalous fashion as it is with TV Marti, where there is no audience, where there is an enormous amount of overhead, and where no advertiser would ever purchase time because there is no audience to this thing. And yet we are spending millions and millions and millions of dollars, apparently for some political purpose but certainly not for any objective public policy purpose.

So, unless the gentleman has anything further to add, I will conclude my statement, and I appreciate the gentleman from Colorado (Mr. SKAGGS) accepting the amendment.

Mr. ROGERS. Mr. Chairman, I rise in opposition.

The perfecting amendment and the amendment both would do away with the funding for TV Marti. The gentleman from Colorado, a friend and member of our subcommittee who has served so well in this Congress and in our subcommittee, has led a long and determined effort to kill funding for TV Marti.

This is the most recent chapter of a long book, and the gentleman is to be commended for, if nothing else, his persistence and a well-reasoned argument, but the full committee again this year rejected his amendment in full committee. It has been rejected in subcommittee. It has been rejected in full committee for several years running.

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

Mr. ROGERS. I yield to the gentleman from Colorado.

Mr. SKAGGS. Mr. Chairman, the full committee adopted the gentleman's substitute to my amendment, which was not ultimately made part of the bill because I withdrew it. I think it is not exactly fair to say it was rejected on the merits.

Mr. ROGERS. Mr. Chairman, the point is well taken, but again it is the same effort. It is the effort to eliminate TV Marti funding.

This year the bill includes $9.4 million for TV Marti, which represents a continuation of just basic funding. The gentleman's amendment would delete the entire amount.

Despite the continuing difficulties that the gentleman cites in TV Marti, terminating this program, Mr. Chairman, is not the answer. Termination is not the answer. Providing accurate and objective news, as we know, helped bring about change in the former Soviet Union as well as Eastern Europe, and we are now broadcasting, as we all know, for the first time into Asia and other parts of the world. It can play the same role in China and in Cuba as well.

We are all frustrated by the difficulties of reaching a large audience with TV Marti, but we should not let those difficulties bar us or prevent us from trying. I, for one, am unwilling to give up and give in to Fidel Castro. Deleting the money for TV Marti is running up the white flag to Fidel Castro.

Mr. Chairman, I do not possess a white flag.

We have a duty to press for more freedom in the prison that lies so close to our shores and with such strong historical ties with the United States, so I support continued funding. We will encourage the USIA and the Broadcasting Board that oversees these programs to bring us some more creative and realistic proposals to increase the reception of these broadcasts in Cuba, but I think we should continue to try.

The aerostat that is being used as the antenna for broadcasting TV into Cuba is a shared aerostat with the Department of Defense. Our Nation's defense rests upon this so-called balloon. That is the way the DOD communicates. We are using the Department of Defense balloon, or aerostat, for reaching an audience in Cuba.

Yes, we have had difficulty in reaching into Havana, but we are still reaching portions of Cuba. And so I urge the defeat both of the perfecting amendment and the gentleman from Colorado's amendment, and hope that the House will not run up the white flag on this proud building.

Ms. ROS-LEHTINEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Colorado (Mr. SKAGGS) and the amendment offered by the gentleman from Virginia (Mr. MORAN).

Mr. Chairman, the Universal Declaration of Human Rights states that everyone has the right to seek to receive

and to impart information and ideas through any media and regardless of frontiers. So for almost four decades the people of Cuba have been denied this basic, universally-recognized right. They have been denied this right by the Castro regime.

The Cuban dictatorship realized from the onset that knowledge empowers, and it knew that if it controlled the flow of information, it would be able to manipulate the Cuban people and forever imprison them in a parallel world created by Castro's lies and twisted propaganda. Thus, if it were to sustain its campaign against the United States, against American newspapers, magazines and broadcasts, it had to be prohibiting all the information at all cost.

So, Mr. Chairman, the people of Cuba have lived in absolute darkness about the U.S. commitment to freedom and democracy in their island Nation until the first broadcast of Radio Marti was transmitted into Cuba. Another milestone was crossed when TV Marti began its transmissions in 1990.

Do we want to allow the veil of silence to envelope Cuba once again? Cutting off funding for TV Marti would do just that. TV Marti challenges Castro's hold by educating the Cuban people about our policies in the United States and about American society. It is critical to fulfilling the mission that USIA has of explaining and supporting American foreign policy and of promoting U.S. national interests through a wide range of overseas information programs.

TV Marti offers the U.S. Government our capacity to reach out to the Cuban people on two fronts. It is an integral component of a multifaceted strategy to bring freedom and democracy to the last bastion of communism in our Western Hemisphere, and it is also a conveyor of truth as well as its servant. Thus, eliminating TV Marti would place truth at a significant disadvantage against the venom that is spread daily by the Castro regime.

We have heard arguments from opponents of TV Marti that it does not reach the Cuban people because of jamming by the regime. Well, copies of the Universal Declaration of Human Rights that I quoted from earlier and the Inter-American Convention on Human Rights, those documents are frequently confiscated by the Castro regime. Does that mean that we should stop trying to send these valuable international documents to the dissidents, to the growing opposition, to the general population? Religious groups tell us that they routinely try to smuggle bibles into Cuba. Castro's thugs block their distribution. So we should stop sending bibles to the enslaved Cuban people? Of course not.

TV Marti is reaching the Cuban people. One new viewer means that one more person will question the situation in Cuba. One more viewer means one more person that has escaped Castro's intellectual imprisonment.

Castro used to very massively jam Radio Marti, and the opponents on the other side worked very hard to get the funding out of Radio Marti. Well, now the signal is going through, the technology was improved, so now they say we have got to block TV Marti.

But if this body passes the Skaggs amendment or the Moran amendment, the House of Representatives would be awarding a tremendous victory that we would be bestowing upon the oppressors, while at the same time depriving the enslaved people of Cuba of a critical tool that we can give them, which is unbiased, free information. It would essentially cut off the flow to Cuba, as the dictatorship would be able to concentrate its resources on blocking the remaining broadcast, and the result would be an even more strengthened Castro regime.

Does the United States Congress want to be an accomplice to the further entrenchment of a regime which serves as a safe haven for U.S. criminals? We have a long list from the FBI of U.S. fugitives who are now given refuge in Cuba, and we know that Castro is harboring global terrorists. We know that Castro allows Cuba to be used as a transit point for illegal narcotics trafficking that will later reach the U.S. shores.

We should not be held accountable for all of this misery in Cuba. We should help the Cuban people free themselves of the oppressor. We should not be an accomplice for this further entrenchment of a regime.

The only choice available to us today, Mr. Chairman, is to support TV Marti and vote against the Skaggs and the Moran amendments, and I congratulate the gentleman from Kentucky (Mr. ROGERS) for his steadfast support of these very needed programs of transmission to the enslaved people of Cuba.

□ 1545

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

Mr. Chairman, let me first show our colleagues two quick things here. First of all, this picture that the gentleman from Colorado has made available to me is a transmitting gadget which costs about $5,000. This is effective in jamming a signal of one of the largest taxpayer's waste of money, which has cost $110 million. So for $5,000, I can jam that signal. I think that is a better deal.

Secondly, let us understand what TV Marti is. TV Marti is, and I have called it this for many years that I have been the coauthor of this book that the gentleman from Colorado has been writing, is an electronic toy for a lot of people, for a little group in this country, that makes a lot of political donations and in return gets a foreign policy that they like.

I would hope that instead of taking taxpayer dollars to buy that toy called TV Marti, they would do what I do. When I want my electronic toys, I simply use my Radio Shack card, and it is much cheaper and does not hurt the taxpayers in any way. So I would recommend that to some folks in Miami and others places.

It is interesting to note that one of the things that happened with TV Marti is its offices were moved to Florida, I think we did that last year or the year before, because, supposedly, I think, you could get closer to Cuba through your transmission, not from Washington, but from Florida. I do not think that is what it was, but that is what we were told it was.

I have a lot of respect for the chairman of the subcommittee, but I keep watching him every time he defends TV Marti to see if he is smiling or not, because I want to make sure that he really believes everything he is telling us.

Let us understand something: TV Marti may survive today once again. We are going to get closer to defeating it one of these days, but it may survive again. If it survives, it is only because it is a political issue that we Americans do not know how to deal with.

We found out how to deal with China; we found out how to deal with Vietnam; we know how to deal with Korea. We even, it looks like, know how to deal with Iran and Iraq. But we do not know how to deal with Cuba. So we keep taking taxpayer dollars to build this big monster called an island of 11 million people that is somehow going to invade us and take us over one day. We are not going to discuss that part. The only invasion they will make can be seen at Yankee Stadium and other places where their quality of baseball continues to increase our quality of baseball.

Mr. Chairman, if Members are going to support this, support it for what it is. It is a political ploy to satisfy a small group of people. Most people in that community do not even believe that this is good use of taxpayer dollars. But what you cannot do is continue to stand here and say that TV Marti is the salvation of American democracy, that TV Marti somehow is going to save the Western World from this monster of an island in the Caribbean.

TV Marti, I submit once again, is nothing more than a small group of people's electronic toy. I do not mind them having a toy, but not with my tax dollars.

So I would hope Members would support the gentleman from Colorado's amendment, and I will yield to him. I know he has a few additional statements to make.

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

Mr. SERRANO. I yield to the gentleman from Colorado.

Mr. SKAGGS. Mr. Chairman, I appreciate the gentleman yielding.

I just wanted to offer some response to the gentlewoman from Florida, who I know feels deeply and sincerely, and I respect her feelings. And if I thought that somehow TV Marti was able to be made successful in getting information into Cuba, then the very moving arguments that the gentlewoman made would have some real traction.

But this is not DAVID SKAGGS saying this does not work. Every time we have asked some outside group to take a look at this problem of electronics, how do you overcome a 100-watt jammer with a TV signal from an aerostat balloon, they keep coming back and saying it is not feasible. It does not work.

That is what we heard from the President's task force in 1991 and 1994. It is what we heard from the U.S. Advisory Commission on Public Diplomacy in 1991 and 1993. It is what the GAO said in 1992. It is what the advisory panel that the Congress set up in 1993 told us in 1994. It is what the Committee on Appropriations investigative staff said in 1995. It is what the Board of Broadcasting Governors, the entity we set up to supervise this whole part of the government, told us twice this year. It does not work.

I am sorry, it does not work. We should not spend money on it.

Mr. SERRANO. Mr. Chairman, reclaiming my time, I am a loyal member of the Committee on Appropriations and I respect the work done by both the majority and the minority, but it really hurts to see we are cutting education, we are cutting heating for senior citizens, we are cutting environmental programs, and we are wasting $110 million on a signal that was seen once with some Popeye cartoons.

Mr. GILMAN. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, I am pleased to rise in strong opposition to the amendment offered by the gentleman from Colorado (Mr. SKAGGS) which seeks to eliminate TV Marti.

Soviet communism may have been a bad memory in Europe, but the crushing weight of its repression still bears down on the Cuban people. Cuba is not a normal nation; it is a totalitarian state. A still ruthlessly effective secret police snuffs out the slightest dissent with repression and harsh prison terms. Freedom of the press does not exist in Cuba. It is even illegal to possess a copy of the Miami Herald. The Universal Declaration of Human Rights is considered by Cuban officials as enemy propaganda.

Uncensored information is freedom's lifeblood in a closed society, and Fidel Castro fully knows that. That is why he jams Radio and TV Marti. He does not do it 100 percent successfully either. That is why he and his regime would have cause to celebrate if TV Marti were silenced by the Skaggs amendment.

TV Marti, with an appropriation of some $9 million, provides the Cuban people with a window to the outside world and a hopeful glimpse of the future. It is vitally important that Cuban-Americans are active participants in Radio and TV Marti's good work. We need to bear in mind that it was Fidel Castro who forcibly divided the Cuban family. Radio and TV Marti helps to reunite the Cuban family in their common quest for freedom. That is the spirit behind Radio and TV Marti.

If TV Marti's audience is limited, it is because that is the way Mr. Castro would like it. TV Marti's reporting is journalistically sound and evenhanded. That is why Mr. Castro opposes it. That is an important argument why we should be for it.

The Castro regime complains loudly at every effort by our Nation to support freedom in Cuba. We should not waver in our message of hope for the Cuban people that one day their nightmare, too, will end.

I ask my colleagues to think about the dissidents in Cuba and about the millions more who quietly resist that dictatorship. Silencing TV Marti will send a chilling message to every Cuban who has the courage to struggle against Mr. Castro's tyranny. Accordingly, I urge our colleagues to defeat the Skaggs amendment.

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

Mr. Chairman, I am also a member of the Committee on Appropriations, and we have worked very, very hard to work with very few funds this year. If we were talking about the things that the gentleman from New York and the gentlewoman from Miami were talking about, if we were getting results, all right. Nobody shows us any results from these broadcasts. You air from 3 o'clock in the morning until 8 o'clock. I am convinced if they were not jammed, there would be very few people watching television at 3 o'clock in the morning.

If you look at the cost, there is not any television station or a band of television stations that the cost is as much as it is for TV Marti.

Somebody is making a lot of money, it is not very efficiently run, and there is, as I said earlier, not a corporation in the world that would invest money in as few listeners as TV Marti has.

I made the point about the yoke of communism that the Cuban people bear, and that is a tragedy. But we have had a policy in Cuba ever since I have been involved in politics that has not been effective. TV Marti is not effective, and even the proponents of TV Marti can give you no numbers of how many people that TV Marti is reaching and what the cost per listener is that it costs the taxpayers of this country.

I yield to nobody in my fight to release people from the yoke of communism and for defense of this great country, but these arguments are pretty ludicrous when you talk about that this is our last stand to try to do away with Castro, and that if TV Marti is gone, we have lost the whole battle and we do not have the commitment to the Cuban people. To me, that is totally ludicrous, and I would urge that Members vote for the Skaggs amendment.

Mr. DIAZ-BALART. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the campaign which has been led by the gentleman from Colorado in Jihad fashion for years to kill Cuba broadcasting has had many tactics and strategies. The tactic that is being emphasized now, the tactic a la mode, is Castro jamming. That is the tactic being emphasized now.

We have heard other tactics, and we have certainly seen them. The gentleman from Colorado referred to report after report, investigation after investigation, report after report, investigation after investigation that has been imposed upon that group of Federal workers, and yet they continue to do their job and to do a good job.

One of the last reports imposed upon those Federal workers, done by the Board of Broadcasting Governors, contained a survey, the most scientific and empirical survey that has been done in any totalitarian state with regards to the reception of our broadcasts, and the survey was specifically with regard to what the gentleman from Colorado with his amendment seeks to kill today, Television Marti. That survey, which was made public first in two "Dear Colleagues" from the gentleman from Colorado, dated July 23, stated that TV Marti viewership, and I mention it here, has a 1.5 percent audience share.

Now, let us look at this. This is the survey that I first came across from a report that the gentleman from Colorado made public now, a 1.5 percent audience share. Let us compare that to the other equally important radio broadcasts that our Nation sends, for example, to China, Radio Free Asia. In Cantonese, 1/10 of 1 percent is what that same report from the Board of Governors says is the audience share of Radio Free Asia in Cantonese, our broadcasts to China. Not 1.5 percent, but 1/10 of 1 percent. In English, 6/10 of 1 percent. In Mandarin, 2 percent, comparable to the 1.5 percent audience share that TV Marti has.

This is with a survey, which, of course, then in a subsequent Dear Colleague, the gentleman from Colorado

said "No, no, no, wait a minute. I am not making that survey public; do not pay attention to it now, because I made reference to it in a Dear Colleague."

No, I want to make reference and emphasis on the survey that the gentleman from Colorado made public, a 1.5 percent audience share. This was an actual survey of viewers of Television Marti.

What are the comparables with regard to the radio broadcasts, very important broadcasts to Croatia and Hungary and Slavonia and Russia? They are all comparable, for example, around the 2 percent range.

I do not know if the Russians continue to jam or not. I do know that when the Russians were at their maximum jamming capacity, it was down to what it is in China today, 1/10 of 1 percent. But I have never heard in the 6 years that I have been in Congress, nor in my studies beforehand, the gentleman from Colorado or the other opponents of Cuba broadcasting, never once have I heard them say, "Oh, wait a minute. There is jamming. There was jamming of Radio Free Europe. There was jamming of Radio Liberty. There is jamming today by the communist Chinese of Radio Free Asia, so we have to eliminate that."

No, thank God, they have not embarked upon their Jihad to try to kill Radio Free Asia, and they did not try to kill Radio Free Europe and Radio Liberty.

□ 1600

But for some reason, they have embarked and they continued to embark on this Jihad to kill Cuba broadcasting.

He says now that it is TV Marti that he is after, based on the pretext of the audience. But I remember, I remember in 1993 when I was a freshman Member of this House and the gentleman from Colorado (Mr. SKAGGS) had an amendment, and succeeded at the first stage in the appropriations process in killing radio and television, television and radio. The greatest success story in the history of USIA broadcasts, the gentleman from Colorado (Mr. SKAGGS) tried to kill that as well. But he cannot use the reception argument on that, so he talks about the reception of TV Marti. According to the gentleman's own report that he made public, it is 1.5 percent.

Let us be clear. I think the best way which we can understand what the gentleman from Colorado (Mr. SKAGGS) is after is in Castro's own newspaper, Cuba Workers, from July 20:

The recent budget approved by the U.S. House contains funding again for Radio and TV Marti. It is incredible how much money is wasted to support extremist positions of the most conservative American legislators. Fortunately, of course, there are some legislators who have been objective in opposing these bills, such as Democrat Representative DAVID SKAGGS, whose analyses prove that both Radio and TV Marti are a waste of public funds.

I do not think it is a time to provide a victory for Castro. It is a time to continue the fight for freedom of information for Cuba, and continue funding for TV Marti.

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

Mr. Chairman, I rise in strong opposition to the Skaggs and Moran amendments. Year after year we have defeated the attempts to eliminate funding for TV Marti, and to deny over 40,000 Cubans viewership of this important independent news. Even those who disagree with our policy on Cuba, and that is not what is in debate here, must believe in the opportunity for an open window of information to the Cuban people.

If they do not believe in that, then they must take the same position on a whole host of other TV broadcasting that we do to other parts of the world that cannot meet the audience share that TV Marti meets.

Supporters of the amendment would have us believe that no one in Cuba is seeing TV Marti. Quite the contrary. The Broadcasting Board of Governors reports that Cuba has a 1.5 percent audience share in Cuba. That is greater than the audience share in 37 other countries where we have broadcast through VOATV and World Net TV.

What are some of those countries? China, North Korea, Pakistan, Somalia, Indonesia, parts of Africa. If we accept this standard that a 1.5 share is not enough, then clearly, for all of those other countries for which we have an interest in sending a message from the United States about our intentions vis-a-vis those countries, about our position vis-a-vis those countries, about what we stand for in our foreign policy, then we must also seek to eliminate those, because if not, we have a double standard in the process.

Mr. Chairman, that means that 1.5 percent more people in Cuba are watching TV Marti broadcasts than there are viewers in China, in North Korea, in Somalia, in Turkey, in Cameroon, and 30 other nations. In fact, audience share in North Korea is less than 1 percent, and the audience share for Cantonese broadcasts in China is a mere .1 percent. Why do we not see amendments eliminating funding for broadcasts to those? By this standard, these broadcasts should be eliminated forthwith.

The question that I think some have failed to ask themselves is why does Castro seek to abolish TV Marti? Why does he care if TV Marti does not penetrate Cuba? Because it does. TV Marti does penetrate Cuba and it does reach some Cuban households.

If we think about that, if we think about the messages that go to the Cuban government and the Cuban military who do have access to TV Marti and our ability to send messages at that level of the government, if we think about the ability to be ready in a time of transition when jamming may not done, when there is a movement internally in the country, our ability to talk to those people by the power of images, such as CNN, it will be important. We will not be able to do that transmission if we do not have TV Marti at that time.

In our own interest section, TV Marti is played. Over 75,000 Cubans enter our interest section every year. What are they doing while they are waiting to see a counselor or officer? They are seeing TV Marti and the broadcasts that are recorded.

Yes, Cuba does jam TV Marti some of the time, but America has never responded to a recipient country's jamming of programming by simply giving up. That is the standard the Members will set. If jamming is the reason why Members will not permit TV Marti to go forward, then understand that if any other countries are jammed, we do not have the audience share, and the same situation will be sought to apply for others.

The Cuban people have not given up on their hope of democracy. I do not think we in America who are a fountain and beacon of light to people throughout the world in terms of information, that we should be giving up on them and creating a different standard.

Even Joe Duffey of the United States Information Agency, the director, in letters to the gentleman from Kentucky (Chairman ROGERS), and others have said that they in fact believe that TV Marti can be effective. We need to make sure that at this point in time we in fact stand with the free flow of information.

Let me close on that. So many of my colleagues who have a disagreement about our policy talk about a free flow of information. We have heard in the past both Radio and TV Marti attacked on this floor. Now it is limited to TV Marti. Forty thousand Cubans; the ripple effect: 75,000 who see it at the U.S. intersection, the government officials, the military officials who have satellites. All of them make a dramatic impact, and the ripple effect of that can flow into the mightiest walls of oppression.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. MENENDEZ) has expired.

(On request of Mr. SKAGGS, and by unanimous consent, Mr. MENENDEZ was allowed to proceed for 2 additional minutes.)

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

Mr. MENENDEZ. I yield to the gentleman from Colorado.

Mr. SKAGGS. Mr. Chairman, I know the gentleman did not mean to

mischaracterize the recent survey that he referred to. In fact, as the gentleman may not be aware, the Broadcasting Board of Governors did not find a 1.5 percent audience share. In fact, they discounted this mock survey that both the gentleman from New Jersey and the gentleman from Florida earlier alluded to as being invalid, as having any statistical significance at all.

Mr. MENENDEZ. Reclaiming my time, Mr. Chairman, it is my understanding from Mr. Duffey, who is the USIA director and who ultimately oversees all of Cuban broadcasting as part of the broadcasting that the United States Information Agency does in terms of surrogate broadcasting, that that 1.5 percent is a valid share of the audience.

Mr. SKAGGS. If the gentleman will yield further, Mr. Chairman, in fact it is the Board of Broadcasting Governors that oversees this entire operation, not Mr. Duffy anymore, in terms of policy and validation. Mr. Duffy happened to dissent from the finding of the Board of Broadcasting Governors that basically discounted this so-called survey, which, as I mentioned earlier, was not a scientific survey at all. It was a survey voluntarily returned by visa applicants who had been standing in line.

Mr. MENENDEZ. Reclaiming my time, I would venture to say that the gentleman, with all due respect, and I know this is a passionate issue for him and he has pursued it year after year, that what the gentleman comes to the floor and suggests is also not based on any scientific survey.

I do believe that Mr. Duffey, who is a director of the United States Information Agency and oversees Voice of America, World Net TV, and others, has a greater ability than the gentleman or I, sir, to determine whether or not something is effective in the context of surrogate broadcasting from the United States throughout the world.

In that context, I am willing to listen to the expert in that context. He clearly believes that this makes sense.

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

Mr. Chairman, I rise in support of the amendment. For years I have supported the efforts of my colleagues to pass legislation which would make it more difficult for Mr. Castro to continue his dictatorship in Cuba. But I believe also that that effort should be bottomed on effective means of accomplishing the purpose, and that that effort should be bottomed on something which is going to spend the taxpayers' money well.

Here is a picture, and I am sorry that we do not have a bigger one, but this is TV Marti. We are going to spend $9 million on this picture being displayed in Havana. It is going to cost the Cubans for the jamming of TV Marti about the equivalent of the cost of about four 100-watt light bulbs a day. That is all it is going to cost. We are going to spend $9 million on this. It will be a fine employment for a number of people who will profess their strong anti-Castro credentials. It will be the continuation of $100 million in wasted public expenditures belonging to the American taxpayer.

It is not long back that there was a hurricane that hit down there in Florida. It blew down the balloon that holds up the transmitter. The interesting thing is that nobody in Cuba knew whether that balloon was up or down, and nobody in Cuba knew what was being sent out on TV Marti. But then, they did not know that when TV Marti's balloon was up, and they did not know that when TV Marti was broadcasting.

We are the conservators of money belonging to the taxpayers of the United States. The amount in this bill is only about $9 million. We can say that is not much money, but that is $9 million that we could spend for something else that would be more worthwhile. It is something which would enable us to perhaps have some more effective way of dealing with Fidel Castro and his thugs. It is also $9 million we could use better on efforts to better the lives of our people. It is $9 million that we could use better to perhaps reduce the national debt.

I understand the enthusiasm of my colleagues who support the cause of Cuba. They figure anything we do which is going to hurt Castro is good. That is fine reasoning, providing it in fact does hurt Mr. Castro, and provided in fact it does see to it that Mr. Castro leaves office at the earliest possible minute and that democracy be restored to Cuba. Certainly that is a laudible goal for the United States.

But to spend $9 million a year broadcasting a picture which looks like this to Cuba and culminates in $100 million in expenditures over time, whose sole visible benefit to the United States is that we have provided modest levels of increased employment in Florida for people who profess to be opposed to Castro, no.

I am not a representative of anybody except the American people and the folks of the 16th District. I think that almost every one of us would say that that was our function here in the Congress, to serve the people that elect us, and also to serve the interests of the people of the United States.

We should look at this picture and ask ourselves whether this is what we want to spend our constituents' money on. We should ask ourselves whether we want to spend the taxpayers' money on something that has proven to reach so few people, to confer so little benefit on the United States, to do so little hurt to communism and Fidel Castro, and to do so at such large costs.

TV Marti has been reviewed time after time, including by agencies like the General Accounting Office. They have found that it is totally ineffective, and it is totally ineffective in terms of getting whatever story there is out.

The one good thing that can be said about TV Marti is that it has given a rallying point to anti-Castro Cubans. It has provided fine employment for them. It has given them leverage and political posture and position in the United States, but it has done nothing to hurt Fidel Castro or communism, or to further our American policies.

Indeed, all it has done has been to dissipate some significant amounts of energy, large amounts of the taxpayers' money, and to provide a fiction that people can come in here and tell us something. Look at this picture. That is what Cubans in Havana are seeing. It is a picture of a well-scrambled, well-obfuscated television channel which is costing the Cubans virtually nothing, but which costs the United States a lot. Support the amendment. Let us get rid of this turkey.

□ 1615

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

Mr. Chairman, this House is the institution in the world that epitomizes freedom in the world. Our country, the oldest democracy in the history of the world, when we say that it just kind of rolls off our tongues, but I think every once in a while we need to stop and think about what that means.

The price of freedom has not been easy, as all of us know. It has been costly in many ways, in lives and money over hundreds of years at this point in time. This House and this country has had a commitment to that. We have used a variety of methods to achieve our goals. Who would have thought in this Chamber, in this country, really in this world that the Berlin Wall came down, the Soviet Union does not exist. And how did that happen?

History books will be written about how it happened, why it happened. But I think clearly an instrumental part of that was Radio Free Europe. The facts are it was jammed. It was jammed on a continuous basis. It was jammed more effectively, less effectively during different points in time. The facts are that we are trying to bring freedom throughout the world today in the darkest corners of this planet, where freedom has what appears to be no hope, whether it is in North Korea or in China.

We are committed as an institution, I think universally, every one of us, I really believe, as well as every American, towards those goals. Yet in those countries I just mentioned, as we try to broadcast in to them, the penetration, because of effective jamming, is

very, very small. Less than 1 percent of people in those countries are able to hear what we broadcast.

At no point in the history of the United States of America have we given up on our actions towards freedom. This amendment is an attempt to do exactly that. I urge my colleagues to defeat this amendment because this would be a dark chapter in the history of this House, a turning back of really over 200 years of American freedom.

My colleagues, several colleagues have argued of the fact that a very small percentage of Cubans are able to see TV Marti, I can even accept that, of 1.5 percent. But let us talk about what that means. That means 40,000 people, 40,000 people do have access. And this is not, it is funny, in terms of what the reality is of Cuba.

I happen to represent the district in this country closest to Cuba. I represent south Florida and the Florida Keys, including Key West. When I am in Key West, I am 90 miles from Havana. I am actually 110 miles from Miami. I actually live about 60 miles north of Miami. My district goes even further north, to give my colleagues a sense of the geography of south Florida.

I live in a community, I have friends and I have actually been to Cuba on several occasions when we have had emigration go through at Guantanamo station. I have had the opportunity to talk to people who literally walk through mine fields, literally walk through mine fields to get to freedom. Some of the people that walked through did not make it. It is not a movie. It is a reality of what the country is today.

We hear from movie stars who go there, the Jack Nicholsons of the world, who idolize or make statements about Fidel Castro. I would point my colleagues to the statement of one of our colleagues, the gentleman from California (Mr. LANTOS), who is the only Holocaust survivor in this Chamber, who visited Cuba and talked to us and said that Cuba today, in terms of the people, is worse than pre-Nazi Germany. That is from his words and from his eyes. It is a country of political prisoners. It is not the idyllic island in the Caribbean of serenity and golf courses. It is a place of torture. It is a demon in our midst, a demon 90 miles from our shore.

To send the message that we do not care, that we are willing to put up with it, that we, for the first time in the history of the United States of America, are going to back down on our commitment to freedom would be absolutely tragic.

I urge my colleagues to defeat this amendment.

Mr. SMITH of New Jersey. Mr. Chairman, I move to strike the requisite number of words.

I rise in opposition to the Skaggs amendment which would zero out all funding for TV Marti. The Skaggs amendment is aimed at the heart of what is sometimes called surrogate broadcasting. An even better term is freedom broadcasting, sending the message of freedom to people who live in countries where this message is not permitted to be carried on domestic radio and television stations.

The Skaggs amendment would deprive the many thousands of Cubans who are now able to see TV Marti, despite the Castro regime's jamming of vital information about the free world. This would not be the only effects of the amendment. If the United States concedes defeat to Castro, we will also be depriving millions of Cubans of the hope that comes with knowing that the free world cares.

Eliminating freedom television broadcasting to Cuba, as the Skaggs amendment will do, would send exactly the wrong message at exactly the wrong time. The silencing of TV Marti would provide new hope for the Castro dictatorship and a fresh dose of despair for the Cuban people.

The argument that TV Marti is technologically inadequate and that we should, therefore, not fund it is designed to be a self-fulfilling prophecy. The Subcommittee on International Operations and Human Rights, which I chair, has examined this question in public hearings over the last 3 years.

We discovered, in effect, that it is too soon to evaluate the success of TV Marti because, frankly, the Clinton administration has never really tried to make TV Marti work. The reasons TV Marti does reach some Cubans have nothing to do with technology. They have more to do with administrative timidity.

Right now, because of jamming by the Castro regime, TV Marti admittedly has an audience in Havana that is probably limited to about 40,000 people. But it could also be received by many more people outside of the Havana area, as well as by government officials and the Communist Party elite who have access to satellite television.

It is important to let these officials know that the world is watching them, but there is no question we can do better. I am informed that Castro has devoted 15 to 20 powerful transmitters to jamming TV Marti, while we employ only one transmitter to send the signal.

In the past when tyrannical regimes have jammed the Voice of America or Radio Free Europe or Radio Liberty, we have responded to the jamming with more powerful transmitters and multiple transmission sites. When it comes to jamming and finding solutions to jamming, we regularly defeated the Soviet Union in its heyday.

I believe we can defeat the Castro regime, at least getting information in. The only question is whether we have the political will. I remind my colleagues that when the authorizing bill came up on the floor for the foreign relations reform bill, H.R. 1757, I offered the amendment on Radio Free Asia that would make it a 24-hour service. It is about a third of that right now. Twenty-four hours, despite the fact that Radio Free Asia was being jammed routinely by the Beijing dictatorship as well as by the Hanoi dictatorship.

But we made the decision that we were going to try to overcome the obstacles and get the message through. I happen to believe that that can be the case if there is the political will to do so. Where there is a will there is a way. Unfortunately, right now we are allowing this not to get through, because we do not have that want, that ability to push hard. Really, it is the old Washington two-step. You cripple it, you do not do everything that you could possibly do, and then you say it is not working.

We have yet to really try, and I remember when Radio Marti, when Members would stand up and many of the opponents who are against it would stand up and say it is not getting through. It is getting through now in many instances, and I think the same will happen with TV Marti. We have got to have the political will, and hopefully the administration will get that soon.

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

Mr. Chairman, I just do not know what is wrong with the gentleman from Colorado. I just do not understand why he thinks it is a waste to spend $110 million to produce such a beautiful example of modern art.

This, as has been indicated in the debate before, is a picture of the channel 50 as it is being jammed by Cuban authorities. This is what Cubans are learning when they watch the TV channel which is being jammed. I, for the life of me, cannot figure out why on earth the gentleman from Colorado thinks it is a waste of money to produce such a gorgeous picture.

I would have to say seriously, Mr. Chairman, it is my responsibility in this House, as the ranking Democrat on the Committee on Appropriations, to review spending priorities, not just in this subcommittee but in all 13 subcommittees across the government, and try to decide where we must have money spent and where it would be nice to have money spent but, nonetheless, cannot afford to have it spent. If ever there was an area that fell into the latter category, this is it.

I would simply point out, the issue is not whether we like Mr. Castro or not. The issue is whether or not we think it is worth spending $110 million of the taxpayers' money to get this. I do not believe it is.

I was just up in the Committee on Rules, listening to some of our friends

on the majority side explain to the Committee on Rules that we must eliminate the low-income heating assistance program in this country because we cannot afford to provide help to people who make $8500 a year or less to heat their homes. I come from a State where we have 40-below-zero winters. I do not think the people in my district would agree with that statement.

I do not think they would think it would be better to put money here than it would be to put it in the pockets of seniors and people making less than $8500 a year who need help so they do not have to choose between heating and eating.

I do not think that the young kids in this country who are going to be denied summer youth employment would think that this is a better investment than giving them their first experience at dealing with the world of work.

This Capitol just came under assault a week and a half ago. I happen to think that putting that money that is wasted on this nonsense would be far better spent if we put it into programs to help children with mental health problems so that they do not grow up to be the kind of nut cakes who just attacked the Congress last week and killed two people who gave their lives to defend the people who work in this place or visit this place every day.

We need to make serious choices about where money goes. This, Mr. Chairman, is not a serious choice.

Support the Skaggs amendment.

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

Mr. Chairman, I rise in support of the gentleman's amendment. I have listened to the sincerity of the debate on both sides. And I simply want to note at the beginning that I do not think that the gentleman from Florida (Mr. DIAZ-BALART) really meant to characterize the efforts of the gentleman from Colorado (Mr. SKAGGS) as being a jihad against anything, really. At least, if he did, I consider it to be a really unfortunate characterization.

I think the Skaggs amendment is nothing more or less than a sincere effort to cut funding this year, some 9.4 million in this bill, for a program which really has little demonstrable effect, however well intentioned.

I believe, if I am not mistaken, this has been the fifth year that the gentleman has offered such an amendment to cut TV Marti. And for those who are concerned that he is initiating this effort in an untimely way, that TV Marti has not had an opportunity to fix the technical problems, I would suggest that if within 5 years we cannot fix the technical problems associated with broadcasting TV Marti to Cuba, then perhaps it is time to stop funding it.

Also likewise with regard to the administrative problems associated with the program, administrative and managerial and programming problems, the gentleman made comparisons that it took 40.6 FTEs to produce a unit of broadcasting versus some much smaller, how much, with regard to radio, 8 for radio for other similar kinds of broadcasting.

□ 1630

That suggests there are some real programmatic inefficiencies, at least, in this program. And, again, this has gone on for a long number of years, 5 years, I know, that the gentleman has undertaken this effort. And if in that time we cannot fix these technological, these programmatic and these administrative and managerial problems that are associated with TV Marti, perhaps it is time to call it quits and consider applying this $9.4 million to some of the programs that the distinguished ranking minority member alluded to, or other programs in this very tight budget, such as drug courts or bulletproof vests or school security personnel. There are lots of worthy programs in this bill, lots of efforts that could be funded across this Nation with this $9.4 million.

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

Mr. MOLLOHAN. Mr. Chairman, I commend the gentleman for his effort and yield to the gentleman from Colorado.

Mr. SKAGGS. Mr. Chairman, I appreciate the gentleman yielding. My sense is we may not have other speakers, and I want to take a very brief moment to close the debate, if I may.

Again, with all respect to the earnestness and the heartfelt commitment expressed by those that oppose this amendment, I have to say to them that we have tried and tried and tried, and this simply does not work.

It is not, as the gentleman from New Jersey suggested a moment ago, a question of political will. Political will cannot repeal the law of physics, and it is the basic electronics of this that make it doomed to failure.

To compare it with radio is to do the apples and oranges thing. Yes, radio works, and all of the statistics cited I would not refute because they are radio statistics, and I am not touching Radio Marti. It does get through. Although a few years ago I criticized it and attempted to cut funding for it, it has reformed and it is now a legitimate, worthy operation.

I just ask my colleagues again to stop the insult to the American taxpayer of spending $10 million year in and year out to send no-see TV to Cuba. Stopping this will be a victory for them, not cause for celebration for Castro, because we will continue to penetrate that closed society with Radio Marti.

Mr. KENNEDY of Rhode Island. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to conclude this debate. I know it has been debated here this afternoon, the issue of Radio Free Marti, and the issue of what utility it has even though there is quite a bit of jamming going on.

I can tell my colleagues that Radio Free Marti is something that is important to the people of Cuba, who remain faithful to the ideal that they will someday have a democracy, and that will be based upon the freedoms that we enjoy in this country: the freedoms of speech. But we cannot expect that this thing is going to be born overnight. And the only way for us to prepare a free Cuba is to be able to prepare Cuba for the transition that it is inevitably going to make to a democracy, and the way to do that is through the instruments of democracy, and that is through freedom of speech.

Mr. Chairman, maybe not all of the people of Cuba are able to hear Radio Free Marti, but there are over 40,000 who are definitely able to tap into Radio Free Marti. And I know, from speaking to Cuban exiles here in this country that have spoken to me about their experience in Cuba, that they have translated to me the fact that although not everybody in Cuba is able to receive Radio Free Marti, the fact remains that their family members, their friends and so forth, amongst them all someone receives it and is able to spread the word.

How do we suppose that the underground press is able to operate over there? They are not able to operate in the current environment but for the fact that Radio Marti helps to balance out the flow of information that is being received by the people of Cuba. Are we supposed to give up on the people of Cuba just because a majority of people do not get Radio Free Marti? Are we supposed to assume that just because a majority do not understand it and receive it, that those that do are not spreading the word informally through the grapevine?

I think that this is an important vehicle for us to build a solid foundation for a future relationship between the United States and Cuba. Keep in mind, and I will conclude with this, keep in mind that Cuba is 90 miles off the coast of the United States. Someday we hope to enjoy a good strong relationship based upon democracy, and I should think that this is an investment that is worth our while because there is going to be a country that is close to us, and they are going to look back and understand that we were with them, the people of Cuba, I mean, all along, even though we were against their government.

I think that is the message that we want to make sure the people of Cuba understand, is our beef is not with the people of Cuba, it is with the Cuban government that continues, as all press have acknowledged, to be amongst the

most repressive regimes on the issue of free speech. So I think that means even more of an obligation for us in this country to make sure freedom of speech is not killed altogether on the island of Cuba.

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

Mr. KENNEDY of Rhode Island. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, I thank the gentleman for yielding, and I just want to say that I associate myself with the remarks of the gentleman from Rhode Island. He is absolutely right. It is absolutely imperative we defeat the Skaggs amendment and vote "no"on it.

Mr. KENNEDY of Rhode Island. Mr. Chairman, I take note of my colleague's comments from New York and say that I am glad that we have finally reached some accord on some issue on this floor.

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

Mr. KENNEDY of Rhode Island. I yield to the gentleman from Colorado.

Mr. SKAGGS. The Kennedy-Solomon rapprochement will be noted in the record, I am sure.

I just wanted to make sure the gentleman was aware, as he may not be, that my amendment does not deal with Radio Marti, to which the gentleman addressed all of his remarks. It is about TV Marti.

Mr. KENNEDY of Rhode Island. Excuse me. I mean to correct that. But the point of my remarks holds true, because what I am talking about here is the voice of democracy, whether that is TV or radio. The issue here is making sure the message gets across to the people of Cuba, and that is what is so fundamental here.

Ms. ROS-LEHTINEN. Mr. Chairman, will the gentleman yield?

Mr. KENNEDY of Rhode Island. I yield to the gentlewoman from Florida.

Ms. ROS-LEHTINEN. Mr. Chairman, I thank my colleague for yielding to me.

So many of our colleagues have been holding up a picture, and they say does this picture justify spending that much money on the transmissions of TV Marti? Let me show my colleagues a few more pictures. These are children who were killed by Castro's thugs just a few years ago.

This is a child just a few months old. This is a child about my daughter's age, right behind me, about 12 years of age. These were children who were killed, massacred, by Castro's thugs because they attempted to leave the island.

Now, this news was not broadcast on the Island of Cuba. Because of Radio and TV Marti, people understood what these pictures meant. And these pictures were transmitted on TV Marti airwaves. And as it has been pointed out, these pictures have been shown to thousands of Cubans who daily visit our U.S. interest section in Havana, thousands of people who go there because they are waiting for visas to come to the United States.

How about these pictures, I would say to my colleagues? What do these pictures say? They say to me that these are people who are risking their lives to live in freedom, to live in democracy, to live in the best of what brought us here to this country, whether we are native born or a naturalized American, as I am. This picture says a lot to me.

Mr. PAPPAS. Mr. Chairman, the Cuban people are yearning to breathe free. They are yearning for unbiased information—not communist propaganda from the Castro regime. TV and Radio Marti provide this medium of information to a people who are desperately seeking freedom. The United States via TV and Radio Marti greatly assists those who struggle for basic political and human rights everyday of their lives.

Imagine, Mr. Chairman, if you were forced to watch or listen to controlled information that merely glorifies a communist dictator and his policies and covers up the atrocities being inflicted on the Cuban people. Imagine, that you were not told that your country received resounding criticism from the international community when they brutally shot down Americans over international waters. Imagine you were not told that only the communist party elite were being paid in hard currency for their work with the tourist industry while the average Cuban citizen was paid in worthless pesos. Mr. Chairman, if TV and Radio Marti did not report this information (the truth) the Cuban people would be without a great resource and their quest for a democratic nation would be severely damaged.

Mr. Chairman, lets be honest with the Cuban people and let then have access to the real story. Defeat these amendments.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. MORAN) to the amendment offered by the gentleman from Colorado (Mr. SKAGGS).

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. SKAGGS), as amended.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SKAGGS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 172, noes 251, not voting 11, as follows:

[Roll No. 382]

AYES—172

Abercrombie
Allen
Baesler
Barrett (NE)
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Blumenauer
Boehlert
Bonior
Borski
Boucher
Brady (PA)
Brown (CA)
Brown (OH)
Camp
Capps
Carson
Christensen
Clayton
Clement
Clyburn
Coble
Collins
Cummings
Danner
Deal
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Ehlers
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Ganske
Gejdenson
Gibbons
Gilchrest
Hamilton
Harman
Hefner
Hilliard
Hinchey
Hinojosa
Hoekstra
Holden
Hooley
Houghton
Hoyer
Jackson (IL)
Jefferson
Johnson (WI)
Johnson, E. B.
Kanjorski
Kelly
Kildee
Kind (WI)
Kleczka
Klink
Kolbe
LaFalce
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (NY)
McDermott
McGovern
McIntyre
McKinney
Meehan
Meeks (NY)
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Nadler
Neal
Nethercutt
Neumann
Oberstar
Obey
Olver
Owens
Parker
Paul
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Regula
Rivers
Rodriguez
Roemer
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Sensenbrenner
Serrano
Shuster
Skaggs
Slaughter
Smith, Adam
Snyder
Stabenow
Stark
Stokes
Strickland
Stupak
Sununu
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Turner
Upton
Velazquez
Vento
Visclosky
Walsh
Waters
Watt (NC)
Waxman
Weygand
Woolsey
Wynn
Yates

NOES—251

Ackerman
Aderholt
Andrews
Archer
Armey
Bachus
Baker
Baldacci
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blunt
Boehner
Bonilla
Bono
Boswell
Boyd
Brady (TX)
Brown (FL)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Campbell
Canady
Cannon
Cardin
Castle
Chabot
Chambliss
Chenoweth
Coburn
Combest
Condit
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Davis (FL)
Davis (IL)
Davis (VA)
DeLay
Deutsch
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehrlich
Emerson
Engel
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Gekas
Gephardt
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson, Sam

Jones	Moran (KS)	Shadegg
Kaptur	Murtha	Shaw
Kasich	Myrick	Shays
Kennedy (MA)	Ney	Sherman
Kennedy (RI)	Northup	Shimkus
Kennelly	Norwood	Sisisky
Kim	Nussle	Skeen
King (NY)	Ortiz	Skelton
Kingston	Oxley	Smith (MI)
Klug	Packard	Smith (NJ)
Knollenberg	Pallone	Smith (OR)
Kucinich	Pappas	Smith (TX)
LaHood	Pascrell	Smith, Linda
Lampson	Pastor	Snowbarger
Lantos	Paxon	Solomon
Largent	Pease	Souder
Latham	Peterson (PA)	Spence
LaTourette	Petri	Spratt
Lazio	Pickering	Stearns
Leach	Pitts	Stenholm
Lewis (CA)	Pombo	Stump
Lewis (KY)	Porter	Talent
Linder	Portman	Tauzin
Lipinski	Pryce (OH)	Taylor (NC)
Livingston	Radanovich	Thomas
LoBiondo	Redmond	Thornberry
Lucas	Reyes	Thune
Maloney (CT)	Riggs	Tiahrt
Manton	Riley	Traficant
Manzullo	Rogan	Wamp
McCollum	Rogers	Watkins
McCrery	Rohrabacher	Watts (OK)
McDade	Ros-Lehtinen	Weldon (FL)
McHale	Rothman	Weldon (PA)
McHugh	Royce	Weller
McIntosh	Ryun	Wexler
McKeon	Salmon	White
McNulty	Sanford	Whitfield
Meek (FL)	Saxton	Wicker
Menendez	Scarborough	Wilson
Metcalf	Schaefer, Dan	Wise
Mica	Schaffer, Bob	Young (AK)
Miller (FL)	Sessions	Young (FL)

NOT VOTING—11

Clay	Gonzalez	McInnis
Conyers	Hall (OH)	Towns
Cunningham	Kilpatrick	Wolf
Furse	McCarthy (MO)	

□ 1700

Messrs. GRAHAM, LAMPSON, SHERMAN, BILBRAY and SHIMKUS changed their vote from "aye" to "no."

Messrs. PAUL, COBLE, NEUMANN and Ms. DELAURO changed their vote from "no" to "aye."

So the amendment, as amended, was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. LATOURETTE). The Clerk will read.

The Clerk read as follows:

In addition, $25,553,000, for such purposes, to remain available until expended, to be derived from the Violent Crime Reduction Trust Fund.

JUSTICE PRISONER AND ALIEN TRANSPORTATION SYSTEM FUND, UNITED STATES MARSHALS SERVICE

There is hereby established a Justice Prisoner and Alien Transportation System Fund for the payment of necessary expenses related to the scheduling and transportation of United States prisoners and illegal and criminal aliens in the custody of the United States Marshals Service, as authorized in 18 U.S.C. 4013, including, without limitation, salaries and expenses, operations, and the acquisition, lease, and maintenance of aircraft and support facilities: *Provided*, That the Fund shall be reimbursed or credited with advance payments from amounts available to the Department of Justice, other Federal agencies, and other sources at rates that will recover the expenses of Fund operations, including, without limitation, accrual of annual leave and depreciation of plant and equipment of the Fund: *Provided further*, That proceeds from the disposal of Fund aircraft shall be credited to the Fund: *Provided further*, That amounts in the Fund shall be available without fiscal year limitation, and may be used for operating equipment lease agreements that do not exceed 5 years.

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

Mr. Chairman, the Committee has been very generous in the past 2 years in appropriating some $20 million each year to the Boys and Girls Clubs of America from the Local Law Enforcement Block Grants program to assist them in reaching an additional 400,000 young people each and every year. This money has been matched at least dollar for dollar by local sources and is sustained in the long-term by private sector funding, including companies such as Coca-Cola, Nike, Tupperware, Major League Baseball, Ford Motor, EDS, Taco Bell and many, many others.

With more than 2,000 local clubs serving nearly 3 million young people, primarily in at-risk communities, this money is very well spent.

It is an effort to provide productive activities that offer our youth an alternative to crime.

Mr. Chairman, I understand that the other body has allocated $40 million for the Boys and Girls Clubs program.

Given the increased needs of the program and its record of achievement in outreach, will the gentleman work with me to provide access to additional funds in the conference committee?

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

Mr. BARCIA. I yield to the gentleman from Kentucky.

Mr. ROGERS. Mr. Chairman, this has been a worthwhile program, as the gentleman has indicated, and I will be happy to work with the gentleman to consider a possible increase in money within our budget limits, which as you know are very tight.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

FEDERAL PRISONER DETENTION

For expenses, related to United States prisoners in the custody of the United States Marshals Service as authorized in 18 U.S.C. 4013, but not including expenses otherwise provided for in appropriations available to the Attorney General, $425,000,000, as authorized by 28 U.S.C. 561(i), to remain available until expended.

FEES AND EXPENSES OF WITNESSES

For expenses, mileage, compensation, and per diems of witnesses, for expenses of contracts for the procurement and supervision of expert witnesses, for private counsel expenses, and for per diems in lieu of subsistence, as authorized by law, including advances, $95,000,000, to remain available until expended; of which not to exceed $6,000,000 may be made available for planning, construction, renovations, maintenance, remodeling, and repair of buildings, and the purchase of equipment incident thereto, for protected witness safesites; and of which not to exceed $1,000,000 may be made available for the purchase and maintenance of armored vehicles for transportation of protected witnesses.

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service, established by title X of the Civil Rights Act of 1964, $6,699,000 and, in addition, up to $1,000,000 of funds made available to the Department of Justice in this Act may be transferred by the Attorney General to this account: *Provided*, That notwithstanding any other provision of law, upon a determination by the Attorney General that emergent circumstances require additional funding for conflict prevention and resolution activities of the Community Relations Service, the Attorney General may transfer such amounts to the Community Relations Service, from available appropriations for the current fiscal year for the Department of Justice, as may be necessary to respond to such circumstances: *Provided further*, That any transfer pursuant to the previous proviso shall be treated as a reprogramming under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

AMENDMENT OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. JACKSON-LEE of Texas:

On page 11, line 14, strike $6,699,000 and insert $7,199,000.

Ms. JACKSON-LEE of Texas. Mr. Chairman, this amendment means a lot to many of us and before I start, I would like to thank both the gentleman from California (Mr. DIXON), the ranking member, the gentleman from West Virginia (Mr. MOLLOHAN), and the chairman, the gentleman from Kentucky (Mr. ROGERS), for their support and because of their understanding of the impact and the concern that is raised by this amendment.

If we all could imagine just for a moment a dark and winding road on a very, very dark night and the next morning finding a bloody path of the dismembered body of James Byrd. This incident rocked not only this Nation but it rocked the world and a town like Jasper was put in the spotlight.

If there ever was a time that a city needed the cooperative, quiet expertise of the Community Relations Service, possibly a little known service of the United States Justice Department, it was certainly then at a very difficult time in June in the State of Texas and in the city of Jasper.

But the work of the Community Relations Service is not limited to a tragedy like Jasper. We find that that service with limited staff goes through this Nation to bring unity and commonality and to bring people together after tragic events or when local officials feel that there is no way they can handle these issues alone.

Mr. Chairman, I rise to provide additional funding to the Community Relations Service, and I am pleased to say

that this service is receiving the recognition it deserves under the current Commerce, Justice, State appropriations bill.

The Committee on Appropriations has generously agreed to increase CRS funding by an additional $500,000 with an additional authorization under the Attorney General's funding for $1 million. This goes a long way beyond the $5.3 million presently allotted.

In May 1998, $2 million was transferred from the Assets Forfeiture Fund under appropriations to the CRS. That added additional money. This money, however, was specifically earmarked as a one-time-only increase in order to enable CRS to update their archaic computer systems. Presently CRS has only used $800,000 of those moneys and so they will be able to use that money in addition to this amendment. But they are still underfunded. They have worked hard in my home State around this very crucial tragedy in Jasper, Texas.

Let me share with this body a letter dated July 13, 1998 from the mayor of the city of Jasper, Mayor Horn:

I am writing to alert you to the excellent work of the U.S. Department of Justice Community Relations Service in helping to keep this community together after the tragic and brutal murder of Mr. Byrd on June 7, 1998. As a local official in Jasper County, I am particularly concerned about the effect such a heinous incident can have on a community. Mr. Ephraim V. Martinez from the Houston CRS office met with us shortly after the tragedy and he and other CRS staff have been there practically every day since then meeting with all segments of our community in providing valuable support. CRS was also with us as we made preparations for the recent rallies by the KKK and the New Black Panther Party. In August CRS will be providing diversity and conflict management training to school district personnel and later to students, and in addition they will be helping us to fund and to organize a citywide community task force to deal with these racial concerns.

CRS was crucial in helping the community begin healing during the aftermath of Mr. Byrd's tragic death and as well they worked very hard during the recent rallies opposing the KKK.

Mr. Chairman, I can say to Members, I was there along with my colleagues from Texas and particularly the gentleman from Texas (Mr. TURNER) who represents that area, during these troubling times. We saw the tension, the pain, the dismay, and CRS was on the ground helping that community to heal. They were not fearful, they were not hysterical, they were calm. And the local officials welcomed them into their community. They brought together all kinds of people, in prayer, in deliberation and, yes, in resolution. CRS services are sought by mayors, police chiefs, school superintendents and civic leaders.

Mr. Chairman, is it not true an important part of the Federal Government is to coalesce with those individuals in local government to make better what is bad? The Community Relations Service helps to bring about racial harmony over racial disharmony.

The CHAIRMAN pro tempore. The time of the gentlewoman from Texas (Ms. JACKSON-LEE) has expired.

(By unanimous consent, Ms. JACKSON-LEE of Texas was allowed to proceed for 1 additional minute.)

Ms. JACKSON-LEE of Texas. But yet in all of that, we find that CRS has had to deny over 40 percent of the applicants who have wanted them to come in and assist in promoting racial harmony. We have also found that they have helped in communities that suffered the rage of Church arson burnings.

CRS has a staff that is overworked. With this increased funding, I hope CRS can increase staff and go out into new areas and bring about the racial harmony, the ethnic harmony, the religious harmony that this Nation truly agrees with.

Finally, Mr. Chairman, that I thank those who have assisted me in this amendment and ask that we realize the importance of the Community Relations Service and provide this additional funding so that they may do their job well.

(On request of Mr. DIXON, and by unanimous consent, Ms. JACKSON-LEE of Texas was allowed to proceed for 2 additional minutes.)

Ms. JACKSON-LEE of Texas. I yield to the gentleman from California.

Mr. DIXON. I would like to congratulate the gentlewoman for this excellent amendment. The testimony by the Attorney General of the United States is that CRS does excellent work. Her amendment will certainly add to the efficiency of the organization. I would urge the chairman and the ranking member to accept this amendment.

Mr. ROGERS. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Kentucky.

Mr. ROGERS. I am prepared to accept the amendment. I think it is an excellent amendment and would be prepared to accept it, but I would hope that we could do that very quickly, because we do have much more business to attend to. Can we agree and let this be the end of it?

Ms. JACKSON-LEE of Texas. Mr. Chairman, if the gentleman from Kentucky would be so kind, because he has been kind, I know we had a very vigorous debate, if he would allow three speakers who have been waiting here for three hours to speak and contain their remarks in maybe five minutes, because I am told they will be very brief, I would ask his indulgence because some of them have had personal experience with the CRS, and then we would be happy to close at that point.

Mr. ROGERS. The gentlewoman has three speakers?

Ms. JACKSON-LEE of Texas. Yes. And I believe, I do not want to speak for them, but I believe they may be able to summarize in that time frame of the five minutes.

CITY OF JASPER,
Jasper, TX, July 13, 1998.

Hon. SHEILA JACKSON LEE,
U.S. House of Representatives,
Washington, DC.

Dear Ms. LEE: Let me first of all express my appreciation for being with us during the funeral services for James Byrd, Jr. on June 13, 1998, and for your continued support.

I am writing to alert you to the excellent work of the U.S. Department of Justice, Community Relations Service (CRS) in helping to keep this community together after the tragic and brutal murder of Mr. Byrd on June 7, 1998. As a local official in Jasper County, I am particularly concerned about the effect such a heinous incident can have on a community.

Mr. Efrain V. Martinez from the Houston CRS office met with us shortly after the tragedy, and he and other CRS staff have been here practically every day since then, meeting with all segments of our community and providing valuable support. CRS was also with us as we made preparations for the recent rallies by the KKK and the New Black Panther Party. In August, CRS will be providing diversity and conflict management training to school district personnel, and later to students.

CRS staff is currently working with us in convening a permanent, city-wide community task force to deal with racial concerns and other matters that have surfaced as a result of the tragedy. The task force will be under my office, and will be called the Mayor's Community Task Force "2000".

CRS is a unique arm of the Federal government, charged with helping communities address tensions which arise due to differences in race, ethnicity and national origin. While cases like the incident in Japser grab the media headlines and shock the nation, CRS responds to similar incidents, large and small, across the country. I also have become aware of the excellent work CRS did to resolve tensions between Vietnamese fishermen and the KKK on the Texas coast, and the issues between Vietnamese store operators and African-American communities in Houston, and blacks and police issues in Austin. Last year, it also convened church arson prevention seminars in several Texas cities, including Houston and San Antonio. Earlier this year, it conducted hate crimes training for police officers, and police executives in the Houston area and in Corpus Christi.

In recent years, CRS has struggled to maintain adequate funding. In FY 1998, CRS suffered massive budget reductions which cut the agency in half. With a modest budget of $5.3 million, CRS now has the smallest staff in its history.

I am asking you, as an elected representative of our great state, to help support the Community Relations Services (CRS). President Clinton has requested funding for CRS at $8.9 million for 1999. This represents a small investment given CRS' valuable and critical work in communities across America. We here in Japser certainly appreciate its assistance.

Thank you for your attention and consideration.

Sincerely,

R.C. HORN,
Mayor.

Mr. ROGERS. Mr. Chairman, I ask unanimous consent that the gentlewoman be given three minutes to yield as she sees fit.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Kentucky?

Mr. MOLLOHAN. Mr. Chairman, I object. We can get the gentlewoman time, but these other speakers have been waiting. Under the five-minute rule they have a right to strike the last word and have their own time.

The CHAIRMAN pro tempore. Objection is heard.

Mr. ROGERS. Then I am not so sure we need to agree to this amendment. If there is going to be an objection on the time allocation of this strict a nature, then perhaps we need to renegotiate the whole thing, so I withdraw my approval of the amendment.

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

Mr. Chairman, I will not take but a second because I certainly do not want to threaten my colleagues' time with this wonderful amendment. But I want to stand because of the fact that I am very well acquainted with the work of the CRS.

□ 1715

I come from an area that has had several racial conflicts, and if it were not for the intervention of the CRS, much could have happened that did not. They come in in a professional way, they work with the groups there, they work with the agencies, they work with the people on the street, and it is always good to have a Federal presence in the neighborhood and in the community when violence or conflict happens.

Mr. Chairman, I think we should realize that this is an important service that the Department of Justice gives, and it is always good for people to see both sides of the Department of Justice, not just the enforcement side but the preventive side. When they come in and help to have some of the conflict resolved, it is extremely important, and they do not come in and try to work alone. They work with the enforcement agencies that are already in those communities.

I am from Miami, Florida. I have seen CRS work, and I do hope, because they have accepted this amendment, I think the gentleman from Kentucky (Mr. ROGERS) and his committee have done a credible job of accepting this amendment because it is good and it is needed.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I simply want to say that I support this amendment. Clearly, they have been extremely responsive. I made a request Monday following the funeral, spoke very personally to the Director of the FBI as well as Ms. Ochi, who is the National Director of CRS. They have come to give dates, and they will continue to work in that community, and they have been responsive not only for that community but for communities all over the Nation.

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

Mr. Chairman, I certainly do not intend to prolong the time. As a matter of fact, Mr. Chairman, I would hope that the agreement would, in fact, stand, that this amendment be accepted. I simply rise because it is such an important concept; that is, the concept of resolving conflict, not just letting it lay, not letting it go, not hoping that things are going to work out but actually putting resources together to help work them out. I think that is an important concept, and I would certainly hope that the gentleman from Kentucky (Mr. ROGERS) would continue to hold in terms of the agreement to accept the amendment.

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

Mr. Chairman, I, too, would like to encourage the gentleman from Kentucky (Mr. ROGERS) to allow this free and open dialogue concerning the good work of CRS to go forward. One of the healthy things about the American democracy is that people do have an opportunity of free speech, open and healthy debate and dialogue, in support of their views and opinions, and I would trust that we would not in any way interrupt that in this very beautiful process called the United States Congress.

The gentlewoman from Texas (Ms. JACKSON-LEE) has offered a very potent amendment. We cannot ignore the problem of the lingering racism in our society in recent months. We have seen racism expressed in violent and grizzly fashion. The Nation was horrified when James Byrd was dragged to his death behind a pickup truck in Jasper, Texas, just because he was African American. The Community Relations Service played a key role in keeping the community of Jasper together after this tragic incident and prevented the spread of more violent racial incidents.

Mr. Chairman, CRS services help local communities prevent racial conflicts and violence, and I would trust that we would continue to ensure that the amendment of the gentlewoman from Texas (Ms. JACKSON-LEE) is in fact upheld for this vital and necessary and humanitarian endeavor.

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

Mr. Chairman, I rise in support of the Community Relations Service and the Jackson-Lee amendment. As many of my colleagues know, Jasper, Texas, located in my congressional district, experienced a terrible racially-motivated crime when James Byrd, Jr., was brutally dragged from the back of a pickup by three white men identified with white supremacy groups. For all of us who believe that racial prejudice and hatred have no place in American society, this tragic event serves as a reminder of how much is left to be done.

Shortly after Mr. Byrd's death my fellow congressional colleagues and I passed a resolution asking that we join together to eliminate the vestiges of racial hatred remaining in our society. Now we have a chance to put our money where our mouth is.

Mr. Chairman, the Community Relations Service has done an outstanding job in keeping the community together in Jasper after the tragic and brutal murder of James Byrd on June 7 of this year. Mr. Efrain Martinez from the Houston CRS office met with Mayor R.C. Horn and community leaders in Jasper immediately after the tragedy, and he and other CRS staff have been there practically every day since, meeting with all segments of the community of Jasper, providing needed support.

CRS worked with the community as they made preparations for the recent rallies of the Ku Klux Klan and the new Black Panther party. Later this month CRS will be providing diversity and conflict management training to school district personnel, and later to students. CRS staff is currently working with Jasper in convening a permanent city-wide community task force to deal with racial concerns and other matters that have surfaced as a result of this senseless tragedy. The task force will be headed by Mayor R.C. Horn and will be called the Mayor's Community Task Force 2000.

CRS is a unique arm of the Federal Government charged with helping communities address tensions which may arise due to differences in race, ethnicity or national origin. Without CRS assistance, unresolved community racial tensions and conflict can fester and become fuel for even more serious community-wide civil unrest.

While cases like the incident in Jasper grab the media headlines and shock the Nation, CRS is responsible for dealing with similar incidents, large and small, all across this country. I am aware of the excellent work that CRS has done in my home State of Texas to resolve tensions between Vietnamese fishermen and the Ku Klux Klan. They have also worked to resolve issues between Vietnamese store operators and an African American community in Houston, and to deal with problems between the police and African Americans in Austin. Last year CRS also convened church arson prevention seminars in several Texas cities, including Houston and San Antonio. Earlier this year it conducted hate crimes training for police officers and police executives in the Houston and Corpus Christi areas.

In recent years CRS has struggled to maintain adequate funding. In fiscal year 1998 this valuable organization suffered massive budget reductions which cut the agency in half. With a modest budget of $5.3 million, CRS now has the smallest staff in its history.

The amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE) asks for another $2 million to bring CRS' budget to the $9 million recommended by the President. This represents a small investment given the valuable and critical work of CRS in communities all across our country. I know the citizens of Jasper, Texas who have pulled together in this time of tragedy, in these trying circumstances, appreciate the assistance that they received from CRS. Let us renew our commitment to root out racial prejudice in our society, to bring our Nation together. Let us remember James Byrd's death.

Mr. Chairman, I urge my colleagues to give CRS the additional $2 million that it needs to carry out its valuable work.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. TURNER. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman, and, as I expressed, we were actually on the ground in Jasper to see how that community was brought together, and I think it is important to note that Texas does not stand as the poster child for these kinds of heinous acts. CRS goes all over the Nation fighting for those who have been discriminated against and where there is racial strife.

We have seen the increase in hate crimes against African Americans, against Hispanics, against gays and lesbians, against Anglos, against those who have different religious faith. The CRS is able to go in and to ease the pain of that community, and I just want to note what the gentleman said: Between 1992 and 1997 the CRS budget declined more than 80 percent and its staffing by two-thirds, an all time low.

So I thank the gentleman from Texas (Mr. TURNER) for his kind words on helping to support an amendment that provides an extra $500,000 for this service.

The CHAIRMAN pro tempore (Mr. LATOURETTE). The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The amendment was agreed to.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

ASSETS FORFEITURE FUND

For expenses authorized by 28 U.S.C. 524(c)(1)(A)(ii), (B), (F), and (G), as amended, $23,000,000, to be derived from the Department of Justice Assets Forfeiture Fund.

RADIATION EXPOSURE COMPENSATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses in accordance with the Radiation Exposure Compensation Act, $2,000,000.

INTERAGENCY LAW ENFORCEMENT

INTERAGENCY CRIME AND DRUG ENFORCEMENT

For necessary expenses for the detection, investigation, and prosecution of individuals involved in organized crime drug trafficking not otherwise provided for, to include intergovernmental agreements with State and local law enforcement agencies engaged in the investigation and prosecution of individuals involved in organized crime drug trafficking, $304,014,000, of which $50,000,000 shall remain available until expended: *Provided*, That any amounts obligated from appropriations under this heading may be used under authorities available to the organizations reimbursed from this appropriation: *Provided further*, That any unobligated balances remaining available at the end of the fiscal year shall revert to the Attorney General for reallocation among participating organizations in succeeding fiscal years, subject to the reprogramming procedures described in section 605 of this Act.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For necessary expenses of the Federal Bureau of Investigation for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use of not to exceed 2,688 passenger motor vehicles, of which 2,000 will be for replacement only, without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance, and operation of aircraft; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General, $2,750,615,000; of which not to exceed $50,000,000 for automated data processing and telecommunications and technical investigative equipment and not to exceed $1,000,000 for undercover operations shall remain available until September 30, 2000; of which not less than $282,473,000 shall be for counterterrorism investigations, foreign counterintelligence, and other activities related to our national security; of which not to exceed $69,846,000 shall remain available until expended, of which not to exceed $8,046,000 shall be for equipment to address chemical and biological attacks; of which not to exceed $10,000,000 is authorized to be made available for making advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to violent crime, terrorism, organized crime, and drug investigations; and of which $1,500,000 shall be available to maintain an independent program office dedicated solely to the automation of fingerprint identification services: *Provided*, That not to exceed $45,000 shall be available for official reception and representation expenses: *Provided further*, That no funds in this Act may be used to provide ballistics imaging equipment to any State or local authority which has obtained similar equipment through a Federal grant or subsidy unless the State or local authority agrees to return that equipment or to repay that grant or subsidy to the Federal Government.

AMENDMENT OFFERED BY MR. SOUDER

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

The Clerk read as follows:

Amendment offered by Mr. SOUDER:

Page 13, line 22, after the dollar amount, insert "(increased by $6,000,000)".

Page 15, line 1, after the dollar amount, insert "(reduced by $6,000,000)".

Page 26, line 17, after the dollar amount, insert "(increased by $6,000,000)".

Page 30, line 3, after the dollar amount, insert "(increased by $6,000,000)".

Page 43, line 7, after the dollar amount, insert "(reduced by $21,579,000)".

Page 44, line 6, after the dollar amount, insert "(reduced by $3,600,000)".

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

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. SOUDER. Mr. Chairman, this amendment raises the funding for drug court programs by an additional $6 million over the amount currently contained in the bill, which we also just added $3 million to a little while ago in the amendment offered by the gentleman from Nevada (Mr. ENSIGN). Although the committee should be commended for providing a $10 million increase plus the $3 million that were accepted over last year's level and the President's request for drug courts, I believe that the demand and social and economic benefits of the program justify an even larger increase.

There is no greater issue in our society than our war against illegal drugs. It is both a war and, as our drug czar said, a cancer, and we need creative solutions to address this.

I want to commend the chairman of this subcommittee who has been a leader in the drug task force, the Anti-Drug Task Force, as we work towards a drug-free America, and for his willingness to increase, as he has pointed out with this amendment, a 33 percent increase in drug courts in this country. However, we also have already pending requests that are 50 percent higher.

One of the problems that we go through in appropriations bills are tough choices, and this amendment offers such a tough choice. The increase in drug court funding in my amendment would be provided by reducing the bill's increases in funding for the Economic Development Administration to a 2 percent increase to account for inflation.

Let me say that again. We are not eliminating EDA, we are not decreasing EDA. The money would come only by reducing the bill's 18.9 percent increase in salaries and expenses in EDA and the 8.4 percent increase in grants to a 2 percent level of inflation. In my view, any increase over and above the level of inflation is not appropriate in light of the health of the economy, the reservations about the effectiveness of EDA, and this opportunity to put more money into drug courts.

Now let me once again explain a little bit about drug courts. They are used to place nonviolent drug defendants in judicially supervised treatment

programs. A drug court is a successful alternative to placing drug users in overcrowded jails, where in all likelihood they will serve little time and receive no form of substance abuse treatment. We recently heard testimony in the Subcommittee on National Security, of which I am vice chairman, that individuals who were referred to drug treatment programs through drug courts and other parts of the criminal justice system stayed in treatment significantly longer than referrals from other sources.

The success of drug courts has been in part demonstrated by the dramatic increase in the number of courts across the Nation. Since 1989 more than 275 jurisdictions have implemented a drug court to address the problem of substance abuse in crime. Currently there are another 150 drug courts being planned and another 13 jurisdictions are exploring the feasibility of these drug courts.

Drug court participants and graduates are not rearrested. The recidivism rate for drug court participants and graduates ranges from 2 to 20 percent, far below that in any other drug program. Drug court participants and graduates break their addictions. The average positive urinalysis test while in drug court is only 15 percent. In some jurisdictions, such as San Jose, California, it is as low as 7 percent, significantly lower.

Drug courts also have saved the lives of innocent babies. Five hundred twenty-five drug-free babies have been born to participants of drug courts. They reunite families. Over 2,430 parents regained custody of their children. Drug courts help former addicts become constructive members of society. Seventy-five percent of drug court graduates either retain or obtain employment.

□ 1730

The important thing to remember here is that all across the country, in many jurisdictions, including in my hometown of Fort Wayne, where Ron Davenport, the head of the Washington House, has indicated that the Drug Court program works because it provides a simple motivation to participants. If they do not cooperate, they go to jail. But it also moves them into treatment programs and creative ways to do this.

It has been demonstrated, as I said, in my home area. There is another 50 percent increase waiting to come into this system, and conversely, there seems little need to provide significant increases to EDA when the country continues to enjoy strong economic growth. My amendment would only reduce the increases to the level of inflation. This is not an attempt to eliminate EDA.

I know there are many supporters in Congress for EDA. The question is, should EDA be increased more than 2 percent, or should that money go to Drug Courts? I believe, given the nature of the problems that we face in every Congressional district in this country, in families across this country, whether it be in direct crime, in property, or violence or internal family violence caused by drug and alcohol abuse, Drug Courts are an area where we should boost up.

As I said earlier, this is a matter of priority. Where would you put your money? To the increased funding in EDA, or to the increased funding in Drug Courts, which I grant has gone up, but is not going up enough to meet the demand.

Mr. ROGERS. Mr. Chairman, I rise in strong opposition to the amendment.

Mr. Chairman, there he goes again, and here we go again. An amendment plain and simple to severely cut funding for the Economic Development Administration. I strongly urge a no vote on the gentleman's amendment.

Mr. Chairman, this is not a vote about whether or not you support the Drug Court program. We support the Drug Court program in this bill at an unprecedented historic level. We already provide tremendous increases for Drug Courts. In fact, the bill includes a 43 percent increase above current level spending, and well above the Administration's request for the Drug Court program. In fact, a few minutes ago there was an amendment that passed this House with our approval that increased Drug Courts even more, another $3 million, by the gentleman from Nevada (Mr. ENSIGN).

Make no mistake about it. What this debate really is all about is whether or not you support EDA. This debate we have had over and over again, year after year on this bill, and every time this House has stood fast with those who want to help the most distressed portions of the country, even in these good times.

Once again, last year, an overwhelming majority, 305 Members to be exact, voted to support the work of the EDA. Again this year, I urge the House to continue to show support for this important program and again vote to defeat the Souder amendment.

If we do not vote this amendment down, we will be depriving hard-hit communities in every State in this Nation of the vital assistance these programs provide. EDA gives our poorest urban and rural areas the tools with which to raise themselves up by their own bootstraps to create new jobs, expand their local tax base and leverage private investment. It gives them a hand, not a handout, and, Mr. Chairman, this program works.

If your town is hard hit by sudden and severe job losses when a plant shuts down, it is EDA that is there to help. If your community has been devastated by a natural disaster, like the recent floods this year in the Midwest, EDA is there. If your community is suffering because your local factory has shut down because it cannot compete in the global economy, EDA can help your community. And if your district has suffered from cutbacks in the defense industry, EDA is the only federal program dedicated to helping your community retool that economy.

Critics of this program fail to recognize that the EDA has been reformed, reduced and streamlined over these last 3 years by actions of this Congress. Due to this Congressional oversight by both the authorizing and appropriations committees, EDA's grants are truly targeted to the most distressed areas. The development and selection of projects has been moved out of Washington and back towards the local and state levels, and EDA's bureaucracy has been cut by over one-third since 1995.

In addition, since the vote last year the House has continued to demonstrate its support for EDA programs. On July 23, your colleagues in the Committee on Transportation and Infrastructure approved an EDA reauthorizing bill that reforms the programs and responds to past criticisms of the program and tracks this appropriations bill.

Mr. Chairman, clearly there are communities that do not need help. They have infrastructure, they have industry, they have access to education, all the requirements for a healthy regional economy. But other areas, Mr. Chairman, like my area, must rely on us and EDA to help them cope with job losses, defense cuts and other economic disasters. They are the ones that need our help. They are the ones who are turning to us for this vote.

So I urge Members to do as they did last year and the year before and the year before and the year before, and turn down this amendment by an overwhelming margin. Vote down the Souder amendment.

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

Mr. Chairman, I rise in strong opposition to the gentleman from Indiana's amendment, and I echo the sentiments of our chairman, "there you go again."

Mr. Chairman, this amendment presents a truly false choice between the EDA and Drug Courts. It is the oldest game I guess in Congress, that if you want to cut a program and you are having difficulty making your case on the merits, then try to find a place to put that cut that will be compelling and bolster your argument because of the nature of the account that you want to increase.

I know that our colleagues will not be fooled by that. This amendment would cut $21.579 million, almost, almost, the entire increase provided above last year's level, from the Economic Development Administration's grant programs. Additionally, it also

cuts $3 million from EDA's salaries and expenses account.

In considering this amendment, we must first examine why an increase for EDA was provided by the committee. In its fiscal year 1999 budget request, the administration proposed a new $15 million initiative within EDA, and they paid for it by decreasing funding for EDA's existing grant programs by $22 million and increasing total funding for the agency by $28 million.

This new program was designed to provide assistance to communities adversely impacted by trade agreements. The committee considered this request and decided that while the intent of the new initiative was worthwhile, EDA's existing grant programs could achieve the best results.

To this end, the committee accepted the administration's proposal to increase overall funding for the agency and allocated that increase to EDA's proven programs, which clearly have the jurisdiction and the ability to best assist trade impacted communities.

This is a very worthwhile investment. In fact, a 1997 study of the public works program conducted by Rutgers University and the New Jersey Institute of Technology, among others, yielded the following results: For every $1 million in Federal funding provided for EDA's public works grants program, 327 jobs are created or retained at a cost of only $3,058 per job. For every $1 million in Federal funding provided through the grant program, $10.8 million in private sector investment was leveraged and the local tax base was increased by $10.13 million. I think those are pretty good results, pretty impressive results, on our investment.

Mr. Chairman, I know of no other agency or program of the Federal Government more critical to the economic development needs of communities around this Nation than EDA. EDA programs target funds to areas in need of assistance and respond to the special needs of each individual town and city.

EDA has programs which benefit communities at almost every stage of the development process. For communities experiencing structural economic change resulting from long-term deterioration in industrial sectors or the depletion of natural resources, as my area, EDA provides flexible assistance to help them design and implement their own local recovery strategies. For communities facing prolonged economic distress, EDA provides the funding necessary to repair decaying infrastructure and to develop the new infrastructure which business needs to grow.

For the communities faced with the massive job losses associated with defense downsizing, EDA provides the funding to develop projects at the local level that support community redevelopment priorities.

EDA's grant and technical assistance programs really work. Any of my colleagues can look around their districts and point to economic success stories catalyzed by EDA funding.

So, does EDA warrant an increase? I say yes. Economic development is a local process with a specific appropriate Federal role. EDA, in direct partnership with distressed communities, provides seed funding that promotes long-term investments that respond to locally defined economic priorities.

It is clear that EDA is in need of additional resources to deal with adverse economic effects on trade-impacted communities, among other things. That is what this money is for, and I urge defeat of this ill-advised amendment.

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

Mr. Chairman, I rise in strong opposition to this amendment. I understand why we need more money in Drug Courts. I support the concept, but not transferring $250 million from EDA. That is not the way it is supposed to be done.

Let me tell you what the EDA has been doing. EDA was created to assist those distressed communities impacted by different cutbacks and base closures. In those poor distressed areas, they have been highly successful in creating jobs in those poor areas.

In addition to the fine job they have done, we have made major reforms this year. One is called the Federal Loan Guarantee Program, which gives local governments tools to stretch out the dollars to several times more so they can attract better private financing portfolios to be able to build more public works projects, in turn creating permanent jobs.

Second, we create what is called pockets of poverty areas, so we can look at pockets of small distressed areas, rather than on a regional bases. That program has already been implemented, and I appreciate the committee chairman for this. This idea has been thoroughly evaluated by the Subcommittee on Public Buildings and Economic Development.

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

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

Mr. SOUDER. Mr. Chairman, I just wanted to correct, for the record, it is a $25 million reduction out of the increase. There is still a 2 percent increase.

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

Mr. Chairman, this cut would amount to an immediate loss in the communities of 7,000 jobs, and, after 6 years, that 7,000 jobs would create another loss of 7,000.

The Drug Courts are needed. The gentleman from Kentucky (Chairman ROGERS) and the gentleman from West Virginia (Mr. MOLLOHAN) have in fact increased the dollar amount for the Drug Courts. But there are several reasons why this amendment should be defeated.

Number one, an administrator over there by the name of Phil Singerman has done an absolutely outstanding job. The committee has had a number of hearings, and an EDA authorization bill finally has a chance for the light of day, which will make some significant changes.

First of all, the country, 80 percent of this Nation, is eligible for EDA money. The committee feels that, in many cases, distressed communities that really need the help are being overlooked. The change has been made in only 36 percent of the country, that the truly distressed areas will be eligible.

Second of all, there is a new program created with the limited EDA funds. Monies will now be used to buy down interest rates when the banks and savings and loans invest in their own communities.

□ 1745

For the first time we are partnering with and have participatory programs that are leveraging more and more private money back into community development. Finally, it was brought up by the gentleman from West Virginia (Mr. MOLLOHAN) also the aspects of international trade and job loss, because international trade is also now being addressed by EDA, and those communities that are suffering a loss of jobs from displacements due to international trade are now being addressed.

I would just like to say one other thing. I come over here to the floor and I watch these bills go through with a million dollars for Bosnia, billions of dollars for Russia, billions of dollars for proposals all over the world. But when we try and get a little increase for economically depressed communities, we find literally a number of excellent places to supposedly put this money.

I will support more money for drug courts. The committee has already increased those accounts, and there was already an amendment they accepted to further embellish the account, but not from the people in the communities who are being left behind.

I am asking Members to understand this issue. This is a jobs issue. This is a fairness issue. It will impact upon the people we are concerned about the most.

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

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

Mr. SOUDER. Mr. Chairman, I thank the gentleman for yielding to me.

As someone who opposed NAFTA and Bosnia, opposed money for Bosnia, I

appreciate the gentleman's comments. I do wish the RECORD to show that it is tough to be eliminating 7,000 jobs, since the money has not been spent yet. It may keep us, in the gentleman's opinion, from creating those jobs.

Secondly, this is not a cut, it is a reduction of the increase.

Mr. TRAFICANT. Reclaiming my time, Mr. Chairman, I did vote against NAFTA, I did vote against GATT. I say to the gentleman, I am going to stone cold vote no against the gentleman's amendment.

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

Mr. TRAFICANT. I yield to the gentleman from West Virginia.

Mr. MOLLOHAN. Mr. Chairman, I would note that it is a bit of technicality to suggest it is not a cut because it already has not passed. This legislation is about become law, and if the gentleman's amendment were passed, it would be a significant cut in the 1999 appropriation.

Mr. TRAFICANT. Reclaiming my time, Mr. Chairman, there are a lot of bills with a lot of discussion on this floor. There are 13 bills to become law. This is one of them. If this amendment passes, it will ultimately cut 14,000 jobs, pursuant to the hearings we held.

The CHAIRMAN. The Committee will now rise informally to receive a message.

The SPEAKER pro tempore (Mr. PETERSON of Pennsylvania) assumed the chair.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4103. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 4103) "An Act making appropriations for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. STEVENS, Mr. COCHRAN, Mr. SPECTER, Mr. DOMENICI, Mr. BOND, Mr. MCCONNELL, Mr. SHELBY, Mr. GREGG, Mr. HUTCHISON, Mr. INOUYE, Mr. HOLLINGS, Mr. BYRD, Mr. LEAHY, Mr. BUMPERS, Mr. LAUTENBERG, Mr. HARKIN, and Mr. DORGAN to be the conferees on the part of the Senate.

The SPEAKER pro tempore. The Committee will resume its sitting.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, AND JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The Committee resumed its sitting.

The CHAIRMAN. For what purpose does the gentleman from Oklahoma rise?

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

Mr. Chairman, Will Rogers said that government programs have three things in common: a beginning, middle, and no end. That is true of the EDA.

I will include for the RECORD a letter from Mr. Orson Swindle, who was Assistant Secretary of Commerce for Economic Development under President Reagan from 1985 to 1989. I will enter this entire document in the RECORD, but I will quote from it, that the findings of many people would be as follows:

EDA's development functions duplicate the activities of programs within the Departments of Agriculture, Defense, Housing and Urban Development, and Interior, as well as the Appalachian Regional Commission, Small Business Administration, Federal Emergency Agency, and Tennessee Valley Authority. On these grounds alone, the program ought to be eliminated.

We are not proposing to eliminate the program. As a matter of fact, we are proposing to limit the increase to that which is adjusted for inflation. We also are very much opposed to a 19 percent increase in administrative overhead for this program, where in fact this agency has not proved its need for that.

Let us be clear what this amendment is about. It is not about cutting EDA, it is about increasing EDA, just not increasing it as much. It is about limiting the increase in the overhead for the administration of EDA. Why would we want to do that? Because we know that our discussions on appropriations bills are about priorities. We know where the savings are.

The other thing we might also know is that as far as EDA's charge, we seem to have been in this past year in one of the greatest times of our productivity, success, industrial growth rate, increase in standard of living that this country has seen. Yet, in 90 percent of our communities, EDA is active because there is supposedly a problem with lack of jobs in all of those communities.

I do not deny that there are significant areas in our country that have a need for EDA grant money, but not 90 percent of the country.

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

Mr. COBURN. I yield to the gentleman from West Virginia.

Mr. MOLLOHAN. Mr. Chairman, I would suggest, first of all, that Mr. Swindle, who is a very fine gentlemen, had these very strong views about EDA before he came to, I believe, head the agency, did he not?

Mr. COBURN. I am sorry?

Mr. MOLLOHAN. I was suggesting that Orson Swindle, to whom the gentleman alluded, I believe he headed EDA at one point in time.

Mr. COBURN. I do not know that he actually headed it. He was Assistant Secretary of Commerce.

Mr. MOLLOHAN. Mr. Chairman, I would suggest that he had these strong views about EDA before he came to the job. I just remember that.

The gentleman mentioned the Tennessee Valley Authority and the Department of Agriculture as agencies one could go to who had duplicate programs with EDA. I would ask the gentleman, what were the other agencies?

Mr. COBURN. The other agencies that had duplicative functions?

Mr. MOLLOHAN. That duplicated the authorization.

Mr. COBURN. The Appalachian Regional Commission, the Small Business Administration, the Federal Emergency Agency, the Tennessee Valley Authority, the Departments of Defense, Housing and Urban Development, Interior, and the Department of Agriculture all have programs that are duplicated by EDA in one form or another.

Mr. MOLLOHAN. Mr. Chairman, I would not hold myself out as an expert on EDA, but we do an awful lot of EDA projects in our district, unfortunately because we qualify under the criteria. Just standing here right now, I cannot think of one EDA project we have going where we could have gone to the Tennessee Valley Authority.

Mr. COBURN. Reclaiming my time, I think the defining words are that there would be a consensus that there are many programs duplicated by the EDA. That may not be the case in the gentleman's particular district.

Let us talk about drug courts, reclaiming my time. Drug courts offer us tremendous savings, and there are some real data that needs to be shared with our body. They open up prison space for violent offenders. Most State and local jails as well as Federal jails are operating above capacity. This is largely due to the high number of incarcerated drug offenders, many of whom are nonviolent.

Drug courts provide a structured alternative to prison for those nonviolent offenders. Not only does this program save money, it helps to ensure that adequate prison space is available to house the most violent offenders in our society.

I want to give the gentleman some savings from drug courts from some of the areas across the country. Denver, Colorado, saves between $1.8 and $2.5 million per year because of drug courts; Phoenix, Arizona, reported this last year a saving of $112,000.

The CHAIRMAN. The time of the gentleman from Oklahoma (Mr. COBURN) has expired.

(By unanimous consent, Mr. COBURN was allowed to proceed for 1 additional minute.)

Mr. COBURN. Mr. Chairman, Washington, D.C. saves between $4,000 and $9,000 per participant; Bartow, Florida, saves $531,000; Gainesville, $200,000; Kalamazoo, Michigan, $300,000; Klamath Falls, Oregon, $86,000; Beaumont, Texas, saves half a million dollars annually because of drug courts.

This is not about cutting the EDA. It is about limiting its growth and prioritizing our resources into something that makes a difference in the lives of people.

Mr. Chairman, I include for the RECORD the letter from Mr. Swindle.

The letter referred to is as follows:

August 3, 1998.

Representative TOM COLBURN,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE COBURN: As President Reagan's Assistant Secretary of Commerce for Economic Development from 1985–1989, I strongly support your amendment to the FY 1999 Commerce, Justice, State Appropriations Bill that will cut $25 million from the Economic Development Administration (EDA).

EDA is one of those examples of a dedicated group of federal employees being trapped in a bad system and being manipulated by political decision-making, which too often has ignored the legal basis and criteria for the agency's existence and operation. A small example...

As you know, EDA was created in 1965 as part of President Johnson's Great Society. Its original aim was to assist in the economic development of depressed areas and encourage job creation (in theory) through government loans and grants. Of course, the funds given to one region has to be taken from another. A program was established to fund small regions of the country (in cities or groups counties) as "economic development districts." These areas, buy definition being under severe economic distress (high unemployment, underemployment, job losses, low average income, etc.,) would receive funding to assist in hiring staff to work on economic development planning with local communities. One aspect of the staffing assistance was that frequently the staff became an advocate for more federal funding, not an uncommon phenomena within EDA programs where federal funds directly or indirectly go toward lobbying for more federal funds.

I believe it was Will Rogers who once commented that all government programs have three things in common: a beginning , a middle and no end. For years now, EDA has apparently considered the vast majority of the continental United States (maybe as high as 90%) to be under severe economic distress—even today in what is widely proclaimed as the period of our greatest prosperity. Funded "economic development districts" continue to cover the map!

I can speak from personal knowledge on the belief that EDA has strayed from its original mission and has been for some time simply a cookie jar for pork barrel projects, many of which have become infamous.

Last year, The Heritage Foundation authorized a compelling book entitled "Ending the Era of Big Government." They argued that:

"EDA's development functions duplicate the activities of programs within the Departments of Agriculture, Defense, Housing and Urban Development, and Interior, as well as the Appalachian Regional Commission, Small Business Administration, Federal Emergency Agency, and Tennessee Valley Authority. On these grounds alone, the program should be eliminated."

I couldn't have said it better myself. Some of these agencies definitely could be eliminated. For all of the reasons put forth above, I endorse your amendment to cut EDA's funding by $25 million at a minimum. I urge every Member of the House to support your effort.

Sincerely,

ORSON SWINDLE,
Former Assistant Secretary of Commerce for Economic Development.

Mrs. MEEK of Florida. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this particular amendment should be defeated adamantly. First of all, they have mixed up the nomenclature, the language that we understand here in the House. They have said that "this amendment does not cut EDA, it is a reduction of an increase." I think they are playing on our intelligence with this kind of description of what they are saying.

There is an old adage or dictum that says if it walks like a duck, quacks like a duck, then it is a duck. So what they are doing by reducing the increase, the logical result of that is a decrease in EDA.

The gentleman from Kentucky (Mr. ROGERS) and the committee, including the gentleman from West Virginia (Mr. MOLLOHAN), have come up with a logical allocation for EDA; not as much as we think the need is, but as much as they could logically place there. I am strongly opposed to this amendment, because what they have done is asked for a reduction which would cut $25 million from EDA.

This is EDA's job development or job creation program. If the gentleman can tell us, look, we are going to reduce their job creation capacity, but we are going to replace their job creation capacity with some other initiative, they have not done that, which leads me to conclude that they are not interested in job creation and people getting jobs so they can improve their quality of life in this country.

I support their efforts to fund the drug court. I think drug courts are good, but the committee has increased them by $4 million in the current budget.

Why should we provide more than a 2 percent increase in EDA? People need to understand that EDA does need an increase. Number one, it creates jobs mostly in economically underdeveloped cities, cities and communities in this country. There is no other agency that does that overall, other than EDA. We cannot replace their capacity by putting their funding, or reducing them, putting it into drug courts.

This amendment would cost our distressed communities more than 7,000 jobs. My challenge to the supporters of this amendment is to show us how they can replace them. We cannot afford to lose these jobs.

I want the Congress to do just as they have done every year. Each year we come back and stand here and oppose this amendment. Sooner or later, the supporters of this amendment will find out they are shooting up the wrong tree, because we cannot see our cities devastated or our communities distressed because there are no jobs.

I am asking, please, that we support the committee, and strongly oppose the Souder amendment.

Mr. SOUDER. Mr. Chairman, will the gentlewoman yield?

Mrs. MEEK of Florida. I yield to the gentleman from Indiana.

Mr. SOUDER. Mr. Chairman, I wanted to say for the record that I have supported efforts in the Small Business Administration to provide help for low-income economic development, I have supported the High Hope Scholarship as we move to higher ed, to make sure there are opportunities for those who are lower-income to get the education they need, to move dollars needed through our committees.

I have supported the Community Services block grant, and Head Start. I have supported numerous programs targeted, including an amendment that I sponsored on individual development accounts for capital formation in low-income families.

Mrs. MEEK of Florida. Mr. Chairman, if I may take back my time, I want to give the gentleman sort of a short answer. SBA does well when one can get a loan from them, but these are not loans, these are grants. There is a difference, when it comes to rebuilding distressed communities.

I applaud the efforts the gentleman has made in the past and what the gentleman has supported, but I do not applaud this amendment, because what the gentleman is doing is cutting an agency that provides jobs. That is the difference.

Mr. SOUDER. If the gentlewoman will continue to yield, a GAO study concluded that there was no survey that in fact showed that, on net, EDA created additional jobs.

One last point is, would the gentlewoman agree that even under my amendment, EDA would increase 2 percent? In other words, does the gentlewoman agree that even if my amendment passes, EDA will still increase 2 percent?

Mrs. MEEK of Florida. Even if it passes? I do not know, but I will yield to the ranking member to answer the gentleman's question. I do not have the answer to that.

I am opposed to the gentleman's amendment merely because I know, common sense tells me, if we reduce the increase, then we are cutting the gain.

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

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

Mr. LEWIS of Kentucky. I yield to the gentleman from Kentucky.

Mr. ROGERS. Mr. Chairman, there are numerous speakers on both sides. I think all of us have heard most of the arguments.

I ask unanimous consent that we limit debate, further debate, to 10 minutes, to be divided evenly between the sides.

□ 1800

The CHAIRMAN pro tempore (Mr. LATOURETTE). Ten minutes between an opponent and proponent of the amendment.

Is there objection to the request of the gentleman from Kentucky?

Mr. OBEY. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

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

As a member of the Speaker's anti-drug task force, I count myself among the many Members of this body who have committed themselves to this Nation's war against the scourge of illegal drug use, particularly its spread among our youth. Over the past year, I am proud to say that all 22 counties in the Second District of Kentucky have established community coalitions that have accepted the challenge to take on the daunting problem of fighting illegal drugs.

Let me suggest that attempts to reduce the financial resources available to the Economic Development Administration is counterproductive to the interests of these very same communities, particularly those areas that are dealing with the adverse effects of lost jobs in our textile industries and other parts of Kentucky that have not benefited from our country's successive years of prosperity. One of the most cost-effective tools we can employ today to encourage job growth and improved opportunities in our towns and communities which have been left behind.

To quote one official who oversees one of my district's area development organizations, the EDA has been the backbone for our urban and rural areas for the last 30 years, creating new jobs, public facilities and disaster prevention assistance. Communities that have struggled to attract new industries or sought badly needed wastewater treatment systems have been able to rely on the EDA assistance when these projects often seem impossible.

Mr. Chairman, I cannot overemphasize the positive impact that EDA has had on the Commonwealth of Kentucky and the Second District that I represent. This organization has brought relief to many communities suffering from severe economic dislocation, the remnants of flood disaster and an absence of adequate public facilities and services. We have made great strides in shaping a highly respected agency that continues to provide critical funds to the most distressed regions of this country.

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

Mr. LEWIS of Kentucky. I yield to the gentleman from Mississippi.

Mr. WICKER. Mr. Chairman, let me just say that I agree with everything that the gentleman from Kentucky (Mr. LEWIS) has said. I serve on the drug task force with the gentleman from Indiana (Mr. SOUDER) and the gentleman from Kentucky (Mr. LEWIS). It is a very important undertaking, and we have done well by the drug courts in our appropriations.

I think this is an amendment not about drug courts but about taking $25 million away from the Economic Development Administration.

It has been said the economy is doing well. That we do not need to plus up EDA. Let me say in response to that two things. The economy is doing well because this Congress has shown that we can balance the budget and we are funding an additional $25 million for EDA within the framework of a balanced budget. I am proud of that. But there are also some communities in this Nation, there are some communities in every congressional district that are not doing so well. That is the beauty of the Economic Development Administration.

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

Mr. LEWIS of Kentucky. I yield to the gentleman from Oklahoma.

Mr. COBURN. Mr. Chairman, my question would be, that may very well be true. Why are we increasing overhead 19 percent? The point is, we are disproportionately increasing overhead. Let us agree to trim the overhead down and give the money to the communities rather than consume it in Washington.

Mr. WICKER. Mr. Chairman, if the gentleman will continue to yield, it is my understanding that this appropriation is in connection with an authorization bill that is going forward. There is always room for saving money on overhead. But let me say what this money goes to.

It is one of the tools, I can say this, it is one of the tools that is used efficiently in my State, along with all of the other job creating programs that we have talked about, to create jobs in the private sector, and that is what we ought to be doing. That is a good use of Federal funds. I support the EDA. I think that is what this amendment is about. I urge defeat of the amendment.

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

Mr. LEWIS of Kentucky. I yield to the gentleman from West Virginia.

Mr. MOLLOHAN. Mr. Chairman, this is a point, I believe the gentleman from Indiana raised a question of the EDA grant program resulting in job creation. Did I misunderstand the point when he was asking the gentlewoman from Florida about that issue? Was his point that it does not create jobs?

Mr. SOUDER. Mr. Chairman, if the gentleman will continue to yield, I said that the GAO said they found no specific study showing net in job creation.

Mr. MOLLOHAN. Mr. Chairman, I invite the gentleman to come to my district. I refer him to a 1997 study of the public grant program conducted by Rutgers University and the New Jersey Institute of Technology that yielded the following results: for every million dollars of Federal funding from EDA's public grant program, 327 jobs are created, $10 million in the private sector is leveraged, increasing the tax base by $10 million. So I would refer the gentleman to that study.

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

Mr. LEWIS of Kentucky. I yield to the gentleman from West Virginia.

Mr. WISE. Mr. Chairman, I want to say that apparently the gentleman may not be aware, that raised the question, that the EDA has cut its overhead at least 25 percent, I believe as much as one-third of the number of jobs in the central office over the past few years.

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

Mr. Chairman, I have been associated with the EDA program for almost 33 years. I still have, am proud of having it, one of the pens that President Lyndon Johnson used to sign that bill into law in August 1965.

EDA was created then for the purpose of responding to those communities, those regions in the Nation that did not share in the Nation's general prosperity, to pinpoint and target assistance to those communities locally or those regions that did not share in the Nation's prosperity.

President John F. Kennedy was fond of saying, the national economic policies will float all boats, they will all rise. But not all boats rose with our prosperity then, and nor have all communities shared in the Nation's general economic growth and prosperity over the last 3 or 4 years.

The objective of the EDA program is to give local communities, regions, groups of counties or areas like Appalachia, where we have a separate program but which dovetails with EDA, the tools they need, the financial assistance they need to create jobs and economic opportunity and outlook and hope. Hope in Appalachia, in the 1930s, the 1940s and the 1950s, was a bus ticket north to Detroit or Cleveland, Chicago or the Twin Cities of Minnesota. But

with EDA and with the Appalachian Regional Commission, hope now means an opportunity to create jobs where you live, where your family ties are, where your social connections are, where you want to live.

That has given us an opportunity for job growth where it counts most, like areas in the Rust Belt of Ohio, Pennsylvania, the Mon Valley, or, as the gentleman from Kentucky (Mr. ROGERS) said, areas that have been stricken by base closures of the military where you have a sudden economic collapse or areas like northeastern Minnesota, dependent on natural resources, iron ore mining, timber harvesting. The national economy may do well, but our region goes down through the bottom when there is some little blip in Pittsburgh or Cleveland or the South Works of U.S. Steel in Chicago, and our economy just drops through the bottom. That is when you need this kind of targeted economic assistance.

In hearings that I held, when I chaired the Subcommittee on Economic Development with my dear, wonderful friend, former member, Bill Clinger, and we held extensive hearings on the performance of EDA, in the 15 years, the first 15 years of that program there were 4.5 billion invested in projects across this country. They created a million and a half jobs. That million and a half jobs paid every year $6.5 billion in Federal, State and local taxes. Every year the Federal, State and local governments are getting more money back from EDA than we invested in 15 years. Jobs, hope, economic opportunity.

The 90 percent eligibility red herring happened because Congress imposed a moratorium on EDA from designating areas. The legislation our committee on a bipartisan basis has reported out, and we hope to bring it to the floor after the Labor Day recess, will do away with that. In fact, year after year we have brought legislation to the House floor. It has passed this body, not the other body; that does away with that 90 percent figment of people's imagination. Ninety percent of the country is not eligible, and the program is not managed so that 90 percent of the country is eligible. That is just nonsense.

I would just say that we have demonstrated, when you give communities the resources they need to create job opportunities as they see fit, we get an enormous return on that investment, every year more money paid in taxes than we have invested in EDA in its entire history. That is a return on investment.

I would just sum up by the words of a wonderful witness, not an economist, not a specialist, no great degrees, Red Robinson from southern Virginia, who at our committee hearing said, you know, we are just proud, conservative mountain people. We are not asking for a handout. We are asking for a hand up. EDA has given us that hand up.

Defeat this amendment. Give all America a hand up.

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

I rise to oppose the Souder amendment. I support what they want to fund, but I think taking it from EDA is one of the worst choices we could make of a program to cut.

I come from rural western Pennsylvania, rural central Pennsylvania. We had steel, glass, coal and oil decline within a decade, collapse.

I have watched what EDA does. It is one of a couple programs, there are only a couple programs that target distressed areas. I come from a State that had a lot of good economic development programs. I always complained they went into the suburban areas where we did not need more employment, they did not have enough employees. But EDA reaches into towns that have lost their only mill, their only glass plant, or have shut down the local coal mines to help them rebuild their base.

If you look at Clinton County in Pennsylvania, because they were able to build a sewer line with EDA funds, they have 300 people working that would not be working today.

Abandoned rail lines have been a major problem in my district. I can give you two examples. In Tioga County, where EDA purchased a rail line and put it back in service, 450 new manufacturing jobs there and a company that is going to double in size the next few years with some EDA targeted money.

In Center County, 1000 jobs, again a rail line that was closed was purchased, was put back into service. In Elk County, the Stackpole Corporation used to employ 3000 people, closed, sat empty for almost a decade. And today, because EDA was the glue that put it together, 300 people are employed there and soon 6- to 900.

Even right at home where I live, today they announced that the Cyclops plant that closed 4 years ago that had 1000 specialty steel jobs in a town of 5000 people, 4 years ago lost 1000 jobs with no hope, and our hope right now is we are applying to EDA to refurbish that steel mill and get it back into production and a number of businesses, breaking it up into an incubator and several places where we can bring companies into that community.

EDA helps the poorest of our communities, gives jobs and opportunities to their citizens. We have a lot of programs to help urban America. EDA helps them, too. But we have a few programs that help rural America. Rural America is economically hurting. We may be at an end of a 7-year growth in the economy of this State, but I want to tell you, I can take you to pockets of rural America where we are hurting. In my view, there are a lot of Federal policies that are strangling rural America's economic future. To cut off rural America's right hand as it tries to pull itself up by its bootstraps, and EDA is one of the most effective agencies, one of the most targeted agencies to do that, is a mistake, when we would continue to spend three times the amount of money for the International Development Association, twice the amount of money for US AID, the Agency for International Development, spend almost that much money in Bosnia and almost 2½ times that much money in Russia to help rebuild their economies, this is a cut in the wrong place.

It may be a cut from a good program, but a cut in the wrong place. EDA, in my view, has become an agency that very effectively targets hurting places in America, and we should be increasing it even more, not cutting it.

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

I, too, rise in opposition to the amendment, and I think the gentleman from Pennsylvania just explained it well. Many of the reasons, for every company's name that he used, I could use another company's name. It is a similar situation in West Virginia. I would like to address some of the points that some of the proponents of this amendment have brought up.

□ 1815

First of all, I think it ought to be pointed out that I believe this Congress is getting very close to a true bipartisan agreement on EDA. Under the leadership of the gentleman from Pennsylvania (Mr. SHUSTER) and the subcommittee chairman, the gentleman from California (Mr. KIM), as well as our ranking member, the gentleman from Minnesota (Mr. OBERSTAR) and the subcommittee ranking member, the gentleman from Ohio (Mr. TRAFICANT), the committee reported out an EDA reauthorization, I believe last week, on a voice vote with no dissenting votes, which shows true bipartisan cooperation.

Some have raised the question of duplication. I am trying to figure out where that duplication occurs, because in talking about other programs such as Small Business Administration, Small Business Administration is a program dedicated to individuals, so an individual makes application for a loan; or the USDA's rural development program, the individual makes application. EDA is something far different. That is dealing with an entity, a group, usually a public body.

I have also found that EDA is the linchpin that makes the deal possible. For instance, there is a project in West Virginia in which $2.5 million of EDA money and $2 million of ARC money helped leverage $60 million of private

sector investment which is going to create hundreds of jobs. We do not get that kind of return too often. But without the EDA being involved and providing the infrastructure to that project, it would not have happened.

And so there is not duplication, and the EDA is what often is the critical matrix, the critical glue that pulls it all together.

Finally, the people advocating this amendment raise a very attractive argument of drug courts. I support drug courts. I think there ought to be more drug courts. I think the funding ought to be increased, but not out of EDA. Why? Because the irony to this is, and I quote here and believe I am quoting former President Reagan, "The best welfare program is a job," and EDA creates jobs, private sector jobs.

So what is it that brings people to drug courts but hopelessness, and so they resort to drugs. EDA is another way out. It brings economic development and jobs to areas that do not have them. So this is absolutely the wrong way to go about helping drug courts. If we want to help drug courts, then we should find the funding out of some other portion, but do not do it out of the one thing that brings hope and enterprise and jobs to a community. So I rise in opposition to the amendment.

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

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

Mr. SOUDER. Mr. Chairman, does the gentleman agree that, even if my amendment passes, there will be a $6.8 million increase in the assistance portion of EDA?

Mr. WISE. I agree if the gentleman's amendment passes, that will be X amount of jobs that will not be created. The gentleman will want to put it into drug courts. I am trying to keep people out of drug courts by giving them a job in the first place.

Mr. SOUDER. So is it is an increase; it is just a question of how big an increase and what that means.

Is the gentleman familiar with the GAO study that says, for example, the Rutgers study referred to earlier did not establish the direct connection? As the gentleman well knows, when one does economic development, which I did as a former staffer and worked with EDA, and I believe it does have meritorious projects, that net studies have not made the connection, including the Rutgers studies, that have proven the direct correlation.

Mr. WISE. I believe even the GAO studies, and it has been a few years since I have looked at it, but even the GAO study has trouble making the direct statements the gentleman wants it to make. And saying a job is directly caused by anything is difficult to do, but I can point to the gentleman, and I know the gentleman can in his district, and everyone who has testified, Republican and Democrat, in favor of EDA knows that EDA has brought hope and jobs to their area. Indeed, in my area, I can point to project after project where something would not be there were it not for EDA.

Mr. RAHALL. Mr. Chairman, I rise in opposition to the amendment offered by my distinguished colleague Representative MARK SOUDER to cut $25 million from the appropriation for the Economic Development Administration (EDA) in order to fund the drug court program.

Mr. Chairman, the appropriations bill before us, H.R. 4276, contains $368 million for the EDA grant program, the same amount authorized in H.R. 4275, the EDA reauthorization bill ordered reported by the Transportation & Infrastructure Committee in late July. This appropriation is consistent with the EDA program reforms included in the reauthorization bill.

The increase for the drug court program is not necessary. The Commerce-Justice-State appropriations bill before us already increases this program from $30 million to $40 million, a $10 million increase. Further, Chairman ROGERS has graciously agreed to accept an amendment by Representative ENSIGN to add another $3 million for the drug court program to bring funding to $43 million.

While I am supportive of the drug court program which provides grants to state, local and Indian tribal governments to help develop treatment options for nonviolent drug offenders, I believe that a funding level of $43 million is more than adequate—and is $13 million more than the 1998 level and the Administration's request for FY99.

The Economic Development Administration programs that assist distressed counties throughout the country to strengthen and stabilize local economies by creating jobs through community development projects will need all the appropriated funds contained in this bill in order to implement new EDA reforms, and to adequately serve the country's needs.

I urge my colleagues to defeat this amendment to cut $25 million from the EDA appropriation in order to bring the funding for drug courts to an unwarranted and unprecedented level of $68 million. Mr. Chairman, $68 million for drug courts, as worthy as those programs are, would mean a $38 million increase above that requested by the Administration for fiscal year 1999 and above the amount made available last year. Again, I urge defeat of the Souder amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. SOUDER).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. SOUDER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 508, further proceedings on the amendment offered by the gentleman from Indiana (Mr. SOUDER) will be postponed.

The Clerk will read.

The Clerk read as follows:

In addition, $215,356,000 for such purposes, to remain available until expended, to be derived from the Violent Crime Reduction Trust Fund, as authorized by the Violent Crime Control and Law Enforcement Act of 1994, as amended, and the Antiterrorism and Effective Death Penalty Act of 1996.

CONSTRUCTION

For necessary expenses to construct or acquire buildings and sites by purchase, or as otherwise authorized by law (including equipment for such buildings); conversion and extension of federally owned buildings; and preliminary planning and design of projects; $11,287,000, to remain available until expended.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; expenses for conducting drug education and training programs, including travel and related expenses for participants in such programs and the distribution of items of token value that promote the goals of such programs; purchase of not to exceed 1,428 passenger motor vehicles, of which 1,080 will be for replacement only, for police-type use without regard to the general purchase price limitation for the current fiscal year; and acquisition, lease, maintenance, and operation of aircraft; $796,290,000, of which not to exceed $1,800,000 for research and $15,000,000 for transfer to the Drug Diversion Control Fee Account for operating expenses shall remain available until expended, and of which not to exceed $4,000,000 for purchase of evidence and payments for information, not to exceed $10,000,000 for contracting for automated data processing and telecommunications equipment, and not to exceed $2,000,000 for laboratory equipment, $4,000,000 for technical equipment, and $2,000,000 for aircraft replacement retrofit and parts, shall remain available until September 30, 2000; and of which not to exceed $50,000 shall be available for official reception and representation expenses.

In addition, $405,000,000, to be derived from the Violent Crime Reduction Trust Fund, to remain available until expended for such purposes.

CONSTRUCTION

For necessary expenses to construct or acquire buildings and sites by purchase, or as otherwise authorized by law (including equipment for such buildings); conversion and extension of federally owned buildings; and preliminary planning and design of projects; $8,000,000, to remain available until expended.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, as follows:

ENFORCEMENT AND BORDER AFFAIRS

For salaries and expenses, not otherwise provided for, for the Border Patrol program, the detention and deportation program, the intelligence program, the investigations program, and the inspections program, including not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; purchase for police-

type use (not to exceed 3,855 passenger motor vehicles, of which 2,535 are for replacement only), without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; research related to immigration enforcement; and for the care and housing of Federal detainees held in the joint Immigration and Naturalization Service and United States Marshals Service's Buffalo Detention Facility; $1,096,431,000, of which not to exceed $400,000 for research shall remain available until expended; of which not to exceed $10,000,000 shall be available for costs associated with the training program for basic officer training, and $5,000,000 is for payments or advances arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to immigration; and of which not to exceed $5,000,000 is to fund or reimburse other Federal agencies for the costs associated with the care, maintenance, and repatriation of smuggled illegal aliens: *Provided*, That none of the funds available to the Immigration and Naturalization Service shall be available to pay any employee overtime pay in an amount in excess of $30,000 during the calendar year beginning January 1, 1999: *Provided further*, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further*, That none of the funds provided in this or any other Act shall be used for the continued operation of the San Clemente and Temecula checkpoints unless the checkpoints are open and traffic is being checked on a continuous 24-hour basis.

CITIZENSHIP AND BENEFITS, IMMIGRATION SUPPORT AND PROGRAM DIRECTION

For all programs of the Immigration and Naturalization Service not included under the heading "Enforcement and Border Affairs", $523,083,000: *Provided*, That not to exceed $5,000 shall be available for official reception and representation expenses: *Provided further*, That the Attorney General may transfer any funds appropriated under this heading and the heading "Enforcement and Border Affairs" between said appropriations notwithstanding any percentage transfer limitations imposed under this appropriation Act and may direct such fees as are collected by the Immigration and Naturalization Service to the activities funded under this heading and the heading "Enforcement and Border Affairs" for performance of the functions for which the fees legally may be expended: *Provided further*, That not to exceed 43 permanent positions and 43 full-time equivalent workyears and $4,284,000 shall be expended for the Offices of Legislative Affairs and Public Affairs: *Provided further*, That the latter two aforementioned offices shall not be augmented by personnel details, temporary transfers of personnel on either a reimbursable or non-reimbursable basis, or any other type of formal or informal transfer or reimbursement of personnel or funds on either a temporary or long-term basis: *Provided further*, That the number of positions filled through non-career appointment at the Immigration and Naturalization Service, for which funding is provided in this Act or is otherwise made available to the Immigration and Naturalization Service, shall not exceed 4 permanent positions and 4 full-time equivalent workyears: *Provided further*, That, notwithstanding any other provision of law, during fiscal year 1999, the Attorney General is authorized and directed to impose disciplinary action, including termination of employment, pursuant to policies and procedures applicable to employees of the Federal Bureau of Investigation, for any employee of the Immigration and Naturalization Service who violates policies and procedures set forth by the Department of Justice relative to the granting of citizenship or who willfully deceives the Congress or department leadership on any matter.

VIOLENT CRIME REDUCTION PROGRAMS

In addition, $866,490,000, for such purposes, to remain available until expended, to be derived from the Violent Crime Reduction Trust Fund: *Provided*, That the Attorney General may use the transfer authority provided under the heading "Citizenship and Benefits, Immigration Support and Program Direction" to provide funds to any program of the Immigration and Naturalization Service that heretofore has been funded by the Violent Crime Reduction Trust Fund.

CONSTRUCTION

For planning, construction, renovation, equipping, and maintenance of buildings and facilities necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, not otherwise provided for, $81,570,000, to remain available until expended.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchase (not to exceed 763, of which 599 are for replacement only) and hire of law enforcement and passenger motor vehicles, and for the provision of technical assistance and advice on corrections related issues to foreign governments; $2,922,354,000: *Provided*, That the Attorney General may transfer to the Health Resources and Services Administration such amounts as may be necessary for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: *Provided further*, That the Director of the Federal Prison System (FPS), where necessary, may enter into contracts with a fiscal agent/fiscal intermediary claims processor to determine the amounts payable to persons who, on behalf of the FPS, furnish health services to individuals committed to the custody of the FPS: *Provided further*, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further*, That not to exceed $6,000 shall be available for official reception and representation expenses: *Provided further*, That not to exceed $90,000,000 for the activation of new facilities shall remain available until September 30, 2000: *Provided further*, That, of the amounts provided for Contract Confinement, not to exceed $20,000,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements, and other expenses authorized by section 501(c) of the Refugee Education Assistance Act of 1980, as amended, for the care and security in the United States of Cuban and Haitian entrants: *Provided further*, That, notwithstanding section 4(d) of the Service Contract Act of 1965 (41 U.S.C. 353(d)), FPS may enter into contracts and other agreements with private entities for periods of not to exceed 3 years and 7 additional option years for the confinement of Federal prisoners.

In addition, $26,499,000, for such purposes, to remain available until expended, to be derived from the Violent Crime Reduction Trust Fund.

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; leasing the Oklahoma City Airport Trust Facility; purchase and acquisition of facilities and remodeling, and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account; $413,997,000, to remain available until expended, of which not to exceed $14,074,000 shall be available to construct areas for inmate work programs: *Provided*, That labor of United States prisoners may be used for work performed under this appropriation: *Provided further*, That not to exceed 10 percent of the funds appropriated to "Buildings and Facilities" in this Act or any other Act may be transferred to "Salaries and Expenses", Federal Prison System, upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 605 of this Act: *Provided further*, That, of the total amount appropriated, not to exceed $3,300,000 shall be available for the renovation and construction of United States Marshals Service prisoner-holding facilities.

FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, and to make such contracts and commitments, without regard to fiscal year limitations as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase of (not to exceed 5 for replacement only) and hire of passenger motor vehicles.

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed $3,266,000 of the funds of the corporation shall be available for its administrative expenses, and for services as authorized by 5 U.S.C. 3109, to be computed on an accrual basis to be determined in accordance with the corporation's current prescribed accounting system, and such amounts shall be exclusive of depreciation, payment of claims, and expenditures which the said accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and the Missing Children's Assistance Act, as amended, including salaries and expenses in connection therewith, and with the Victims of Crime Act of 1984, as amended, $155,000,000, to remain available until expended, as authorized by section 1001 of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by Public Law 102–534 (106 Stat. 3524).

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, for State and Local Narcotics Control and Justice Assistance Improvements, notwithstanding the provisions of section 511 of said Act, $552,750,000, to remain available until expended, as authorized by section 1001 of title I of said Act, as amended by Public Law 102-534 (106 Stat. 3524), of which $47,750,000 shall be available to carry out the provisions of chapter A of subpart 2 of part E of title I of said Act, for discretionary grants under the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs.

AMENDMENT NO. 10 OFFERED BY MR. BASS

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 10 offered by Mr. BASS:

Page 25, line 24, after the dollar amount, insert the following: "(increased by $19,500,000)".

Page 26, line 2, after the dollar amount, insert the following: "(increased by $4,500,000)".

Page 51, line 9, after the dollar amount, insert the following: "(decreased by $43,000,000)".

Page 51, line 10, after the dollar amount, insert the following: "(decreased by $43,000,000)".

Mr. BASS. Mr. Chairman, the amendment that I offer today will increase funding for the Edward Byrne grant program by $19.5 million. This increase would be offset by eliminating $43 million earmarked for new grants in fiscal year 1999 under the Advanced Technology Program. The reason for the difference between the $19.5 million and the $43 million is a difference in outlays versus authority, but it is scored by CBO as a neutral scoring.

As my colleagues know, the ATP program subsidizes private sector technological R&D, and Byrne programs, which would be increased by $19.5 million, are sources for Federal financial assistance for State and local drug enforcement efforts.

Mr. Chairman, the business of appropriations is the business of making priority judgments. We heard about that when we were discussing the last amendment, about where scarce dollars should go, and the question posed by this amendment is very simple:

Should we provide Federal financial assistance for State and local drug enforcement efforts, or do we provide companies like Dow Chemical with $7.8 million when they enjoyed a 1997 net profit of $1.81 billion? Do the math. That is like one six-thousandth of their entire profit.

Or should we provide much-needed resources to fight crime and drug abuse in our schools, or do we provide IBM with $14.8 million when they made over $6 billion last year?

Should we provide more money for the purchase of equipment to provide training and technical assistance to improve criminal justice systems, or is it more important to provide $3.7 million to the Ford Motor Company even though they showed a profit of $7 billion in 1997?

Or how about funding education programs in schools to prevent children from getting hooked on drugs, or funds to help parents deal with and get treatment for a drug-dependent child and get that child into treatment, versus giving General Motors $3.2 million when they had a profit of $6.7 billion last year?

My colleagues, it is indeed a question of priorities, and the Byrne Grant program is a great program, and I would suggest to my colleagues that it would be difficult to argue that we do not need any more money for this program; that we do not need any more money for crime prevention programs to assist citizens in communities and neighborhoods in preventing and controlling crime, especially crime directed against the elderly; and in rural jurisdictions to improve the response of the criminal and juvenile system to domestic violence and relate to law enforcement in the prevention of gangs or the youth at risk of joining gangs. This is where this money goes.

And the question that we have to ask is do we want to add $43 million to ATP, which gives these $1, $2, $3, $4, $5, $6 million grants, up to $14 million to Johnson & Johnson, when these companies are making more money in aggregate than the whole law enforcement budget has accrued in Congress.

Indeed, my colleagues, the issue of appropriations is the issue of making priority decisions. And in my opinion fighting crime in our neighborhoods, so that our parents know that their children are a little safer at school or out in the community, is more important than helping companies that have an aggregate research and development budget of almost $40 billion, giving them $43 million for their new programs when they are making plenty of money the way it is now.

Mr. Chairman, I do hope that my colleagues will support this amendment and vote it up.

Mr. MOLLOHAN. Mr. Chairman, I rise in opposition to the Bass amendment to eliminate $43 million from the Advanced Technology Program.

I have listened to the gentleman's debate with interest. What is interesting to me is, again, the false choices he sets up. The programs that he lists, drug courts, a lot of the law enforcement activities, this subcommittee has robustly funded, and I think we are justly proud of the amount of money that we have put into law enforcement to fight crime and drugs in this country.

The other point that I would make is that, again, his statement is interesting because of what it left out. And that is, as he talks about the large companies that are receiving money for the ATP program, he leaves out the fact that many, many, many of these grants, and I do not know specifically of which ones he speaks, but the ATP program is characterized by its ability to, number one, fund precommercial research and also to do it in partnerships with small companies, with academic institutions, bringing together these strategic alliances that would not be brought together if it were not for the program. Only if we philosophically believe that the Federal Government should not be making contributions for basic research in these core strategic areas should we even consider supporting the Bass amendment.

The gentleman's amendment is meant to confuse the debate on this issue. He has chosen to take funds out of the ATP program and add them to a very popular grant program, the Byrne Grant program, because he knows this program is supported by a large majority of our membership. Well, I am a very strong advocate of the Byrne Grant program. Those funds help every State in the union to assist local communities in implementing comprehensive approaches to fighting crime. It is an excellent program. Byrne Grant funding has increased by $77 million since 1994, and no one has supported it more strongly than I.

The administration has requested $552 million for the Byrne Grant program in 1999, and the bill before us today fully funds that request, which is a slight increase over fiscal 1998 funds. Let me state that again. The Byrne Grant program is fully and completely funded in this bill.

It is a shame that my colleague has chosen to offer such an amendment. I, for one, am strongly in favor of both initiatives, ATP and these crime fighting programs, and there are adequate funds provided in our bill to support them. This amendment would cut $43 million provided in the bill for new awards under the ATP program, and this would, in effect, kill the program. So only if we are diametrically opposed to the program, only if we are philosophically opposed to the program, only if we would like to kill the ATP program would we vote for this amendment.

I would like to summarize the reasons that I am a strong supporter of ATP, be a little positive here. First, the ATP program makes a very sound contribution to this Nation, maintaining a competitive position in the global marketplace.

□ 1830

It is a sound contribution but it is still a small contribution relatively. As of right now, with the ATP program

funded as it is, the U.S. ranks 28th behind all of our major global competitors in the percentage of government R&D invested in civilian technologies.

While we sit here tonight debating an amendment which would cripple the ATP program, across the ocean our competitors, England, Germany, Australia, Portugal, are investing heavily in similar initiatives. In fact, the governments of the European Community, understanding the strategic importance of these kinds of investments and these partnerships of government with academia and private industry, this European Community is funding advanced technology research to the tune of $5.5 billion.

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

Mr. MOLLOHAN. I yield to the gentleman from New Hampshire.

Mr. BASS. Mr. Chairman, how is the U.S. doing economically compared to Europe and Japan, given the fact that these governments are providing so much money for economic research and development?

Mr. MOLLOHAN. I ask the gentleman to tell me.

Mr. BASS. Well, we are doing an awful lot better.

Mr. MOLLOHAN. We are.

Mr. BASS. We are not doing half as much.

Mr. MOLLOHAN. Do we have an ATP program?

Mr. BASS. We have an ATP that is much smaller than those other governments and we are doing so much better.

Mr. MOLLOHAN. Mr. Chairman, reclaiming my time, I have to assume that the ATP program is making its contribution in this strategic effort for the government to participate, and they must be competitive in the future, and I appreciate the gentleman making my point.

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

Mr. Chairman, I rise in strong support of the Bass amendment.

I want to take this in a little bit different direction. Last night this House voted to support the Shays-Meehan amendment to eliminate soft money contributions. I thought it would be interesting for us to look at the grantees from the ATP program and their soft money contributions, because there happens to be a very good correlation.

So if we really believe in corporate welfare, then we are going to not support the Bass amendment; but if we do not believe in corporate welfare, if we truly recognize that over 60 percent of the money in ATP grants goes to non-small business but goes to Fortune 500 companies, then in fact we can support this amendment.

Let me relate some of the details. IBM has been mentioned. Since 1990 it has received $134 million in taxpayer grants, including over $15,000 last year. In the same period, IBM had $6 billion in profits last year. They spent well over $5 million of this money on research and development. IBM was one of the top soft money givers.

General Motors, since 1990, received $105 million in taxpayer funds for research and development. GM had profits of $6.8 billion last year. General Motors also was in the top 100. General Motors did slightly better with relationship to ATP than Ford or Chrysler. Over the same period of time, GM received $105 million, Ford only $68 million, Chrysler a pittance of $30 million. But it was General Motors, and not Ford or Chrysler, who made the list of top 100 soft money contributors.

General Electric, over the 1995 election cycle, gave over $1 million in soft money but received $11 million in ATP program money.

AT&T, which over the same election period contributed $2.7 million in soft money to our two political parties, has received $69 million in ATP funds.

What I would like this body to consider, if we really do not believe in soft money and we really do not see a connection between ATP grants and soft money, and we really want to get rid of soft money, we ought to get rid of one of the reasons that soft money is there. It is the corporate welfare that we see.

Let me just mention a few more.

Sun Microsystems had a net profit last year of $762 million; received over $50 million in ATP grants over the last 7 years. United Technologies had over $1 billion profit. They received over $4 million in grants in 1995. 3-M, $1.626 billion in profits. They received almost $2 million in grants.

I think what we need to do is be honest with the American public. There is a place for ATP. It is to small business and small entrepreneur business, not the Fortune 500 companies who are well endowed with their own profits and can afford their own research.

Ms. RIVERS. Mr. Chairman, will the gentleman yield?

Mr. COBURN. I yield to the gentlewoman from Michigan.

Ms. RIVERS. Mr. Chairman, in trying to draw a correlation between ATP and soft money, my recollection, in the 4 years I have served in this House, is that the majority of Republicans in this body have voted against the ATP program. But it is also my recollection that in the 4 years I have been here, the majority of soft money dollars went to the Republican Party.

How would my colleague explain that?

Mr. COBURN. Mr. Chairman, reclaiming my time, I probably do not have an explanation other than to say that there are no clean hands when it comes to soft money, not on either side.

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

Mr. COBURN. I yield to the gentleman from New Hampshire.

Mr. BASS. Mr. Chairman, a further point here. My colleague may be aware of the fact that on the 26th of July, 1995, just a little more than 3 years ago, this House voted 223 to 204 to zero out ATP.

We are also aware of the fact that only 40 percent of ATP funding goes to small businesses. And in their own statements ATP has said that they have "no special allowance for small business."

And, thirdly, 42 percent of the recipients of ATP funding said they would have done the research anyway.

Mr. COBURN. Mr. Chairman, reclaiming my time, I would just summarize by saying that we should recognize what corporate welfare is. Everybody talks that word. Everybody says it. But now it is time to vote. It is time to take the money away from the richest corporations in this country and let them stand on their own two feet. It is called competition. It is called allowing them to use their own insight and own assets to compete in the world.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to this amendment. In spite of the fact that the large companies make most of their contributions to Republicans, I rise in support of the ATP program because it is key to the economic growth.

The capability to generate, diffuse, and employ new technologies in the face of rising technical competence and competition around the world will determine in a large measure the Nation's ability to succeed and prosper in the 21st century.

These programs give these U.S. firms an incentive that accelerates the development of technologies that, because they are risky, are unlikely to be developed in time to compete in rapidly changing world markets.

For Americans, the real payoff is the economic growth fueled by the introduction of future products and industrial processes based on the ATP-sponsored research.

The ATP is a competitive, peer-reviewed, cost-shared program with industry. Their sole aim is to develop high-risk, potentially high-payoff enabling technologies that otherwise would not be pursued because of technical risks and other obstacles that discourage private investment.

The ATP has proven to be an effective mechanism for motivating companies to look farther out onto the technology horizon. By discarding the ATP, we would destroy progress made in encouraging far-looking, risk-sharing research and development of new enabling technologies.

We are fortunate that people long before us took a chance and made sure that that research was done that created the technologies that we are

working with now. We have a responsibility to not eliminate the ATP because it would destroy the momentum created for a new type of industry-led industry, government, university partnership; a partnership with appropriate roles, appropriate goals, and exciting prospects for our U.S. economic gain.

Government and industry have always made substantial commitments to ATP. Its demise would show the government to be a capricious and unreliable partner. But to ensure economic growth and jobs into the next century, the country depends on U.S. industry to put science and technology to work.

Throughout this century, the United States has built whole new industries upon a flourishing science and technology base created by the Federal Government and private firms. Public-private partnerships have resulted in the birth of new industries such as computers and biotechnology, and world leadership in others such as aerospace, telecommunications, and pharmaceuticals.

However, times have changed. Today, Federal agencies are more focused on science and technology that is essential to their missions. Even though there is an even greater focus on technology transfer, there is greatly reduced spin-off from mission-related research.

Company research and development has shifted to narrower, more focused work. Large firms no longer pour billions into the development of high-risk, broad-based technologies that other firms can build on, such as GE, AT&T, Bell Labs and IBM once did.

While it may be true, as some would say, that large firms are able to pay for their own R&D, it is also true that they will not pay for longer-term, higher-risk, broadly applicable technology if other firms are going to benefit from the research without paying for it.

ATP fills a critical niche in the Nation's science and technology portfolio. Large and small firms are an important part of the mix, along with universities and national labs.

Part of the reason that large firms need to be involved with ATP partnerships is because, in large measure, that is where the technology is. The United States and its citizens stand to benefit more in this equation than the individual firms.

In addition, small firms and universities, about half the ATP awards go to small firms, frequently want larger firms in the partnership to provide critical business and marketing skills or to provide complementary technologies needed for further development. So large firms also frequently ante up the extra funding that allows universities and others to participate and to provide the organizational staff for collaborations.

A program like the ATP program sweetens the pot to induce firms to form partnerships to develop important technology that would not be developed otherwise. It is one element in a strategy to bridge the gap between public R&D, largely basic science and mission driven, and private research and development, largely focused on products and low-risk science and technology.

Important, high risk, enabling technologies exist in large firms as well as small. Just as in small firms, many of these technologies will only be developed if the Government and industry share the risk and the benefits.

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

Mr. Chairman, I rise in opposition to the Bass amendment. The gentleman from New Hampshire (Mr. BASS) is my dear friend, but I think this amendment that he has offered, which would cut off all new grants for the ATP program, would effectively kill the program and I strongly oppose it.

Mr. Chairman, ATP should not be killed. Companies that have participated in the program, even those that have not, agree. The Coalition for Technology Partnerships includes companies ranging from IBM and B.F. Goodrich, to the Cryovac Division of the Seal Air Corporation in my home State of Maryland, which has written to me to express their opposition to the Bass amendment. Let me quote from the letter.

> The ATP enables organizations to share costs, risks, and technology expertise in precompetitive R&D. By pooling resources, it allows projects to be pursued that otherwise would lie dormant. Smaller companies frequently want to work with larger ones to gain access to skills, technology, funding and potential customers available in no other way. Cooperative research programs like ATP strengthen small companies measurably. The Bass amendment kills this.

The House appropriators have already reduced ATP funding by $12.3 million, from $192.5 million in fiscal year 1998 to $180.2 million in fiscal year 1999. Further, they cut new awards by 48 percent. Last year the National Institute of Standards and Technology spent $82 million on new ATP projects. Under H.R. 4276, NIST would be limited to only $43 million in new awards. That already is a $39 million cut.

The House appropriators have cut ATP enough. The effort to eliminate new ATP awards is simply an effort to kill the program, not reprioritize funding in the Commerce-Justice-State Appropriations bill.

Last year, Mr. Chairman, I introduced and the House passed and the committee approved, obviously, H.R. 1274, which was the National Institute of Standards and Technology Authorization Act of 1997. H.R. 1274 makes important changes to ATP.

What it does is, it includes language to reform the grant process by requiring that grants can only go to projects that cannot proceed in a timely manner without Federal assistance.

The bill also increases the match requirements for ATP grant recipients to 60 percent for joint ventures and non-small business single applicants.

□ 1845

Through these reforms, the House is moving ATP in the right direction. We have reformed it.

Just last week, the Senate passed S. 1325, the Technology Administration Authorization Act. That bill also authorizes ATP and includes many of the same reforms that were contained in H.R. 1274.

Both the House and the Senate authorizers include money for new ATP grants in fiscal year 1999. The Senate bill would allow for roughly $67 million in new awards while the House includes roughly $13 million. Since the final ATP authorization for fiscal year 1999 has yet to be worked out, the House appropriations figure of $43 million in new grants seems appropriate.

Mr. Chairman, the bottom line is that if you zero out new awards, you kill the ATP program. I believe that we should reform it, and we have been doing that, and not kill it. It is a true partnership.

With the passage of H.R. 1274 and S. 1325, the House and Senate have taken strong, positive steps to reform ATP. Let us not reverse course now.

Last year, Mr. Chairman, a similar amendment to end ATP and transfer money to another worthwhile project, in that case juvenile crime prevention, failed by a vote of 163–261. The Bass amendment should be defeated as well.

Mr. Chairman, I ask all my colleagues to support cooperative research to strengthen our economy. Vote "no" on the Bass amendment.

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

Simply today we are talking about creating jobs for the future for our constituents, for American workers, or whether or not we are going to stand by and refuse to invest in the kinds of partnerships that will create new technologies to create those jobs. In Michigan, we have put together a number of ATP projects that have been extremely positive. One is the Auto Body Consortium.

The gentleman introduced this amendment by talking about Ford and General Motors, Chrysler also falls in that category, as receiving dollars. They have not received individual dollars for individual projects. They are part of a consortium of universities, small businesses and the auto industry to work on high-risk, cutting-edge, new technologies so that we can compete with foreign automobile companies. That is the bottom line. ATP has been a contributing factor in bringing together, and sometimes the most contributing factor in bringing together

industries, so that instead of competing as they do on a daily basis, they can work together as an industry on behalf of American workers and American business to compete and create new efficiencies and new technologies so that we can be effective in keeping jobs here in America rather than having them be overseas. The ATP contributes to a valuable new culture of cooperation in U.S. industrial R&D.

In one study of more than 400 organizations working on ATP projects, nearly 80 percent worked on the project in collaboration with other companies, universities or Federal labs. Eighty-five percent of these reported that the ATP played a significant role in bringing the collaborative relationship together. I can speak firsthand in Michigan for the fact that that is true. Corporations, businesses are busy working, focusing on the bottom line week to week, quarter to quarter. The ATP allows them and creates an incentive to bring them together on an industry basis to look long-term. That is what we need as Americans, to be looking long-term as far as jobs are concerned.

The results of ATP-sponsored research, commercialized by private industry, are starting to emerge from laboratories and enter the marketplace. I would like to just briefly mention three.

One of the earliest ATP projects, a collaborative effort to develop a suite of advanced manufacturing technologies for the printed wiring board industry, PWB, resulted in new materials, testing, imaging and production techniques that have been credited by the National Center for Manufacturing Sciences with quite literally saving the roughly $7 billion United States PWB industry with its approximately 200,000 jobs. ATP has been credited with quite literally saving 200,000 jobs and an entire industry.

An ATP joint venture in the automobile industry as I mentioned earlier that included several small and mid-sized manufacturers and universities in Michigan resulted in manufacturing monitoring and control technologies that have led to significantly improved dimensional tolerances, improving vehicle quality and customer satisfaction. One economist has projected that the project's market-share boost for U.S. auto manufacturers has resulted in thousands of new jobs and a $3 billion increase in the U.S. industrial output within the next two years. We are talking about jobs, high-paying jobs for my constituents and the constituents of my colleagues.

Finally, the ATP was instrumental in promoting the research that led to today's DNA chips, miniaturized genetics labs that offer fast, up to 1,000 times faster than conventional methods, faster, accurate, low-cost genetic analysis. Early spin-offs of ATP projects in this area already are being used in agriculture and food and cosmetics testing as well as the obvious applications in drug discovery, human-genome research, and biomedical research.

We are talking about the ability to increase the quality of life for our constituents, their health, their jobs, their food safety and the ability to move forward and compete in a world economy in partnership, around the world. We are competing against teams, teams of business, labor, government, education on the other side of the ocean. We have to have those teams in place.

The CHAIRMAN. The time of the gentlewoman from Michigan (Ms. STABENOW) has expired.

(On request of Mr. BASS, and by unanimous consent, Ms. STABENOW was allowed to proceed for 30 additional seconds.)

Mr. BASS. Mr. Chairman, will the gentlewoman yield?

Ms. STABENOW. I yield to the gentleman from New Hampshire.

Mr. BASS. The gentlewoman from Michigan has made a great case, it sounds like heaven on earth, but I think it is important to point out that these three automakers made almost $20 billion. ATP would be .005 percent of their entire profits. The reality is that they could fund the entire consortium.

Ms. STABENOW. If I could reclaim my time for a moment to indicate, this is about the ability to bring together competitors, to work together in a cooperative way on behalf of American workers. ATP allows them to do that.

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

Mr. Chairman, I rise in strong support of the amendment for a number of reasons, not least of which is the fact that even the strongest proponents of the ATP readily admit that its value, its subsidy goes almost exclusively to otherwise profitable corporations, many of them the largest corporations, not just in the United States but the largest and most profitable corporations in the entire world. They use phrases like cost-sharing and risk-sharing, but where I come from, that is simply a euphemism for subsidy.

These are subsidies to very large corporations that are undertaking research and development, the vast majority of which otherwise would undertake that very same R&D because they know it makes good business sense to invest in these new products and in some cases even in emerging technologies.

Risk-sharing. We somehow think that risk-sharing is something that the Federal Government, that the United States should be intimately involved in and taking taxpayer dollars and somehow subsidizing these risks. But the fact of the matter is we have a very well-developed venture capital industry in this country, most certainly the most well-developed, most sophisticated venture capital industry in the world, that has a keen ability to go out and find new technologies, find new products, find new companies in which they can invest profitably. The idea that somehow the United States government, that a number of bureaucrats sitting around in an office somewhere in Washington, D.C. has the intellectual acumen to compete with the greatest minds in the world who are investing in ventures every day is ridiculous.

I think what it comes down to are two things, two reasons that people insist on trying to subsidize R&D for these profitable corporations year after year after year: First, perhaps politicians want to take some credit for creating jobs. They want to feel that they can take taxpayer money allocated for one part of the country to another in some sort of a company, some sort of a venture and then take credit for jobs that might somehow be related to that investment. But that is not really what we are here to do. We are here to create an economic climate in which jobs can be created. We are not here as elected officials or bureaucrats that might be appointed in Washington to somehow decide what the technological winners and losers in our economy ought to be. The notion that we somehow can pick the new technologies, the new products that are going to create jobs for companies tomorrow as elected officials is simply wrong. We might be able to find one or two projects or even five or 10 projects where some job was created, and I would certainly hope that after spending billions of dollars, the ATP can point to at least a couple of successes, but the ultimate question is whether or not we are going to engage in this kind of corporate welfare year after year after year.

We can also just as easily point to the areas where we have subsidized or tried to subsidize otherwise profitable industries or mistaken technologies at the expense of the taxpayer. There was a movement in this Congress eight, 10 years ago to subsidize the static memory industry, the D-RAM industry. It was the be-all and end-all of technology investment. We needed to be competitive. This was the future of the country. The fact of the matter is today the static memory business is one of the least profitable businesses in the entire world. If we had followed the industry policy wonks down that road, we would not have wasted millions or tens of millions of public money, we would have wasted hundreds of millions.

High definition television. The Japanese government wasted billions of dollars developing a high definition TV standard that ultimately will be a laughingstock, because the private minds, the private sector was willing

to take risks, invest in new technology, evolve technology, and ultimately it is a private sector-developed standard that will dominate the HDTV industry if and when it finally does arrive.

Politicians and bureaucrats cannot and should not pick winners and losers in industries across the country. We should not play off one industry against the other; the telecommunications industry against the pharmaceutical industry, the pharmaceutical industry against biotechnology, biotechnology against textiles. That is wrong. It is not just wrongheaded, it is not just intellectually wrong, but it is morally wrong, to take taxpayer funds from hardworking people who may not be in an industry that is getting the big subsidy, take their tax dollars and do not just give it to another industry but give it to some fat cat in a Fortune 500 company that is raking in billions and billions of dollars of profits every year.

We need to take a stand against that kind of wrongheaded technology policy and industrial policy. We need to take a stand against corporate welfare. We need to support the gentleman's amendment.

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

Mr. Chairman, I urge my colleagues to join me in voting against this shortsighted amendment, because it restricts American investment in new ideas. It is ideas and the whole process of innovation that cause economic growth. We should be nurturing new initiatives and providing opportunity for their development, not foreclosing them as this amendment seeks to do.

In light of the comments of my friend and colleague from New Hampshire, let me tell you the story of a handful of research scientists from Springfield, Virginia. These researchers were studying methods of detecting minute concentrations of chemicals. Existing technology measures radiation output to identify these chemicals. However, when detecting extremely minute quantities, naturally occurring background radiation creates too much noise to provide useful measurements. To overcome this problem, they conceived of a sophisticated multiphoton detector which could not only measure the rate of radiation decay but the type of decay as well, effectively eliminating all background noise. Eventually we will all be able to see the importance of developing this technology. But the lenders and venture capitalists were wary of investing in what had to be considered a high-risk project.

□ 1900

With a $1.7 million grant, not a big grant, but $1.7 million from the Advanced Technology Program, they successfully developed the multiphoton detector. The detector is currently undergoing final testing, and the company is seeking premarketing approval from necessary regulatory agencies.

Over the next few years these few researchers hope to take their firm public. They anticipate revenues of $88 million, and they expect to employ about 300 full-time employees, jobs and economic growth that would not have occurred had it not been for the ATP program.

The benefits of this new detection system will have broad applications throughout society. Doctors can look for certain particles in minute traces of saliva rather than invasively drawing spinal fluid. There are applications for this product in health care, environmental protection, even processing materials to build sensitive items like semiconductors.

When these researchers could not get financing from private sector local lenders and venture capitalists, they had to turn to the Advanced Technology Program. Without the ATP, the only option left to them would have been to develop this product overseas.

Now China and Korea and Japan all realize the importance of funding high-risk research that will have broad benefits to their economy and society. If we relinquish our role as the world leader in fostering technological innovation, then we can expect a decrease in market share for all our technological products and a corresponding loss of American jobs.

Mr. Chairman, I do not think that this amendment is in America's interest. I think the Advanced Technology Program is in America's interest. This amendment would hamper growth. We need to be finding ways of sustaining and expanding growth. This amendment would stifle innovation. We need to be encouraging innovation in every way possible.

Mr. Chairman, I urge my colleagues to vote a resounding "no".

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

Mr. MORAN of Virginia. I yield to the gentleman from New Hampshire.

Mr. SUNUNU. Mr. Chairman, I just want to clarify that I am a strong proponent of Federal programs that invest in basic R&D, and I would point to the National Science Foundation, $2.2 billion or so that we will invest this year through universities and laboratories and colleges all across the country. And my question would be: What exactly is the difference between the kinds of projects that the gentleman describes and the National Science Foundation programs?

The only fundamental difference that I can see is under ATP the projects and the subsidies are going towards corporations, again, the largest corporations in the country for the most part. Why can we not consolidate whatever efforts they have with the NSF, which is already well-founded, well-funded and undertaking true basic research rather than subsidizing?

Mr. MORAN of Virginia. Mr. Chairman, as the gentleman knows, ATP is much more focused on the private sector, on the small business community who aspire to bring companies public, to develop private sector jobs. NSF is much more university oriented, more academically oriented.

They do compliment each other, they are not mutually exclusive, and that is the point I wish to make, that ATP does play a role. It is a complimentary role. It is kind of a last resort opportunity for firms that know that they have a good idea, they have to compete with other good ideas and have to be fully reviewed, and I think it is a great deal of scrutiny they are exposed to.

The CHAIRMAN. The time of the gentleman from Virginia (Mr. MORAN) has expired.

(By unanimous consent, Mr. MORAN of Virginia was allowed to proceed for 1 additional minute.)

Mr. SUNUNU. Mr. Chairman, would the gentleman yield further?

Mr. MORAN of Virginia. I yield to the gentleman from New Hampshire.

Mr. SUNUNU. The gentleman's point that the ATP funding is going to the private sector and companies that already exist emphasizes exactly the point that those of us that oppose the program are trying to make, and that, is the beneficiaries or private companies in most cases are already earning a profit, already undertaking this research, and we ought not to be subsidizing those private sector profitable initiatives.

Mr. MORAN of Virginia. I think the government has a synergistic role with the private sector, particularly in areas like this.

Ms. STABENOW. Mr. Chairman, will the gentleman yield?

Mr. MORAN of Virginia. I yield to the gentlewoman from Michigan.

Ms. STABENOW. Mr. Chairman, I might just add one point, and that is, the universities are in fact doing their research under ATP in cooperation, as the gentleman indicated. The private sector is involved in sharing information, but the dollars are not going to the major industries themselves. They are going to a consortium. The universities and small businesses have been contracting for those dollars, so we are talking about university-based research, as the gentleman is aware.

Mr. MORAN of Virginia. Mr. Chairman, I am glad the gentlewoman from Michigan clarified that.

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

Mr. Chairman, I rise in opposition to the Bass amendment, and I want to take some time to go through some basic facts about the program. But before I get into issues like the mission

and how grants are made, I want to address the small business participation in ATP because I have a suspicion that my friends on the other side of the aisle are using data that is not completely up to date.

Although the ATP makes no special allowance for small businesses, the results of the first 8 years of the program show that small and mid-sized firms are in fact very successful at ATP competitions. Since 1990 ATP has made a total of 352 cost-sharing awards to individual companies or industry-led joint ventures. One hundred eighty-five of these awards, more than 50 percent, went to small business.

It is not, as my friends keep saying, that the vast majority of these dollars are going to large corporations. They are, in fact, going to small businesses. Other small businesses are also involved in joint R&D ventures supported by the ATP by forming strategic partnerships with larger firms. My colleague from Michigan pointed out that the dollars go to the venture itself, not to the composite corporations. So small businesses are participating fully in these kinds of opportunities along with larger corporations, and universities as well.

To go back to the basic mission of the Advanced Technology Program, it is meant to develop technology to benefit the United States economy. The goal of the ATP is to benefit the U.S. economy by cost-sharing research with industry to foster new innovative technologies. The ATP invests in risky, challenging technologies that have the potential for a big payoff for the Nation's economy.

These are the projects that traditional venture capitalists tend to shy away from, but there is a view that this could have a big payoff for us as a Nation. These technologies create opportunities for new world class products, services and industrial processes, benefiting not just the ATP participants but other companies and industries, and ultimately taxpayers as well. By reducing the early stage R&D risks for individual companies, the ATP enables industry to pursue promising technologies which otherwise would be ignored or develop too slowly to compete in a rapidly changing world market.

One of the things that was found in a survey of ATP participants is that many felt that the technologies would not have been developed with the same speed were it not for the ATP program. And the reality is, and I will not yield until I finish my presentation, the reality for far too many corporations in this country is that R&D is now heavily D and very little R, and that is where the ATP program steps in.

Unlike comments from my colleague from New Hampshire, ATP is not government-driven, it is industry-driven. Research priorities are set by the industry, not the government. For-profit companies conceive, propose and execute ATP projects and programs based on their understanding of the marketplace and research opportunities, so the genius that my friend from New Hampshire was talking about is indeed a part of this proposal. The ATP selection process, which includes both government and private sector experts, identifies the most meritorious efforts among those proposed by industry.

ATP is not about product development. The ATP does not fund companies to do product development. ATP funds are indeed to develop high-risk technology to the point where it is feasible for companies to begin product development. But they must do that on their own with their own money, and of course companies must bear the full responsibility for production, marketing, sales and distribution. So the idea that the ATP program is used to subsidize entire industries is patently untrue. It does not happen that way.

The ATP is fair competition. Those competitions are rigorous, fair and based entirely on technical and business merit. Small companies compete just as effectively as large companies. As I said over and over, more than 50 percent of the grants go to small companies within the ATP program.

The ATP is a partnership. It is not a free ride for winning companies. On the average, industry funds more than half the total R&D cost for ATP projects. The industry itself funds more than half the total R&D cost for ATP products, and the ATP program is evaluated. Critical evaluation of the ATP's impact on the economy is an important part of the program.

ATP is not corporate welfare for large companies. The ATP is a competitive, peer-reviewed, cost-shared program with industry. The ATP's sole aim is to develop high-risk, potentially high-payoff enabling technologies that otherwise would not be pursued or would be pursued much more slowly because of technical risks and other obstacles that discourage private investment.

Because of these reasons, I support very strongly the ATP program and oppose this amendment.

Mr. BASS. Mr. Chairman, will the gentlewoman yield?

The CHAIRMAN. The time of the gentlewoman from Michigan (Ms. RIVERS) has expired.

(On request of Mr. BASS, and by unanimous consent, Ms. RIVERS was allowed to proceed for 15 additional seconds.)

Ms. RIVERS. I yield to the gentleman from New Hampshire.

Mr. BASS. Mr. Chairman, I would not disagree it is the most competitive corporate welfare program around, but does the gentlewoman from Michigan (Ms. Rivers) believe that ATP funds should not be awarded to companies that say that they would have developed the product anyway, as 42 percent of them did say?

Ms. RIVERS. I think when my colleague looks at the real data, that what he will find, and I know and I am familiar with the study, and if the gentleman had been at the Committee on Science, he would have seen a lot of the problems with that study when we reviewed it.

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

Mr. Chairman, I rise to urge my colleagues to vote once again, just like last year, to reject the anti-ATP amendments offered by my colleagues from New Hampshire and California, Mr. BASS and Mr. ROYCE. It is my understanding that the gentleman from California (Mr. ROYCE) is likely to offer a similar amendment later on in this bill that would cut everything but closeout funding for the ATP program.

Instead, I would urge my colleagues to recognize the Advanced Technology Program for all the work it does ensuring America's competitiveness and bringing together the many separate research efforts constantly being undertaken by American industry, universities and the Federal Government.

Right now in this country, Mr. Chairman, we are fortunate enough to be part of perhaps the most vibrant, robust economy in the world. In this atmosphere I can understand why some of my colleagues would want to make sure that we are not unnecessarily diverting Federal resources toward anything resembling corporate welfare.

But the fact of the matter is, although American companies are visibly in the forefront of developing software and computer technologies and a number of other high-tech innovations, amazingly, U.S. manufacturers actually trail their international competitors in developing these technologies. This lag in the application of technology is something we can address through a partnership of industry with the government, and this is something we can do for relatively small sums.

I urge my colleagues, when they look at how strong the American economy is, let us continue to look for ways to make it stronger. Economists agree that the application and adaptation of technology is a key part of our economic growth. The ATP program is one of the few tools available to us in the Congress that can make a difference in this area.

While we debate this important issue our competitors are already convinced of the wisdom of assisting technology application and adaptation. Japan and the European Union are each spending billions a year on their counterparts to the ATP.

Mr. Chairman, none of us here would advocate unilateral disarmament in the face of military threat to the

United States, but ATP is an investment in our economic engine. It is an investment in our economic security.

I urge my colleagues to continue to support the ATP program as a relatively modest Federal investment reaping impressive rewards. This program rightly supports both small business and the commanding heights of American industry.

I urge my colleagues to support this bipartisan program initiated under the Bush administration and continuing with the support of both Democrats and Republicans, and urge a vote against Mr. BASS' amendment.

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

Mr. Chairman, I could not resist this argument today because as I listened to it, and I have some good friends that are making it, all I could think of was back in about 1480, some 518 years ago, I suspect that in the country of Spain there was the leadership of Spain arguing with a rather novice voyager known as Christopher Columbus, arguing the proposition of whether the world was flat or round.

□ 1915

Luckily, Mr. Columbus won that argument, both in the persuasion of being financed for his voyage and establishing the proposition by virtue of his voyage.

Then I wonder, in the early 19th century, in 1830 and 1840 in this country when public education was a hot issue and it was argued whether it was the role of government to guarantee primary or secondary education to all the students of this country, the proposition by the wealthy, the proposition by many of the well-intended, was that is not a role of government, and we should not divert resources of the government for the purposes of private education.

I suspect that if we checked the CONGRESSIONAL RECORD of about 1943 or 1944, there was very strong argument on that very same proposition when the GI Bill of Rights and the payment for college education for the returning veterans was also argued in this great Chamber.

I would argue and offer as evidence a proposition to my friends: If we would look back to 1946 in the City of Philadelphia and the great invention of the first computer, the first computer was financed by the United States Government in its entirety. It was developed at the University of Pennsylvania in Philadelphia in 1946, and Philadelphia is not Silicon Valley. As a matter of fact, Pennsylvania is not the computer center of the world. But, from some of the reports that I have read, more than 23 percent of the employees now working in the United States would not have their jobs if it had not have been for the invention of the computer.

Now, I have heard my friends argue on the ATP question that it is subsidization and corporate welfare. Very nicely charged, emotional words. And then I have heard the comment that there is all that venture capital out there.

Well, I suggest, one, if you really believe there is all that venture capital out there, go back and read some of the record and hearings of the Subcommittee on Economic Development of the Committee on Banking and Financial Services four, five and six years ago, where the venture capitalists of this country were called in, the technology people of this country were called in, and they readily admitted that taking an idea or a technology from bench model to commercialization was the greatest impacting device in America of how to accomplish this.

Yes, when you have a proven technology that is ready to be commercialized tomorrow, you can go to Wall Street or you can go to the stock market and raise your venture capital. But I venture to say if you have a brilliant idea and it is not yet commercialized, it is extremely difficult and extremely frustrating in this country to raise the funds to develop that to a commercial state.

What we are talking about here is not, as one of the gentleman said, why do we need corporate welfare in the strongest economy in the world? Because the investments we are arguing for today are not for tomorrow, but for 5, 10, and 15 years from now, if we want to maintain our superiority in technology indeed in the world. And what are we arguing about for more than an hour? Twenty cents per man, woman and child in this country. That is what the ATP system allows.

We have heard comments, what does EDA create, the Economic Development Administration? Well, I can tell you, in my district I can account for at least 3,000 to 5,000 jobs through the Economic Development Administration, and many of those are grants to private small companies that would never have been able to become a competitor in their industry or field without some basic support from the United States Government.

Is it sinful for the government to encourage inventive people, entrepreneurs, to take new technologies that create new unimagined wealth and support that in some little way? I argue not.

I think the invention of the computer proves my adversary is wrong.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in the course of our debate we will always face a series of dilemma. We have faced it with respect to juxtaposing economic development and advanced technology against the need for Drug Courts and the need to decrease the utilization and the criminal element of drug use. I find that a very commendable posture, and certainly those who have come to the floor to debate that are committed as well to that mission.

But I think we have been moving in the wrong direction, and previously we discussed eliminating or decreasing the funding for the Economic Development Agency, again not recognizing the need for domestic infusion of dollars to help the economy.

My communities in Houston are distressed in many neighborhoods and economic development monies are key to their survival and the creation of jobs. Now we come to eliminate or to decrease the ATP funding some $43 million.

Well, Mr. Chairman, I have in my hand pages and pages of awards to the State of Texas, some 14, and in refuting my colleague's presentation about corporate welfare, I have tried to look and find the large conglomerates on this list. Mr. Chairman, I cannot find them. They are the small firms who have the genius, but not the capital. They are the universities who have the academicians and the bright students, the Ph.D. candidates who, time after time, come up with solutions to help us make this Nation and the world a better place. These are the recipients of the ATP funds, and I reject the premise that this is corporate welfare.

This is helping those who cannot go even to their neighborhood bank or the large conglomerate bank because they have an idea, they do not have a marketable entity. These are grants that are not Wall Street-type monies, billions of dollars, but these are grants to help people get started.

The Advanced Technology Program has already led to better liquid crystal displays. I would venture to say that most of us would sit down and wonder what are liquid crystal displays. Also more accurate and faster DNA testing and better sunscreens. These small and probably not recognizable, except for DNA, of course, scientific advancements, came about through the ATP program.

These improved products are not only beneficial to our economy because they produce marketable and successful goods, but they also improve our overall quality of life.

I can tell you, Mr. Chairman, with 101, 102 and 105 degree temperatures in Texas right now, I would venture to say there is a lot of sunscreen being used. It may not be the only answer, but I can tell you it helps us out a lot. Better sunscreen means more people can enjoy the outdoors. In this instance we can come outdoors with a little sunscreen. Better LCD's means lighter and better displays on computers and watches. For those of us needing to see a little better these days, that is an advancement.

So, Mr. Chairman, I would say we need to dispel the notion that advanced technology programs are corporate welfare. In fact, more than half the grants dispersed through the program go to small businesses and universities. These institutions need and deserve our help.

Academia and small businesses are an indispensable ingredient in the foundation of our modern society, and we must do our part to make sure they retain their position and we retain our position as a prominent leader in scientific advancement and as a prominent leader in using science to advance our economy.

One of the issues we discuss readily in the Committee on Science is the Nation's position internationally in the competitive arena of math and science. Math and science go to, as well, our position in advancing and discovering new technology.

The ATP program puts us in a position to encourage those small businesses to ensure that we do have the right kind of funding to advance our position internationally. By cutting the funding for this program, we abandon a commitment that we made to the American people, which guarantees them that they will almost have immediate access to better products at an affordable price.

Cutting the ATP and EDA program looks domestic support and domestic investment in the face and ignores our responsibilities.

Mr. Chairman, I would ask my colleagues to defeat this amendment and support the Advanced Technology Program.

Mr. Chairman. I rise to oppose this amendment, which increases the funding for law enforcement, offsetting that increase with a budget cut in the Advanced Technology Program (ATP).

I agree that law enforcement is an important issue, however, my problem with this amendment is where it takes its money from. The Advanced Technology Program provides valuable services to the entire nation, both directly and indirectly.

Under the terms of this amendment, the funding for ATP would be decreased by $43 million dollars. That amount is exactly the amount for new awards for 1999. This program has served us well, and is a proven commodity. It is my firm belief that we ought to be increasing its funding rather than decreasing it.

The Advanced Technology Program has already led to better Liquid Crystal Displays (LCDs), more accurate and faster DNA testing, and better sunscreens. These improved products are not only beneficial to our economy, because they produce marketable and successful goods, but they also improve our overall quality of life here in the United States. Better sunscreens means more people can enjoy the outdoors without worry, and better LCDs mean lighter and better displays on our computers and watches.

I also want to dispel the notion that the Advanced Technology program is corporate welfare. In fact, more than half of the grants that are dispersed through the program go to small businesses and universities. These institutions need and deserve our help. Academia and small business are indispensable ingredients in the foundation of our modern society, and we must do our part to make sure they retain as prominent a role in our economy as multinational conglomerates.

Almost all of us agree, that our partnership with the private sector in the area of science has greatly benefitted our economy. If you have any doubts, just look to the Technology Transfer Act that was passed just a few weeks ago. By cutting the funding for this program we abandon a commitment that we made to the American people, which guaranteed them that they would have almost-immediate access to better products at an affordable price.

I urge all of my colleagues to vote against this amendment, and to assure the American public that we stand committed to the well-being of this Nation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Hampshire (Mr. BASS).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. BASS. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to House Resolution 508, further proceedings on the amendment offered by the gentleman from New Hampshire (Mr. BASS) will be postponed.

The point of no quorum is considered withdrawn.

The Clerk will read.

The Clerk read as follows:

VIOLENT CRIME REDUCTION PROGRAMS, STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For assistance (including amounts for administrative costs for management and administration, which amounts shall be transferred to and merged with the "Justice Assistance" account) authorized by the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322), as amended ("the 1994 Act"); the Omnibus Crime Control and Safe Streets Act of 1968, as amended ("the 1968 Act"); and the Victims of Child Abuse Act of 1990, as amended ("the 1990 Act"); $2,371,400,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund; of which $523,000,000 shall be for Local Law Enforcement Block Grants, pursuant to H.R. 728 as passed by the House of Representatives on February 14, 1995, except that for purposes of this Act, the Commonwealth of Puerto Rico shall be considered a "unit of local government" as well as a "State", for the purposes set forth in subparagraphs (A), (B), (D), (F), and (I) of section 101(a)(2) of H.R. 728 and for establishing crime prevention programs involving cooperation between community residents and law enforcement personnel in order to control, detect, or investigate crime or the prosecution of criminals: *Provided*, That no funds provided under this heading may be used as matching funds for any other Federal grant program: *Provided further*, That $20,000,000 of this amount shall be for Boys and Girls Clubs in public housing facilities and other areas in cooperation with State and local law enforcement: *Provided further*, That funds may also be used to defray the costs of indemnification insurance for law enforcement officers: *Provided further*, That for the purpose of distribution of grants under the Local Law Enforcement Block Grant Program in the State of Louisiana, or any other State the Attorney General finds as having provisions within its constitution similar to those of Louisiana which establish the office of the sheriff in such State as an independent elected official with its own taxing and spending authority, parish sheriffs shall be eligible to receive a direct grant of 50 percent of the funding otherwise provided to the parishes; of which $45,000,000 shall be for grants to upgrade criminal records, as authorized by section 106(b) of the Brady Handgun Violence Prevention Act of 1993, as amended, and section 4(b) of the National Child Protection Act of 1993; of which $420,000,000 shall be for the State Criminal Alien Assistance Program, as authorized by section 242(j) of the Immigration and Nationality Act, as amended; of which $730,500,000 shall be for Violent Offender Incarceration and Truth in Sentencing Incentive Grants pursuant to subtitle A of title II of the 1994 Act, of which $165,000,000 shall be available for payments to States for incarceration of criminal aliens, of which $25,000,000 shall be available for the Cooperative Agreement Program, and of which $15,000,000 shall be reserved by the Attorney General for fiscal year 1999 under section 20109(a) of subtitle A of title II of the 1994 Act; of which $7,000,000 shall be for the Court Appointed Special Advocate Program, as authorized by section 218 of the 1990 Act; of which $2,000,000 shall be for Child Abuse Training Programs for Judicial Personnel and Practitioners, as authorized by section 224 of the 1990 Act; of which $200,750,000 shall be for Grants to Combat Violence Against Women, to States, units of local government, and Indian tribal governments, as authorized by section 1001(a)(18) of the 1968 Act, including $23,000,000 which shall be used exclusively for the purpose of strengthening civil legal assistance programs for victims of domestic violence: *Provided further*, That, of these funds, $5,200,000 shall be provided to the National Institute of Justice for research and evaluation of violence against women, and $1,196,000 shall be provided to the Office of the United States Attorney for the District of Columbia for domestic violence programs in D.C. Superior Court; of which $39,000,000 shall be for Grants to Encourage Arrest Policies to States, units of local government, and Indian tribal governments, as authorized by section 1001(a)(19) of the 1968 Act; of which $25,000,000 shall be for Rural Domestic Violence and Child Abuse Enforcement Assistance Grants, as authorized by section 40295 of the 1994 Act; of which $5,000,000 shall be for training programs to assist probation and parole officers who work with released sex offenders, as authorized by section 40152(c) of the 1994 Act; of which $1,000,000 shall be for grants for televised testimony, as authorized by section 1001(a)(7) of the 1968 Act; of which $63,000,000 shall be for grants for residential substance abuse treatment for State prisoners, as authorized by section 1001(a)(17) of the 1968 Act; of which $15,000,000 shall be for grants to States and units of local government for projects to improve DNA analysis, as authorized by section 1001(a)(22) of the 1968 Act; of which $900,000 shall be for the Missing Alzheimer's Disease Patient Alert Program, as authorized by section 240001(c) of the 1994 Act; of which $750,000 shall be for Motor Vehicle Theft Prevention Programs, as authorized by section

220002(h) of the 1994 Act; of which $40,000,000 shall be for Drug Courts, as authorized by title V of the 1994 Act; of which $1,500,000 shall be for Law Enforcement Family Support Programs, as authorized by section 1001(a)(21) of the 1968 Act; of which $2,000,000 shall be for public awareness programs addressing marketing scams aimed at senior citizens, as authorized by section 250005(3) of the 1994 Act; and of which $250,000,000 shall be for Juvenile Accountability Incentive Block Grants, except that such funds shall be subject to the same terms and conditions as set forth in the provisions under this heading for this program in Public Law 105-119, but all references in such provisions to 1998 shall be deemed to refer instead to 1999: *Provided further*, That funds made available in fiscal year 1999 under subpart 1 of part E of title I of the 1968 Act may be obligated for programs to assist States in the litigation processing of death penalty Federal habeas corpus petitions and for drug testing initiatives: *Provided further*, That, if a unit of local government uses any of the funds made available under this title to increase the number of law enforcement officers, the unit of local government will achieve a net gain in the number of law enforcement officers who perform nonadministrative public safety service.

AMENDMENT NO. 9 OFFERED BY MR. SCOTT

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Mr. SCOTT:

Page 28, line 5, insert after the amount '(reduced by $105,000,000)' and insert as follows:

Page 27, line 8, after the amount insert '(increased by $36,500,000)';

Page 28, line 14, after the amount insert '(increased by $13,000,000)' and on line 16 after the amount insert '(increased by $8,000,000)';

Page 29, line 17, after the amount insert '(increased by $12,000,000)'; and

Page 30, line 3, after the amount insert '(increased by $35,000,000)' and on line 4 after the amount insert '(increased by $500,000)':

Mr. SCOTT. Mr. Chairman, this amendment would transfer one-half of the funds in the Truth in Sentencing Incentives Grant program, approximately $105 million, to crime prevention, drug treatment and family resource programs.

Mr. Chairman, there are several reasons to move funds from the Truth in Sentencing Incentive Grant program to these other programs, the first of which is that half of the States do not even qualify for the truth in sentencing grants. States like Kentucky and West Virginia and Massachusetts do not even get funds out of this program.

Second, Mr. Chairman, the truth in sentencing funds can only be spent for prison construction. At this point, some of the States that do qualify have already overbuilt prison space. For example, my own State of Virginia is trying to lease out to other States and the Federal Government some 3,200 excess prison beds. There is no reason for us to spend money to build prison beds in States that do not even need them.

Third, Mr. Chairman, that we encourage States to adopt truth in sentencing systems is of dubious value. The so-called truth in sentencing scheme is actually the half-truth in sentencing. Proponents of truth in sentencing tell you that no one gets out early. That is the half-truth. The whole truth is that no one is held longer either.

Mr. Chairman, when States adopt truth in sentencing schemes, the first thing they always do is to reduce the length of sentencing judges have been giving under the parole system and then direct the defendant serve all of the reduced sentence.

For example, under a parole system, if a judge says 10 years, the average defendant will serve about a third of the time, with the lowest risk prisoners getting out as early as two years. But the worst criminals who cannot make parole serve the whole 10 years.

But with truth in sentencing, everybody gets out at the same time. If the new sentence is 3⅓ years, you get 3⅓ years, you serve 3⅓ years. The problem is that the lowest risk prisoners under that system will serve more time, while the most dangerous criminals who could not make parole and would have served all 10 years now get out in one-third of the time.

If the State were to double the average time served, the worst criminals would still get out earlier than they do under the parole system. In fact, even if the State tripled the average time to be served, the worst criminals would then serve the same 10 years that they would serve under the parole system. The primary difference is that the taxpayers would have been bilked out of billions of dollars by funding a politician's campaign slogan that has nothing to do with reduction of crime.

Mr. Chairman, States are already spending tens of billions of dollars on prison construction every year, so this $105 million spread about the few States that actually qualify cannot possibly make any difference in the number of prison beds to be built, much less have any effect on the crime rate. But if that money is spent on prevention and treatment, we can make a significant difference in crime.

For example, Mr. Chairman, the amendment provides for $36.5 million to go to increasing funds for building and running Boys and Girls Clubs and public housing and other sites for at-risk youth. Boys and Girls Clubs have been shown through study and research to be a cost effective way of reducing crime for at-risk youth. The amendment also provides $37 million for residential drug treatment for prisoners before they are released, and approximately $75 million for Drug Courts. Both prison drug treatment and Drug Courts have been shown not only to significantly reduce crime, but also to save money.

The money for court-appointed special advocates, child abuse prevention, training and law enforcement and family support will reduce family violence and child abuse, which have been shown to reduce future crime.

□ 1930

We can all agree that assisting families of law enforcement officers who have died in the cause of duty is an appropriate thing to do.

Mr. Chairman, I ask my colleagues to support this amendment, reduce crime, and save money.

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

Mr. Chairman, I rise to support the gentleman's amendment because it makes sense. I think a little history is in order here. The so-called truth-in-sentencing grants, the statute authorizing these grants was enacted back in 1994.

From then until now, a GAO study reports that only four States changed their statutory practices to comply with these grants, only four States. In 4 years, there have been some 27 States that could in fact file an application to secure these grants, but it was clear that it was not the truth-in-sentencing authorizing legislation that encouraged those States to do it, they decided to do it on their own, as they should.

It has also become clear that the 24 other States that do not qualify under the truth-in-sentencing grants have no intention to change their current statutory practices to qualify for these grants.

By the way, as the gentleman from Virginia alluded to, there is absolutely no evidence that the monies that have already been expended through these grants in any way, shape, or form reduce crime or violence in this Nation. In fact, the 24 States that are not in compliance show a similar decline in violence and crime as those who have adopted a truth-in-sentencing statutory scheme.

It does make common sense. In fact, it might be worthy of consideration that this particular program over a period of time be phased out. The gentleman seeks only to remove one-half, $105 million, from the truth-in-sentencing source for other programs.

He has enumerated them in his own statement: prison drug treatment programs, boys and girls clubs, the drug court program, child abuse training programs. These programs, these programs would be available to every single State in the Nation.

As I indicated, or as the gentleman from Virginia indicated, in my home State, the Commonwealth of Massachusetts has seen a dramatic decline in crimes of violence. In fact, the city of Boston has been used over and over again as an example of programs that do work in terms of prevention and treatment. Yet, the Commonwealth of Massachusetts is not in a position to

seek monies and funding because of the mandates under the truth-in-sentencing statute.

So it does make sense. It is more fair. If we can divert these monies into programs that have been proven to work, every State in the Nation will benefit. Mr. Chairman, I urge my colleagues to vote yes for the Scott amendment.

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

Mr. Chairman, I rise in opposition to the gentleman's amendment because it basically takes $105 million from the State prison grant program. Regardless of where the money would go, that is the thrust of this amendment. That would cut the resources that we have provided in this Congress to build and expand much needed prison space.

Show me one State in the Nation, I say to the gentleman, that is not overcrowded in their prison space, and I want to look at it very carefully. Even the Federal prison space is overcrowded.

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

Mr. ROGERS. I yield to the gentleman from Virginia.

Mr. SCOTT. Mr. Chairman, I could ask two questions. One, I would ask, does the gentleman know Virginia is renting out space to other States because we have 3,000 beds we do not need?

The other question is, could the gentleman tell me why Kentucky did not get any money at all from there?

Mr. ROGERS. Reclaiming my time, Mr. Chairman, and the gentleman will have his time, the gentleman's amendment is an attack on a very important crime policy that passed this Congress, the policy that requires persons who commit crimes to be held accountable by serving prison time that fits the crime.

If a State wants to take advantage of those funds, then they can do so, including my own State. I would hope that they would.

The gentleman has offered amendments the last 3 years that would do nothing more than undo that policy. The point he is trying to make is that prisons do not work. I think that is what he has said in the past. A lot of us disagree. His attempts have failed before here because it is recognized that crime is reduced when violent criminals are locked up and off the streets, which this policy does for the Nation.

Before Congress passed the violent offenders truth-in-sentencing law, violent offenders were serving only about 43 percent of their sentences. That means in 1994 murderers with an average sentence of 16 years were released after serving only 7½ years. Rapists sentenced to 9 years were released after serving less than 5 years, Mr. Chairman.

When we passed this legislation as part of this bill in 1995, only 12 States were truth-in-sentencing States. Now more than half of all States lock up their offenders for at least 85 percent of their sentences, what the juries in those States gave the criminals.

This program is the only source of funding to help States build prisons. With this money States build prisons, jails, juvenile facilities. They have developed tougher sentencing policies, policies that assure offenders serve at least 85 percent of the jury-imposed sentences. They deserve the support of Congress to ensure that adequate bed space is available to maintain those policies.

While the gentleman's amendment would increase funding for other important crime programs, the bill already provides substantial increases for those programs. For example, we already provide a $9 million increase for Violence Against Women Act programs, $9 million more than the President asked us to spend. We provide $63 million for the State prison drug treatment program. We already provide $40 million for drug courts, a $10 million increase over the current fiscal year. We added another $3 million earlier today, for a 43 percent increase in the funding for drug courts, which all of us agree are good things.

The gentleman's amendment would also earmark an additional $56.5 million in funds from the local law enforcement block grants for Boys and Girls Clubs, for which the bill already provides a $20 million boost. This would take away much needed funds for locally driven crime priorities, such as law enforcement personnel, overtime pay for police, technology for police, equipment for police, safety measures in schools, and drug courts.

Crime is down across the country because we have provided a full arsenal of anticrime measures: more police with the tools and equipment they need, more prison space to make sure that criminals are held accountable for their crimes and are not rearrested by these police after they are released prematurely, and quality prevention programs designed to reduce risks, after their release.

We cannot afford to lose the ground we have gained. Last year, Mr. Chairman, 291 Members, Republicans and Democrats, voted to support the prison grant program and defeated the gentleman's amendment, which would have gutted the program. I urge the House again to defeat this amendment.

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

Mr. Chairman, I rise in opposition to this amendment. I feel very strongly that we have an established pattern that is working relatively effectively, as the chairman has just said, with respect to what the Federal government's role is in attempting to assist the States to reduce an enormously big violent crime problem that has faced this Nation for some time.

The amendment of the gentleman from Virginia (Mr. SCOTT) would take away a great deal of the incentive program that we have established in order to provide the resources for the States to accomplish this.

The truth-in-sentencing grant program that was adopted in 1995 has been very successful. It has provided a change in the way the States behave with respect to certain aspects of how they sentence and how long people serve those sentences. Unfortunately, not enough States have adopted this program that we have suggested, so far.

We started out, as the gentleman from Kentucky (Mr. ROGERS) said, in 1994 with only 12 States requiring prisoners to serve at least 85 percent of their sentences. We now have more than half the States who are on that program, who have laws that require that, at least in part. I think in large part those States that went through this procedure did it because they either knew or were interested in getting the prison grant monies that were under this bill.

We need the other States to come into compliance, because the average length of sentencing at the time we started this process being served in this country was about 33 percent; that is, the amount of time they served for what they were given, it is now up to somewhere around 38 to 40 percent, but it is still a very significant number in the sense that it is on the low side.

We need every single prisoner in this country to get a message. If we are going to have deterrence, we need that prisoner or that felon who is convicted of these violent crimes to know they are going to serve the full measure, or as much of it as is responsible, of their sentence; at least 85 percent, in every single case, especially violent criminals.

In 1960 we had approximately 160 violent crimes for every 100,000 people in our population, in 1960. At the height of the violent crime crisis in this country, about 4 years ago, when we kind of peaked out before we had these truth-in-sentencing grants for building more prisons and encouraging States to come aboard the 85 percent rule, we had about 685 violent crimes for every 100,000 people in our population.

We have improved that number a little. The crime rate has gone down slightly, only marginally. The last time it was 634 violent crimes for every 100,000 people in our population. Even after the slight reduction in violent crime in this country, it is four times more likely, when we go to a 7–11 at night to buy a carton of milk, that we are going to be raped, robbed, mugged, murdered, or something is going to happen in the way of a violent crime.

That is totally unacceptable. We need to do everything we can to encourage the States, where most of this crime is committed, under State law, to require prisoners to serve at least 85 percent of their sentences.

That is not all that we have involved in this. Statistics show that 40 percent of the persons on death row in 1992 were on probation, parole, or pretrial release when they committed their murders. Those statistics have not changed much since then, unfortunately. Imprisonment is used much less than other methods. On any given day, seven offenders are on the street for every three that are behind bars. I find that a remarkable and awful statistic to think about. We are not now talking about people out on the street not getting any sentence, we are talking about those who get sentences, any sentence, not serving all they should be serving.

I am for boys and girls clubs. I think they are doing a terrific job in our cities. I am for the drug courts. All of us are. But to take money away from the incentive grant program in this bill to encourage States to go to truth-in-sentencing, to encourage States to change their laws to require prisoners to serve at least 85 percent of their sentences, violent prisoners, is wrong.

We need to keep what we have in this bill. We need to proceed to use the money that is available to encourage the States to do what they have not done, in those States that have not. We need to have the President of the United States and our other leaders lead a charge at the National Governors Conference and in the legislative halls of these States that have not complied to change their laws.

This money in this bill could encourage that to happen, and I would suggest it is not going to happen without this money, because if the States cannot house these prisoners, they are not going to be willing to change their laws. If we do not change them and this does not happen, we are going to continue to have an unacceptably high violent crime rate in this country.

□ 1945

To the degree that that is there, it needs very badly to be continued.

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

Mr. McCOLLUM. I yield to the gentleman from Massachusetts.

Mr. DELAHUNT. Mr. Chairman, I thank the gentleman for yielding to me. I just want to bring to his attention a study that was commissioned by the GAO back in February of 1998, this year.

The CHAIRMAN. The time of the gentleman from Florida (Mr. McCOLLUM) has expired.

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

Mr. DELAHUNT. Mr. Chairman, if the gentleman will continue to yield, it states, and I am quoting, The truth in sentencing grants were a key factor in four States, in four States.

Mr. McCOLLUM. Reclaiming my time, Mr. Chairman, I do not know anything about that study. I do not believe that that is true. I believe we passed this law in 1995. I know there were 12 States at the time we passed that law that had truth in sentencing, the 85 percent rule. There are now 28 States, I have just confirmed in checking, who have gone to that.

I would believe, from all the evidence I know about as the chairman of the Subcommittee on Crime, from talking to State legislators around the country, from talking to governors around this country, that the incentive grants program in this truth in sentencing had a lot to do with decisions in all of those States. Tell me who did the study and I will be glad to research their study.

Mr. DELAHUNT. Mr. Chairman, I can bring this to the attention of the gentleman, because it is a report to congressional requesters. There were 7, 8 members of the Committee on the Judiciary.

Mr. McCOLLUM. Mr. Chairman, who is the report authored by?

Mr. DELAHUNT. The report is a GAO report. It is dated February 1998. It is described as truth in sentencing.

Mr. McCOLLUM. Reclaiming my time, Mr. Chairman, I will be very glad to look at that. I am glad to know that GAO thinks that. I think they are wrong. I believe that our studies in the Subcommittee on Crime would say they are wrong. I have never seen that report before, never heard of that report. It does not make one wit of difference, because we need to provide such money out there to get them to do the job.

I would seriously contest the validity of any study that shows that. This amendment should be defeated, if we are going to get the 85 percent rule adopted in the other remaining States, the remaining ones other than the 28 that have done it. I urge in the strongest of terms that the Scott amendment be defeated.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the requisite number of words, and I yield to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Chairman, I thank the gentleman for yielding to me.

Again, I just want to report that this is a GAO study. The requesters were members of the Committee on the Judiciary, including members of the Subcommittee on Crime, and it states that according to their research, truth in sentencing grants were a key factor in four States.

The gentleman is right. There were 12 States prior to the enactment of the truth in sentencing incentive program back in 1994 that were in compliance. But my point is specifically this, those States that are not in compliance now show clearly that a decline in crime, in violence is commensurate with those States that have received grants, that the bottom line, common sense dictates that this particular program has done nothing whatsoever to reduce violent crime in this country.

The States know what they are doing. The Commonwealth of Massachusetts, as the gentleman knows, has an outstanding record in the reduction of crime and violence, and they are not in compliance. Let the States do what they know best, not the Federal Government, not bureaucrats in Washington. They know how to deal with the issue of violent crime.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Chairman, I would like to respond to a couple of things that the gentleman from Kentucky mentioned.

First of all, the amendment is drawn so that the money will come out of the truth in sentencing grant. It is a little complicated because of the way the truth in sentencing grant has been combined with others, but the amount of money, the legislative intent is to take it out of the truth in sentencing grant.

The gentleman from Kentucky also indicated that we have suggested that prisons do not work. What we have said, Mr. Chairman, is that a scheme that increases the time for the lowest risk prisoners and decreases the time for the highest risk prisoners is not the effective use of prison space.

I think it is appropriate now to give an example of what happens when you do these truth in sentencing schemes. As the gentleman whose name is nationally known, Richard Allen Davis, who was in jail on a serious crime, he was given six months to life. He was denied practice parole, denied parole, denied parole, until a California crackdown on crime abolished parole and resentenced everybody. He got 7.2 years. Turned out he had already served it. He was out. He got caught again on a serious offense. You get 8 years, you serve 8 years. They could not hold him longer than 8 years and had to let him out. Then he kidnapped and murdered Polly Klaas.

If there had been a parole system where they could have held him longer, he would still probably be in jail on the first offense and certainly in jail on the second offense. That is why I call it half truth in sentencing, because the half truth is that nobody gets out early, but the whole truth is that you cannot hold people longer.

This scheme also has another little effect. That is that those who are in prison have no longer any incentive in

getting the education, the job training that actually makes a difference in recidivism rates. They know the day they get in, they know when they are going to get out so they do not have to get any education or job training.

When truth in sentencing and abolishing parole was studied in Virginia, they found that spending $200 million per congressional district and $100 million per congressional district per year running the prisons would not make a statistically significant difference in the crime rate. That is what their study showed, not a statistically significant difference.

That is why the amendment is to take the money out of that program and put it into some programs that will actually reduce crime.

Mr. FRANK of Massachusetts. Mr. Chairman, I am glad I got that off my chest.

Mr. WATT of North Carolina. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have to say that after listening to this debate, my colleague from Florida, the chairman of the Subcommittee on Crime of the Committee on the Judiciary, is just as much in denial on the floor of the House as he is in the committee.

The truth of the matter is that these truth in sentencing grants simply do not work for the purpose that he believes they do. We went 2, 3 years ago, I was part of the Subcommittee on Crime at that time, went with the chairman of the subcommittee to the various States. And every place we went law enforcement people, including the folks that he said would say differently, that he invited, told the chairman of our Subcommittee on Crime that this was not a good idea. It was not a good idea, including the Attorney General of California. I was there at the hearing when he told him that. This was not a good idea. This is a Republican Attorney General who is running for governor of California. He told him this was not a good idea.

Yet we passed the bill. And now the GAO has told him that it is making no impact, minimal impact. Four States consider this a factor in whether they pass truth in sentencing laws. And he is back here on the floor saying we still ought to do this.

We are wasting taxpayers money doing something that if we converted it to prevention programs, as the gentleman from Virginia (Mr. SCOTT) has suggested we do in this amendment, would be having some impact on the crime rate.

He would like for us to take credit for the reduction in crime, but crime has gone down in all of these States where none of these grants have been given to anybody. It has got nothing to do with truth in sentencing grants being given to the States. Most of the States, including the chairman of the Committee on Appropriations, whose bill this is, do not even get money under this grant program because they do not qualify. And they are not going to change their laws, because they are closer to the people and they have decided that the truth in sentencing scheme that we would appropriate from the Federal Government is not going to work in their States, just like the study that Virginia did that the gentleman from Virginia (Mr. SCOTT) has alluded to.

So why are we doing this program? Because we want to stand up and beat our chests that truth in sentencing somehow is doing something that the GAO study says it is not doing, that the Attorney General of California has said it would not do, that everybody we heard who came to testify at those hearings all across America told them were not going to work.

Yet this is something that the chairman of our subcommittee, the Subcommittee on Crime, has decided that he wants the Federal Government to impose on States. Contrary to all Federalism principles, we have no role at the Federal Government telling States how they ought to be sentencing. They are the legislators that are closest to the people.

That is what we keep hearing from my colleagues who say that they believe in States rights but, over and over and over again, continue to confirm that they do not really believe in it. They just want to give lip service to it.

This is all about the Federal Government trying to tell States how they ought to be sentencing prisoners, when State legislators know as much or more about this issue than we do here at the Federal level.

This program is not working. We ought to take all of the money and transfer it into other programs, other than the money that has already been spoken for and applied for. That is what we ought to be doing with this.

The proposal of the gentleman from Virginia (Mr. SCOTT) is a modest proposal, because he is proposing to take just a little part of it. And that part is not being used and it will not be used, because States have decided that this is a terrible idea, has no impact on crime and that they would make their own decisions about what makes sense out in the world, not allow the Federal Government to tell them what makes sense.

Mr. GUTKNECHT. Mr. Chairman, I move to strike the requisite number of words, and I yield to the gentleman from Florida (Mr. MCCOLLUM).

Mr. MCCOLLUM. Mr. Chairman, I just want to respond a little bit to the gentleman from North Carolina (Mr. WATT).

I have a great deal of respect for the gentleman from North Carolina (Mr. WATT) and for the gentleman from Virginia (Mr. SCOTT), the author of this amendment. But my recollection of the visits that we made, looking at the juvenile crime problem and the juvenile justice system around the country together, is quite different from that of the gentleman from North Carolina (Mr. WATT).

We discussed the problems that we have today of a lack of accountability. We listened to many hours, through 6 or 7 different State meetings, regional meetings actually, where we got most of the law enforcement officials and probation officers and judges and all kinds of folks to come to tell us what we could do about the juvenile crime problem and repairing a broken juvenile system.

And we have adopted in this House H.R. 3, back in the last year of this Congress, the first year, and it has been funded, the program, the grant program, by the gentleman from Kentucky (Mr. ROGERS) and this committee now twice, although the Senate has yet to adopt that program, to provide block grants to the States in order to improve their juvenile justice system, to provide more probation officers, to provide more juvenile judges, to provide more juvenile prosecutors, to provide more juvenile detention facilities, with a carrot in there that said, you cannot get this money unless you first start by taking the very first juvenile offender, when they have committed a very minor misdemeanor act, such as spray painting graffiti on a warehouse wall or running over a parking meter, and giving them some kind of punishment, not necessarily detention time but community service or whatever. States are beginning to pay attention to this.

I would like to believe that this grant program will work, but that is a separate, entirely separate matter from the question of these truth in sentencing grants which were created some time ago.

The process began actually when your party had the majority, but it was a Republican incentive. It was a Republican idea. Fortunately, we were able to modify it in 1995 and get these grants really going. I believe, because of the debate over the fact that we have had so much happening with this revolving door for violent criminals, we are not talking now about juveniles committing misdemeanors, we are talking about murderers, rapists, armed robbers, violent criminals, going through the revolving door, serving only a fraction of their sentences. Many murderers serving only 7 or 8 years, many others getting out with a third or less of their sentences being served and going out and committing crime after crime again and again and again, being the majority of the violent criminals in that category.

We had a lot of debate over that. As a result of that debate here in this Congress on the floor of this House for several years in a row, I am quite confident that State legislators began to get the word.

And I want you to know, I hope we both remember this, that Attorney General Dan Lundgren came to testify here in Congress as the Attorney General of the State of California in favor of the truth in sentencing grant program that we have here and that we are funding tonight. Not only that, but it was Dan Lundgren who authored, back in the 1980s, when he was in Congress in this body, who authored the provision that put the amount of time that has to be served by a Federal prisoner who commits a crime at 85 percent that started this whole process rolling in the first place.

□ 2000

So I am quite confident that Attorney General Lundgren fully supports truth in sentencing, fully supports what we are doing and have done up to this point with respect to trying to provide incentives to the States to stop the revolving door, to make those who commit violent crimes, murderers and rapists and robbers, serve the full measure of their sentences, because he understands that by getting them off the streets, locking them up and throwing away the keys, we can stop a great deal of crime in this country. And that has an awful lot to do with the violent crime reduction rate that is going on.

Now, we may have some other good programs in States that do not have truth in sentencing laws, and in New York City and some other places there are other factors involved in reducing crime, a lot of crime that is not necessarily violent crime, and we do not pretend tonight to say the total solution is truth in sentencing, but it has a large measure to do with it and it is something the public really wants us to continue.

And those other States, those other 22 States that have not yet adopted truth in sentencing, need to get with it. They need to require violent criminals, repeat felons to serve at least 85 percent of their sentences, to get them off the streets, to lock them up, to make them serve their full sentences, and hopefully they will never let them out again.

And then we should be dealing with the juveniles at the early stages, where the gentleman and I went around the country and talked about the problems kids are going through with parents who are not paying enough attention, who are truants and delinquents and get into trouble very early on with the law but never go before a judge, often; in some cities are never taken in by the police because the juvenile justice system is overworked and it is broken in those communities, and we need to do these other things.

But the answer to those parts of this problem does not require giving up this part. We have to do it all. We have to do both. It is not good to have half a loaf. We have to have a full loaf. So tonight I would encourage my colleagues again to defeat the Scott amendment. It is a bad amendment. It destroys a good program that does work. We will continue to reexamine that program, as others.

I thank the gentleman from Minnesota very much for yielding me the time to respond and maybe to make a few points with respect to this, and I strongly urge the defeat of the Scott amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I ask this body to give the Scott amendment a chance, and the reason why I say that is because there can be many interpretations to all that we have seen and all that we have heard.

I appreciate the gentleman from Florida (Mr. McCOLLUM), who I work with on the Committee on the Judiciary and the Subcommittee on Crime, and I joined him on many of those hearings around the country. Maybe I heard something different but, Mr. Chairman, what I did hear is I heard that there is a great need for intervention and prevention.

Now, this does not go in the face of locking up those who have done heinous crimes. This is not against the idea of violent criminals being incarcerated. But let me answer the gentleman from Florida and say that my State is one which is not qualified. It happens to be a State that has built and built and built prisons. In fact, we have built so many prisons that we are in the business of renting prison cells.

And yet we are still seeing crime being perpetrated, and perpetrators upon perpetrators repeating these heinous acts to a certain extent, because maybe there is a reason where we cannot hold people when they need to be held. And the truth in sentencing responds, unfortunately, to that in the wrong way. So that when someone's time is over, it is over, and those violent criminals cannot be held.

So we seem to be chasing our tails, saying in one instance, do not take the money out of this because it keeps the violent criminals incarcerated. I say it does not. And do my colleagues know what else it does? It helps to promote a situation where a young man whose case was presented on television the other evening, who got himself a little inebriated and had a spat with his girlfriend and another young man, with a clean record, a good family, he happened to barge into the girlfriend's apartment and punch the other fellow. The other fellow did not die, he was not hospitalized, but the young man was charged with breaking and entering and assaulting. He has 25 years in prison, and we are holding him under truth in sentencing. I imagine that State can apply for these monies, and yet he is not the kind of violent criminal who cannot be rehabilitated.

The Scott amendment does things that I think are important. It puts money in the prison drug treatment programs. We already know that drugs are a devastation upon this society and these communities. And we also know that many of those who are addicted to drugs are incarcerated and are never rehabilitated, and they come right back out and join the cycle of either selling or possessing and using.

The drug courts, which just a minute ago we were talking about funding it or adding more dollars. Boys and Girls Club, which is a well-known institution that goes into the very inner workings of rural and urban America and takes those children who are left out and put out. The Court Appointed Special Advocates, who help to nurture those children who are coming into the courtroom and provide some assistance if they are involved in a crime or if they are victims of a crime. The Child Abuse Training programs. How many times have we heard people rise to make points that those perpetrators of crimes have been victims of child abuse? How many times have we heard that I was a victim of child abuse? And then the Law Enforcement Family Support Program. These are the kinds of intervention measures that can provide the real prevention, what we are all trying to do.

Finally, Mr. Chairman, let me say this. We have all heard about these numbers, that crime is going down. Well, if we read some of the recent articles coming out, we find out that these statistics may be skewed. There has been such a heavy pressure on local law enforcement officials, chiefs of police and sheriffs, that we do not know if these numbers are accurate. It may not be going down anyhow. And the number of incarceration units may not have been having a real impact on bringing down the crime.

It may be that we have to stop and smell the roses. Give the Scott amendment a chance. Give the idea of prevention a real chance.

Mr. DELAHUNT. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Massachusetts, because this is an important position which we should take.

Mr. DELAHUNT. Mr. Chairman, I thank the gentlewoman from Texas for yielding to me.

I do not know what States the chair of the subcommittee is referring to when he talks about murderers being held for 7 or 8 years, and rapists and muggers out on the street. I served as

district attorney, as the gentleman knows, in the metropolitan area in Boston. Every single individual who was sentenced and incarcerated for first degree murder is still serving.

The CHAIRMAN. The time of the gentlewoman from Texas (Ms. JACKSON-LEE) has expired.

(By unanimous consent, Ms. JACKSON-LEE was allowed to proceed for 1 additional minute.)

Mr. DELAHUNT. Mr. Chairman, will the gentlewoman continue to yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Massachusetts.

Mr. DELAHUNT. Mr. Chairman, as I was saying, every single inmate that was incarcerated for first degree murder is still serving that time. It has nothing to do with this particular amendment.

At the same time I hear the gentleman from Florida telling or instructing or exhorting 22 States to get with it. Well, I would suggest to the gentleman that the reality is that those 22 States would show a decline in the reduction of violence as significant as those that are in compliance.

The bottom line, and I know the gentleman shares this concern, and this is his purpose, is to see crime and violence reduced in America. But if the program is not working, it makes sense to take another look at it.

Ms. JACKSON-LEE of Texas. Reclaiming my time, Mr. Chairman, and I thank the gentleman, I think the ultimate question has to be do we stand on behalf of prevention and intervention, which the Scott amendment allows us to do, or do we follow the same path which has not shown a decided impact of what we would like it to do?

The CHAIRMAN. The time of the gentlewoman from Texas (Ms. JACKSON-LEE) has again expired.

(On request of Mr. SCOTT, and by unanimous consent, Ms. JACKSON-LEE was allowed to proceed for 1 additional minute.)

Mr. SCOTT. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Virginia.

Mr. SCOTT. Mr. Chairman, I would just like to point out one thing, that we should not confuse percentage of time with length of time. Someone who gets the 5 years and serves 100 percent of the 5 years, serves 5 years. Someone that gets 100 years and serves 50 percent of that time would serve 50 years. That 50 years is not long enough to qualify under truth in sentencing because it is not 85 percent of the time.

So we should not confuse the fact that some may be serving 100 percent of a much shorter sentence than one-third or one-half of a much longer sentence. I just think there should not be that confusion.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. SCOTT).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. MOLLOHAN. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 508, further proceedings on the amendment offered by the gentleman from Virginia (Mr. SCOTT) will be postponed.

The Clerk will read.

The Clerk read as follows:

WEED AND SEED PROGRAM FUND

For necessary expenses, including salaries and related expenses of the Executive Office for Weed and Seed, to implement "Weed and Seed" program activities, $33,500,000 to remain available until expended, for intergovernmental agreements, including grants, cooperative agreements, and contracts, with State and local law enforcement agencies engaged in the investigation and prosecution of violent crimes and drug offenses in "Weed and Seed" designated communities, and for either reimbursements or transfers to appropriation accounts of the Department of Justice and other Federal agencies which shall be specified by the Attorney General to execute the "Weed and Seed" program strategy: *Provided*, That funds designated by Congress through language for other Department of Justice appropriation accounts for "Weed and Seed" program activities shall be managed and executed by the Attorney General through the Executive Office for Weed and Seed: *Provided further*, That the Attorney General may direct the use of other Department of Justice funds and personnel in support of "Weed and Seed" program activities only after the Attorney General notifies the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 605 of this Act.

AMENDMENT OFFERED BY MR. GUTKNECHT

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

The Clerk read as follows:

Amendment offered by Mr. GUTKNECHT:

Page 31, line 5, after the dollar amount, insert "(increased by $6,000,000)".

Page 47 line 11, after the dollar amount, insert "(reduced by $6,000,000)".

Mr. GUTKNECHT. Mr. Chairman, this is a relatively simple amendment. We simply limit the funding for Public Telecommunications Facilities Program to what the President originally requested, $15 million, and use the additional $6 million to support the Weed and Seed Program, a comprehensive crime fighting and neighborhood revitalization program.

Mr. Chairman, the story I am about to tell, if it were not published in several newspapers, I would have a difficult time believing myself, but it involves public broadcasting and what has happened over the last several years. And as Members will recall, after the 1994 elections many of us came in and said it is time to wean public broadcasting from taxpayer dollars.

And at that time I remember we had some of the people from public broadcasting came to my office and we had some lengthy discussions about the value of public broadcasting as well as the costs, and what ultimately were being paid in terms of salaries to some of the executives at NPR and other public broadcasting entities. I remember at the time I was told that all of these reports that the salaries and the compensation were exorbitant were way overblown, and that these people were being paid less than they would be paid at broadcasting facilities of similar size in the private sector.

We all believed that that was true. Then the facts began to come out, and let me give my colleagues some examples.

What has really happened in public broadcasting, particularly back in Minnesota, is they have found very creative ways to take a nonprofit agency, spin off for-profit companies, and then take some of those profits from that company, not so much just to help the broadcasting cause but to help themselves.

For example, in 1995 one of the spin-offs of NPR, a company called Greenspring, had total sales of $135 million. Now, it was then that there were published reports that while the executive director, the president, was being paid $67,000, it was estimated his total compensation package was somewhere between $200,000 and $500,000. Well, they denied that and said it was not true. But later, when the facts came out, it was learned that in 1995 the total compensation for the gentleman in question was $291,000.

Now, the story gets better. In 1996, it is estimated that the total compensation was $526,000. In fact, we subsequently learned, according to a copyrighted story in a Star Tribune newspaper in Minneapolis, that the total compensation was $75,000 from the Public Broadcasting Corporation but he had an additional $451,000, to give him a grand total compensation of $526,945.

Now, I do not argue that executives should be well paid, and that is not my purpose here. But let me take this one step further. Another group they spun off as an umbrella corporation from NPR was a group called the Riverfront Trading Company. Now, in 1998, the spring of 1998, it was sold off to the Dayton Hudson Corporation. As a result of that spin-off, not only was the president of NPR paid, with salary and bonuses from Greenspring, somewhere in the area of $500,000, he was also paid an additional bonus of $2.6 million. That was the bonus on top of his annual compensation.

Now, I am not here to just bash this particular individual, but the numbers are a matter of public record now. The president was paid a total compensation in 1996 of $526,495, the vice president was paid $270,000, and another person who works for him was paid $529,000.

The point of all of this is that we have lost the battle about completely cutting the umbilical cord of public

broadcasting, but the President came in this year and asked for $15 million for the Public Telecommunications Facilities Program, and in this appropriation bill we have awarded them $21 million. We believe we should at least go back to the original request.

We have found that people in public broadcasting can be extremely creative in terms of ways that they can turn a dollar, especially if some of those dollars can return to them. I am in favor of some form of bonuses. I think these seem to be a bit steep. But frankly, we can take that additional $6 million and put it into a program which has shown that it is making a real difference in our core cities, and that is the Weed and Seed Program.

This is a comprehensive crime fighting, neighborhood revitalization program that really attacks our problems of high crime, drugs, all the problems we see in our inner cities, and we attack it with a twofold approach:

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First of all, aggressively fighting the crime, the drug sales and trafficking that goes on in the inner cities; and then, secondly, using some of the funds as grants to encourage more economic development.

I think this is a good amendment. It is a fair amendment.

Mr. MOLLOHAN. Mr. Chairman, I rise in opposition to the gentleman's amendment to cut funding for the Public Communications Facilities Program, PTFP.

This is not so much an increase in Weed and Seed, again which we think is an excellent program and well-funded, as it is a slap and a cut at PTFP. The Public Telecommunications and Facilities Program is extremely important and the bill provides $21 million for it, the same funding level as provided in fiscal year 1998.

It is important to note $21 million is considerably less than is actually needed. In fact, America's public television stations are requesting $56.25 million in fiscal year 1999 for PTFP. This is year one in a four-year request totaling $225 million.

Now, this significant investment would be used to help our public radio and TV stations convert to a digital system, something the FCC is requiring them to do by May of 2003 and which they are going to be extremely hard-pressed to do unless they have this funding. It is evident that indeed additional funds above and beyond the $21 million provided in this bill are necessary to begin this costly transition process.

Many will have to build new towers, extremely expensive to do, at a cost of $1 million to $3 million each. These stations simply do not have the resources, many of them, to make that kind of investment. Others will have to modify their towers and antennas to accommodate the height and strength necessary to support new or additional antennas necessary for this new digital system.

In conclusion, Mr. Chairman, PTFP is an extraordinarily beneficial program. We must fund it at a level which allows our public radio and TV stations to convert to digital. Cutting the program at this time is an extremely bad idea. If anything, we should be providing additional funds, additional resources.

To that end, Mr. Chairman, I intend to support the amendment of the gentleman from New York (Mr. ENGEL), which will be offered later, I hope, which will increase funding, and certainly urge my colleagues to vote against this ill-advised amendment.

Mr. ROGERS. Mr. Chairman, I move to strike the last word, and I rise to oppose the amendment.

Mr. Chairman, there is some misunderstanding about what is in this bill. We do not fund the Corporation for Public Broadcasting. We do not fund the Public Broadcasting System. None of that is in this bill.

What this bill covers is funding for your home State towers, for facilities locally, and not the national programming here in Washington that has been described. So this bill does none of that. What we do provide in the bill is funding for your State public broadcasting facilities, towers, equipment, that type of thing, on a grant basis through the MTIA program.

The bill provides a total of $40 million for the Weed and Seed Program in the Justice Department, which is a $6.5 million increase over the current level and the full amount that was requested, and at the same time the bill freezes the MTIA's Public Telecommunications Facilities Program, PTFP. We freeze that level at the 1998 spending level.

This amendment, I think mistakenly, would cut PTFP by 29 percent below the freeze level. And, as I say again, it would not touch PBS or the Corporation for Public Broadcasting because we have no money in this bill. That is in another bill.

While I certainly support the Weed and Seed Program, we have provided very healthy increases for Weed and Seed in the bill already, Mr. Chairman. At the same time, the PTFP program has been frozen due to our budget priorities, despite the fact that the need for the program has grown as public television and radio are struggling financially to try now to convert to the new digital telecommunications environment that will be with us in a matter of months.

In addition, I might note that because of our budget constraints over the last 3 years, total funding for the PTFP program has been decreased by 28 percent, and this amendment would cut it another 29 percent.

So I think the gentleman perhaps is misguided in his amendment, and I would encourage him to take on the PBS and the CPB in whatever bill he would like, but this one does not have any funds in it for those two systems. All as we have, as I say, is money for our State and local public broadcasting facilities, not salaries or anything else.

So I urge defeat of the amendment.

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

I want to comment on this case about the Weed and Seed Program. I think it is an extraordinarily good program. It was created back in the Bush Administration, one that Attorney General Barr was very active in pursuing, one which on the "Seed" part of it has had a little bit more attention than the "Weed" part in recent years in the Clinton Administration, but nonetheless a good program.

As the gentleman from Minnesota (Mr. GUTKNECHT) was describing, it is a program in which the Justice Department goes out through the U.S. Attorneys and through a grant program and through money efforts they have to go into pockets of specialty areas in the community where there is a lot of crime, and they attempt to enforce the laws, to really clean up that area, to have the prosecutions occur that clean that neighborhood up, if you will, and then provide some grants and some incentives to get kids who may be going the wrong way, help the neighborhood get them on the right track in terms of programs that can induce them to not go down this deviant path of crime.

It is effective in such things as Operation Trigger Lock, which again the Bush Administration operated a lot more than this administration has, where we took those who committed crimes with guns, and maybe they were State crimes and they had been repeat criminals in this regard. They were felons, convicted already, and there is a Federal law that says a felon cannot possess a gun.

And a State or a local government would arrest this fellow for whatever it might be, can only hold him for so long if it is a basic crime, but the attorney general would require under his guidance in those days the U.S. Attorney to go in and charge that person with the gun crime at the Federal level, for the simple possession of that gun as a convicted felon, and be able to get a sentence that would keep him off the street a lot longer.

Those kinds of programs were effective and are effective, if they are working properly, to clean up an area in a neighborhood and then go and seed it through the grant programs in the Department of Justice to allow us to keep it clean.

I think what the gentleman from Minnesota (Mr. GUTKNECHT) is trying to do here is a noble, positive thing to do.

I would like to make one other comment about the issue at hand about

broadcasting. I think all of us want to see this conversion to digital. I think tough choices have to be made in bills like this. Unfortunately, we cannot simply create more money for a program like Weed and Seed. We have to take it from somewhere, which is why I am sure the spending levels are where they are, and my good friends the chairman and the ranking member want to keep it that way because they already made that choice. But I would, with all due respect, concur with the gentleman from Minnesota (Mr. GUTKNECHT) on that point.

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

Mr. McCOLLUM. I yield to the gentleman from Minnesota.

Mr. GUTKNECHT. Mr. Chairman, I thank the gentleman for yielding. I do not want to prolong the debate, but I do want to put a couple other facts on the record.

Even the President recognizes that this is a very low priority item. In his FY 1998 budget request, he requested zero funds for this program. He received $21 million anyway. This year he requested $15 million and we are giving him another $21 million.

I think what I tried to demonstrate with my earlier remarks about what is happening in Minnesota, these people are extremely creative. They will figure out a way to fund these enhancements. And I understand that this is not where we will talk mostly about the Corporation for Public Broadcasting.

But I really think this is one area where we at least ought to honor the President's budget request, use those additional funds for programs that we think really do make a difference in the inner city.

Mr. McCOLLUM. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN (Mr. HASTINGS of Washington). The question is on the amendment offered by the gentleman from Minnesota (Mr. GUTKNECHT).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. GUTKNECHT. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 508, further proceedings on the amendment offered by the gentleman from Minnesota (Mr. GUTKNECHT) will be postponed.

The Clerk will read.

The Clerk read as follows:

COMMUNITY ORIENTED POLICING SERVICES

VIOLENT CRIME REDUCTION PROGRAMS

For activities authorized by the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103-322 ("the 1994 Act") (including administrative costs), $1,400,000,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund, for Public Safety and Community Policing Grants pursuant to title I of the 1994 Act: *Provided*, That not to exceed 266 permanent positions and 266 full-time equivalent workyears and $32,023,000 shall be expended for program management and administration: *Provided further*, That, of the unobligated balances available in this program, $170,000,000 shall be used for innovative policing programs, of which $50,000,000 shall be used for a law enforcement technology program, $50,000,000 shall be used for policing initiatives to combat methamphetamine production and trafficking and to enhance policing initiatives in drug "hot spots", $20,000,000 shall be used for programs to combat violence in schools, $25,000,000 shall be used for bullet proof vests for law enforcement officers, $10,000,000 shall be used for additional community law enforcement officers and related program support for the District of Columbia Offender Supervision, Defender, and Court Services Agency, and $15,000,000 shall be used for equipment and training for tribal law enforcement officers.

AMENDMENT OFFERED BY MR. BLAGOJEVICH

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

The Clerk read as follows:

Amendment offered by Mr. BLAGOJEVICH:

Page 32, line 14, after the dollar amount, insert the following: "(increased by $5,000,000)".

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

Mr. BLAGOJEVICH. Mr. Chairman, the amendment I am sponsoring would earmark the remaining $5 million balance in unobligated, community-oriented policing services from Fiscal Year 1998 to the Department of Justice for the expansion of community prosecution programs across our Nation.

Let me emphasize that these dollars are not committed and my amendment does not take funding away from any other law enforcement priorities within the bill.

Community prosecution programs represent the next step in community-based crime prevention programs. Just as police officers are assigned to a beat under community policing programs like COPS, community prosecutors work with residents of specific communities to identify, interdict, and remove those conditions in neighborhoods that become breeding grounds for crime.

Too often people only have contact with prosecutors when they are victims of crime. This $5 million will provide much-needed resources to help prosecutors join with police to address local crime problems by reorienting their emphasis from assembly-line processing of cases to taking on quality-of-life issues and preventing crimes from happening in the first place. The thinking behind this concept is this: If we fix the broken windows early on, we can stop crime before it starts.

These programs are supported by groups like the National District Attorneys Association, and have been successful across our Nation in towns as small as Rosebud, Montana to cities as large as Chicago, Illinois.

This notwithstanding, these programs continue to struggle for resources. This $5 million will provide a sheltered funding resource to develop and sustain existing programs as well as provide incentives to create new ones.

My amendment has been scored by the Congressional Budget Office as being revenue neutral and has been written in cooperation with both the staff of the gentleman from Kentucky (Mr. ROGERS) and the staff of the gentleman from West Virginia (Mr. MOLLOHAN).

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

Mr. BLAGOJEVICH. I yield to the gentleman from Kentucky.

Mr. ROGERS. Mr. Chairman, we have no objection to the amendment and support its adoption.

Mr. BLAGOJEVICH. Mr. Chairman, reclaiming my time, it is my understanding that the distinguished gentleman from West Virginia (Mr. MOLLOHAN) is in agreement with this. I would like to thank the gentleman, and the gentleman from Kentucky (Mr. ROGERS).

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. BLAGOJEVICH).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

In addition, for programs of Police Corps education, training, and service as set forth in sections 200101-200113 of the 1994 Act, $20,000,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

JUVENILE JUSTICE PROGRAMS

For grants, contracts, cooperative agreements, and other assistance authorized by the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, including salaries and expenses in connection therewith to be transferred and merged with the appropriations for Justice Assistance, $265,950,000, to remain available until expended: *Provided*, That these funds shall be available for obligation and expenditure upon enactment of reauthorization legislation for the Juvenile Justice and Delinquency Prevention Act of 1974 (H.R. 1818 or comparable legislation).

In addition, for grants, contracts, cooperative agreements, and other assistance, $10,000,000 to remain available until expended, for developing, testing, and demonstrating programs designed to reduce drug use among juveniles.

In addition, for grants, contracts, cooperative agreements, and other assistance authorized by the Victims of Child Abuse Act of 1990, as amended, $7,000,000, to remain available until expended, as authorized by section 214B of the Act.

PUBLIC SAFETY OFFICERS BENEFITS

To remain available until expended, for payments authorized by part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796), as amended, such sums as are necessary, as authorized by section 6093 of Public Law 100-690 (102 Stat. 4339-4340); and $250,000 for the Federal Law Enforcement Dependents Assistance Program, as authorized by section 1212 of said Act.

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 101. In addition to amounts otherwise made available in this title for official reception and representation expenses, a total of not to exceed $45,000 from funds appropriated to the Department of Justice in this title shall be available to the Attorney General for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

SEC. 102. Authorities contained in the Department of Justice Appropriation Authorization Act, Fiscal Year 1980 (Public Law 96–132; 93 Stat. 1040 (1979)), as amended, shall remain in effect until the termination date of this Act or until the effective date of a Department of Justice Appropriation Authorization Act, whichever is earlier.

SEC. 103. None of the funds appropriated by this title shall be available to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term, or in the case of rape: *Provided*, That should this prohibition be declared unconstitutional by a court of competent jurisdiction, this section shall be null and void.

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AMENDMENT OFFERED BY MS. DEGETTE

Ms. DEGETTE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. DEGETTE:

In title I, in the item relating to "GENERAL PROVISIONS—DEPARTMENT OF JUSTICE", strike section 103.

Mr. ROGERS. Mr. Chairman, I ask unanimous consent that debate on this amendment be limited to 20 minutes to be divided equally between the sides, 10 on each side.

The CHAIRMAN. On this amendment and all amendments thereto?

Mr. ROGERS. Yes, Mr. Chairman.

The CHAIRMAN. Without objection, the gentlewoman from Colorado (Ms. DEGETTE) and the gentleman from Kentucky (Mr. ROGERS) each will control 10 minutes.

There was no objection.

The CHAIRMAN. The Chair recognizes the gentlewoman from Colorado (Ms. DEGETTE).

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

Mr. Chairman, the amendment I am offering today is very straightforward. What it simply does is strike the language in the bill which prohibits the use of Federal funds for abortion services for women in Federal prison. Unlike most other American women who are denied coverage of abortion services, women in prison have no money, nor do they have access to outside financial help, nor do they have income which will allow them to obtain these services for themselves. Inmates in Federal prisons are completely dependent upon the Bureau of Prisons for all of their needs, including food, shelter, clothing and every single aspect of their medical care. These women are not able to work at remunerative jobs that would allow them to pay for their medical services, including abortion services, which I will point out to the House are still legal in this country. In fact, last year inmates working on the general pay scale earned from 12 cents to 40 cents per hour, or roughly $5 to $16 per week. The average cost of an early, outpatient abortion in this country ranges from $200 to $400. Abortions after the 13th week in this country cost $400 to $700, and abortions after the 16th week, which none of us really favor at all, go up $100 more per week, ending at about $1200 to $1500 in the 24th week.

Even if a woman in Federal prison earned the maximum wage on the general pay scale and worked 40 hours per week, she would never have the money to pay for an abortion in the first trimester. After that, the cost of an abortion rises so dramatically that even if the female inmate saves her entire salary, she would never ever be able to afford a legal abortion.

If Congress denies women in Federal prison coverage of abortion services, it is effectively shutting down the only avenue these women have to pursue their constitutional rights to a safe and legal abortion.

Let me remind my colleagues again, for the last 25 years in this country, women in this country have had the right legally and constitutionally to abortion. With the absence of funding by the very institution prisoners depend on for health services, women prisoners are, in effect, coerced into pregnancy by this bill.

Let me talk just for a minute about the kinds of women who are entering prison today in this country. Most women entering prison are victims of physical and sexual abuse, some incest victims which would not be excluded by this bill, two-thirds of them are incarcerated for drug offenses, and many of them are HIV infected or have full-blown AIDS. Does Congress think that it is in this country's best interests to force these women against their will to carry these pregnancies to term? And what happens to the children of the women who are bearing these unwanted children in prison? These children are taken from their mothers at birth to an uncertain future. I do not see any provision in this bill that provides for quick adoption of these children or other means by which they can have a fulfilled life that would not follow in the tracks of their incarcerated parents.

This bill, make no mistake about it, is about forcing women against their will to have a child. It is downright foolish and cruel to force women in Federal prisons to bear children in prison when that child will be taken from them at birth to an uncertain future. In 1993, Congress did the right thing when it overturned this barbaric policy. I urge my colleagues to do the same today and to support the DeGette amendment.

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

Mr. ROGERS. Mr. Chairman, I yield myself such time as I may consume. The provision in this bill the amendment seeks to strike does one thing only, it prohibits Federal tax dollars from paying for abortions for Federal prison inmates except in the case of rape or the life of the mother.

The bill requires that the Bureau of Prisons escort inmates to a private facility if they want abortion services. The provision that we have in the bill, Mr. Chairman, is a long-standing provision. It has been carried in nine of the last 10 bills that we have brought to the floor of the House. The House rejected this very same amendment to last year's appropriations bill by a vote of 155–264, the previous year by a voice vote, and two years ago by a vote of 146–281.

Time and again, the House has debated this issue of whether Federal tax dollars should pay for abortion. The answer has always been "no." I urge the House to say "no" again. I urge rejection of the gentlewoman's amendment.

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

Ms. DEGETTE. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Chairman, I rise in strong support of the DeGette amendment to the Commerce, Justice, State appropriations bill, because this allows women in prison the option of abortion services. Quite simply the amendment offers the coverage of abortion services to women who are solely dependent on Federal resources.

Mr. Chairman, 6 percent of incarcerated women are pregnant when they enter prison. Many are victims of physical and sexual abuse. Women in prison have no resources. They usually have no means to borrow or little support from the outside. It is time to honor the Supreme Court's decision of Roe v. Wade by acknowledging it is every woman's right to have access to a safe, reliable abortion. Restrictions placed on incarcerated women are especially mean-spirited. These women are totally dependent on the Federal Government for all of their basics. Why should the government put a limit on what is constitutionally every woman's right?

Mr. Chairman, we must stop the rollbacks on women's reproductive freedoms. We must provide women with education and the resources to prevent unwanted pregnancies. Let us vote for the DeGette amendment and address the desperate conditions these women face.

Mr. ROGERS. Mr. Chairman, I yield 4 minutes to the able gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. I thank the very good gentleman for yielding me this time.

Mr. Chairman, abortion is violence against children and in no way could be construed to be humane or compassionate. A child's worth and inherent dignity is not determined by who his or her mother happens to be. And the value of a baby is not diminished one iota because Mom happens to be an inmate. As a matter of fact, the woman's God-given value is not diminished, either. Yet the pending DeGette amendment would force taxpayers to subsidize violence against children, in this case the child of an inmate.

Mr. Chairman, I truly believe that many Americans are either uninformed or living in a state of denial on the issue of abortion, especially as it relates to the gruesome reality of abortion methods. Abortion methods are violence against children and include dismembering innocent children with razor blade tip suction devices that turn kids into a bloody pulp, or injections of chemical poisons designed to kill the baby, or the kids are executed by partial-birth abortion, a gruesome method that many Members are now familiar with.

Peel away the euphemisms that sanitize abortion and the cruelty to children and, yes, the cruelty to their mothers as well becomes readily apparent. The entire smoke screen of choice turns the baby into property, a thing, a commodity and not a someone. Truly a person is a person no matter how small. Thus the whole rhetoric of choice dehumanizes our brothers and sisters in the womb and puts them in the same category as junk cars, broken TV sets and busted stereos. They are throwaways. The whole rhetoric of choice reduces unborn babies to objects. The early feminists had it right: Do not treat women as objects. Unborn girls and boys are not objects, either.

Mr. Chairman, if you have ever watched an unborn child's image on an ultrasound or sonogram screen, you cannot help but be awed by the miracle of human life, by the preciousness of a child's being, and then be moved to pity by the helplessness and the vulnerability of that child, by the fragility of those tiny fingers and toes. To see an unborn child turning and kicking and sucking his or her thumb while still in utero shatters the myth that abortion merely removes tissue or the products of conception.

Mr. Chairman, abortion violence treats pregnancy as a sexually transmitted disease. The growing child is viewed as a tumor, a wart, as I said, as garbage.

During the debate in 1995, the gentlewoman from the District of Columbia (Ms. NORTON), who was then the sponsor of this amendment, asked, "Who will speak for these children? We must speak for these children." Then the distinguished gentlewoman urged government subsidized abortion.

Mr. Chairman, it turns logic on its head to suggest that subsidizing violent acts of dismemberment and chemical poisoning to be somehow pro-child.

Finally, Mr. Chairman, Mother Teresa was right when she said, "The greatest destroyer of peace today is abortion because it is a war against the child, a direct killing of an innocent child. Any country that accepts abortion is not teaching its people to love but to use violence to get what they want. That is why it is the greatest destroyer of love and peace."

"Please don't kill the baby," she admonished.

Mr. Chairman, finally, the baby of an inmate is just as important as any other child on Earth. Reject government funding of violence against children. I urge the membership to vote "no" on the DeGette amendment.

Ms. DEGETTE. Mr. Chairman, I yield 2 minutes to the gentlewoman from Maryland (Mrs. MORELLA).

Mrs. MORELLA. I thank the gentlewoman for yielding me this time. Mr. Chairman, I rise in support of the DeGette amendment which would remove the ban on access to abortion services for incarcerated women except in cases of rape of life endangerment.

There are currently more than 8,000 women incarcerated in Federal Bureau of Prisons facilities. Most of the women are young, have been frequently unemployed, and many have been victims of physical or sexual abuse. According to a recent survey, 6 percent of women in prisons and 4 percent of women in jail were pregnant when admitted. Limited prenatal care, isolation from family and friends, and the certain loss of custody of the infant upon birth present unusual circumstances and exacerbate an already difficult situation if the pregnancy is unintended.

Because Federal prisoners are totally dependent on health care services provided by the Bureau of Prisons, this ban in effect prevents these women from exercising their constitutional right, their right to abortion. Most women prisoners were poor when they entered prison and they do not earn any meaningful compensation from prison jobs. This ban then closes off their only opportunity to receive such services, and thereby denies them their rights under the Constitution.

I urge my colleagues to support the DeGette amendment.

Mr. ROGERS. Mr. Chairman, I yield I minute to the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Mr. Chairman, I rise in opposition to the DeGette amendment. This amendment would strike from the bill section 103 which prohibits Federal funding of abortions for Federal prisoners except for the life of the mother or in case of rape.

It is outrageous that the pro-abortion advocates want to force the American taxpayers to pay for the abortions of Federal prisoners. Instead of sending the message to Federal prisoners that the answer to their problem is to kill their unborn babies, let us urge them to take responsibility and consider what is best for the child they are carrying. Let us not compound the problem with an act of violence on top of an act of violence.

When this issue was debated in 1995, one of the supporters of this pro-abortion amendment asked the Members of the House, "Who will speak for these children?" Then she went on to declare, "We must speak for these children."

If this is true, we must speak for the children, then I guess those who support this amendment believe that the unborn children of Federal prisoners want to be killed by their mothers. We should not vote for the death of unborn children at the expense of all American taxpayers.

I urge a "no" vote on the DeGette amendment.

□ 2045

Ms. DEGETTE. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Oregon (Ms. FURSE).

Ms. FURSE. Mr. Chairman, I rise in support of the DeGette amendment.

I rise to support the amendment authored by Congresswoman DeGette to strike language in the bill prohibiting federal funds from being used for abortions for women in prison.

A year ago, this issue made the headlines in Oregon when a woman who was arrested in McMinnville, OR requested an abortion. For personal reasons, this woman decided she would not become a mother. It is not for us to judge her on this decision or any other choice she made in her life that put her in jail.

Yamhill County's jail policy mandated that inmates must pay for the procedure themselves, and could have access to this service. Even though tax payer dollars were not used for this procedure, the county did allow this woman a release from jail to seek an abortion.

Mr. Chairman, this ban is wrong. How can we discriminate against those in jail?

The political agenda of politicians must not jeopardize the health of women. Access to abortion is a legal right. A woman should not lose access to reproductive health care, including abortions, because she is in jail.

I urge my colleagues to support the DeGette Amendment.

Ms. DEGETTE. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Chairman, I rise to support the DeGette amendment to strike the ban on abortion funding for women in Federal prisons. This ban is cruel and unwarranted.

Mr. Chairman, a woman's sentence to prison should not include forcing her to carry a pregnancy to term. Most women in prison are poor, have little or no access to outside financial help, and earn between 12 to 40 cents per hour at prison jobs. They are totally dependent on the prisons for their health services. They cannot possibly

finance their own abortions, and therefore, without the passage of this amendment, they are in effect denied their constitutional right to an abortion.

Many women prisoners are victims of physical or sexual abuse and are pregnant before entering prison. They will almost certainly be forced to give up their children at birth. Why should we add to anguish by denying them access to reproductive services?

I know full well the authors of this bill would take away the right to choose from all American women if they could, but since they are prevented from doing so by the Supreme Court, they have instead targeted their restrictions on helpless women in prison.

Well, watch out, America. After they have denied reproductive health services to all women in prison, Federal employees, women in the armed forces and women on public assistance, then they will try again to ban all abortions in the United States. And they will not stop there. We know that many of them want to eliminate contraceptives as well.

Mr. Chairman, it is a slippery slope that denies the reality of today, punishes women, and threatens their health and safety. This radical agenda must be stopped now. I urge my colleagues to support the DeGette amendment.

Ms. DEGETTE. Mr. Chairman, I yield 1 minute to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Chairman, I appreciate the gentlewoman from Colorado, the sponsor of this amendment, which I have sponsored in the past because a woman gives up many constitutional rights when she goes to prison, but not the right to have control over the most profound impact on her body. She does not, she must not, be said to submit herself to forced childbirth.

I have sponsored a GAO report, now in the making, because of the extraordinary rise of women in prison. The rate of HIV infections and AIDS for women in prison exceeds the rate for men, and 5 percent of women who enter Federal prisons are pregnant.

Why Federal dollars? Because these women are without any way to have an abortion. We would not come forward at this time or ever, given where this Congress has been, to ask for Federal funds for abortions unless we were dealing with helpless women who had no other way to get an abortion.

Not to allow this particularly, when we consider that we are talking about many women who have AIDS, who would be quite unfit as mothers, not to allow abortions in these circumstances would be entirely cruel, and I ask that an exception be made and that these Federal funds be allowed for women in prison.

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

The CHAIRMAN. The gentlewoman from Colorado is recognized for 30 seconds.

Ms. DEGETTE. Mr. Chairman, my colleague from New Jersey talks about the terrible abortion procedures, and the truth is my colleague would ban all abortions, and I understand that. But that is not the law of this country. The law of this country is that women have a right to abortion.

But the way this bill is written, women in prison, because of the low amount they would make, would only be able to afford an abortion if they waited until the third trimester, which is a result no one in this room would like to have. It is much more compassionate for the prisoners, it is much better for everybody if it is done in the first trimester when it is safe and it protects the mother's health.

It is the right thing to do, it is the compassionate thing to do, and it is the legal thing to do. I urge support of the DeGette amendment.

Mr. ROGERS. Mr. Chairman, I yield the balance of the time to the gentleman from Illinois (Mr. HYDE), the very able chairman of the House Committee on the Judiciary.

The CHAIRMAN. The gentleman from Illinois is recognized for 4 minutes.

Mr. HYDE. Mr. Chairman, I thank my friend, the gentleman from Kentucky (Mr. ROGERS) for giving me this time.

Mr. Chairman, once again the solution to a problem is death, kill somebody.

If my colleague saw the movie, recent movie, Saving Private Ryan, there is a line in there where Tom Hanks, playing the captain in the infantry, says:

"Every time I kill somebody I feel farther away from home."

Why is it that we have to in this discussion never talk about the baby?

I listened to every word from the other side, and they drip with compassion, and rightly so, but only for the woman: the plight of the woman; the woman is being coerced by this law into having a baby; the woman, HIV cases. I understand that.

But do my colleagues not know there is a baby involved, too? Is that a cipher? A zero? Is that an used Kleenex to be thrown away? The whole question revolves around what my colleagues think of human life.

Now we could solve a lot of problems if we carry to the logical consequences this devaluation of life. We could empty the nursing homes. We could get rid of the incorrigibly poor. We could get rid of the useless eaters, as Hitler called them, the homeless people, the people who are not pulling their weight, who are not contributing to our society, the people who infect other people with diseases.

Get rid of the people.

So here, where the little child has been conceived unfortunately by a woman in prison, my colleagues' solution is to get rid of the child, the innocent human life.

Now, we can define that out of existence and say that is not alive, we do not know what that is, that is a cancerous tumor, that is a diseased appendix, they want to just excise it and throw it away. But it is not. That is self-deception. It is a tiny little member of the human family, and that little tiny member of the human family has a right to life, and that life is precious.

Yes, it is the most inauspicious, humble beginning anybody could have. Almost as bad as being born in a stable, being born in a jail of a mother who is incarcerated. But, by God, it is life, it is an opportunity. "Life" means hope, and give that little child his or her life. He or she did not ask for that humble, inauspicious beginning, but that does not mean that person is foreclosed from leading a full life later on.

There are hundreds of places that will take those children. Here is a directory of them all over the country. There are about four of them within walking distance of Capitol Hill. So, the child will not be abandoned or thrown away in a wastebasket. It is a human life, and it is precious, and human life ought to mean something in this country where our birth certificate says everyone is created equally and is endowed by their Creator with an inalienable right to life.

Think of the woman, yes. But think of the little baby, too. Do not throw that human life away.

Ms. DEGETTE. Mr. Chairman, will the gentleman yield?

Mr. HYDE. Yes, I yield to the gentlewoman from Colorado.

Ms. DEGETTE. Distinguished Chairman, I would just ask a question.

How does the gentleman from Illinois feel about that little baby which would be born against its mother's will, probably HIV positive, and ripped from the arms of its mother at birth only to be taken away to one of those agencies he points to?

Mr. HYDE. Better that than to be killed. Give that little baby a chance to enjoy a Christmas sometime, to enjoy the love of somebody who can love that child.

Mr. Chairman, let us give that little life the chance we had.

Ms. JACKSON-LEE of Texas. Mr. Chairman, thank you for the opportunity to speak on this important amendment. As an advocate for Women's Choice I strongly support Representative DEGETTE's amendment. Representative DEGETTE's amendment will strike the language in the Commerce Justice State Appropriations bill which would prohibit Federal funds from being used for abortions in prison.

Abortion is a legal health care option for American women, and has been for over 20

years. Because Federal prisoners are totally dependent on health care services provided by the Bureau of Prisons, the ban, in effect will prevent these women from seeking the needed reproductive health care that should be every woman's right—the right to choose an abortion.

We know that most women who enter prison are poor. Many of them are victims of physical and sexual abuse, and some of them are pregnant before entering prison. An unwanted pregnancy is a difficult issue in even the most supportive environs. However, limited prenatal care, isolation from family and friends and the certain custody loss of the infant upon birth present circumstances which only serve to worsen an already very dire situation.

In 1993, Congress lifted the funding restrictions that since 1987 had prohibited the use of federal funds to provide abortion services to women in federal prisons except during instances of rape and life endangerment. Women who seek abortions in prison must receive medical, religious, and/or social counseling sessions for women seeking abortion. There must be written documentation of these counseling sessions, and any staff member who morally or religiously objects to abortion need not participate in the prisoner's decision-making process.

There was a 75 percent growth in the number of women in Federal prisons over the last decade. Currently, the growth rate for women is twice that of men in prison. Yet, the rate of infection of HIV and AIDS in women exceeds the rate of infection for men in prison, and pregnant women are of course at risk of passing on this disease to their unborn children.

This ban on federal funds for women in prison is another direct assault on the right to choose. This ban is just one more step in the long line of rollbacks on women's reproductive freedoms. We must stop this assault on reproductive rights.

Ms. LEE. Mr. Chairman, I rise in strong support of the Degette amendment, which would strike language banning the use of federal funds for abortion services for women in federal prisons.

Women in prison have committed criminal activity, and through our judicial system we certainly need to seek appropriate responses to illegal actions. Women in prison are being punished for the crime that they committed. However, this is a separate issue from that which we are addressing. Today we discuss civil liberties and rights which are protected for all in America, and remain so even when an individual is incarcerated.

Abortion is a legal health care option for women in America. Since women in prison are completely dependent on the federal Bureau of Prisons for all of their health care services, the ban on the use of federal funds is a cruel policy that traps women by denying them all reproductive decision-making. The ban is unconstitutional because freedom of choice is a right that has been protected under our constitution for twenty-five years.

Furthermore, the great majority of women who enter our federal prison system are impoverished and often isolated from family, friends and resources. We are dealing with very complex histories that often, tragically, include drug abuse, homelessness, and physical and sexual abuse. Many women are pregnant upon entering the prison system. To deny basic reproductive choice would only make worse the crises faced by the women and the federal prison system.

The ban on the use of federal funds is a deliberate attack by the anti-choice movement to ultimately derail all reproductive options. As we begin chipping away basic reproductive services for women, I ask you, what is next? Denial of OBGYN examinations and mammograms for women inmates? Who is next? Women in the military, women who work for the government, or all women who are insured by the Federal Employees Health Benefits plan? Limiting choice for incarcerated women puts other populations at great risk. This dangerous, slippery-slope erodes the right to choose, little by little.

It is my undying belief that freedom of access must be unconditionally kept intact; therefore, I strongly urge my colleagues to protect this constitutional right for women in America and vote "Yes" on the Degette amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Colorado (Ms. DEGETTE).

The question was taken; and the Chairman announced that the noes appeared to have it.

Ms. DEGETTE. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to House Resolution 508, further proceedings on the amendment offered by the gentlewoman from Colorado (Ms. DEGETTE) will be postponed.

The point of no quorum is considered withdrawn.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 104. None of the funds appropriated under this title shall be used to require any person to perform, or facilitate in any way the performance of, any abortion.

SEC. 105. Nothing in the preceding section shall remove the obligation of the Director of the Bureau of Prisons to provide escort services necessary for a female inmate to receive such service outside the Federal facility: *Provided*, That nothing in this section in any way diminishes the effect of section 104 intended to address the philosophical beliefs of individual employees of the Bureau of Prisons.

SEC. 106. Notwithstanding any other provision of law, not to exceed $10,000,000 of the funds made available in this Act may be used to establish and publicize a program under which publicly advertised, extraordinary rewards may be paid, which shall not be subject to spending limitations contained in sections 3059 and 3072 of title 18, United States Code: *Provided*, That any reward of $100,000 or more, up to a maximum of $2,000,000, may not be made without the personal approval of the President or the Attorney General and such approval may not be delegated.

SEC. 107. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Justice in this Act, including those derived from the Violent Crime Reduction Trust Fund, may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: *Provided*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation except in compliance with the procedures set forth in that section.

SEC. 108. In fiscal year 1999 and thereafter, the Director of the Bureau of Prisons is authorized to make expenditures out of the Federal Prison System's Commissary Fund, Federal Prisons, for the installation, operation, and maintenance of the inmate telephone system, including, without limitation, the payment of all the equipment purchased or leased in connection with the inmate telephone system and the salaries, benefits, and other expenses of personnel who install, operate and maintain the inmate telephone system, regardless of whether these expenditures are security related.

SEC. 109. Section 524(c)(9)(B) of title 28, United States Code, is amended by striking "1997" and inserting "1999".

SEC. 110. (a) Section 3201 of the Crime Control Act of 1990 (28 U.S.C. 509 note) is amended to read as follows—

"Appropriations in this or any other Act hereafter for the Federal Bureau of Investigation, the Drug Enforcement Administration, or the Immigration and Naturalization Service are available, in an amount of not to exceed $25,000 each per fiscal year, to pay humanitarian expenses incurred by or for any employee thereof (or any member of the employee's immediate family) that results from or is incident to serious illness, serious injury, or death occurring to the employee while on official duty or business."

(b) The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 is amended by striking section 626 (8 U.S.C. 1363b).

SEC. 111. Any amounts credited to the "Legalization Account" established under section 245(c)(7)(B) of the Immigration and Nationality Act (8 U.S.C. 1255a(c)(7)(B)) are transferred to the "Examinations Fee Account" established under section 286(m) of that Act (8 U.S.C. 1356(m)).

AMENDMENT NO. 30 OFFERED BY MR. METCALF

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 30 offered by Mr. METCALF:

Page 38, after line 9, insert the following:

SEC. 112. Section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1221 note) is repealed.

Mr. ROGERS. Mr. Chairman, I reserve a point of order on the amendment offered by the gentleman from Washington.

Mr. METCALF. Mr. Chairman, first I would like to congratulate the gentleman from Kentucky (Mr. ROGERS) on the legislation before us. He has, as always, found a way to adequately address the many competing priorities in this legislation, and I thank him for his effort.

Very simply, Mr. Chairman, my amendment would repeal section 110 of the Illegal Immigration Reform and Immigration Responsibility Act of 1996.

Mr. Chairman, section 110 is a bad provision. This section, if this section was implemented it would devastate our northern border communities, not only in my community but in many of the northern border communities.

In order to address this delay I secured $15 million in border infrastructure improvements in Blaine. While this will represent a major step towards reducing congestion, its benefit will have little if any effect if section 110 is fully implemented.

I notice that the distinguished chairman of the Subcommittee on Immigration and Claims is on the floor. I would like to request the gentleman's participation in a colloquy.

Mr. SMITH of Texas. Mr. Chairman, will the gentleman yield?

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

Mr. SMITH of Texas. Mr. Chairman, I will be happy to engage in a colloquy.

Mr. METCALF. Mr. Chairman, as the gentleman knows, I have been a strong opponent of section 110 of the Illegal Immigration Reform and Immigration Responsibility Act of 1996 because of the potential harm that could be inflicted on my district and across the entire northern border.

Is it the gentleman's position that section 110 should be delayed until the Immigration and Naturalization Service develops a system that will not significantly disrupt trade, tourism or other legitimate cross-border activity at the land border points of entry?

Mr. SMITH of Texas. Mr. Chairman, the gentleman is correct. This section should not be implemented if it would significantly disrupt legitimate border traffic. I will support going forward with this section only if it will not impede that cross-border travel and trade that I understand the gentleman from Washington has a legitimate concern about.

At the same time I must emphasize that section 110 was included in the 1996 act because a comprehensive and efficient entry/exit is vital for our national security.

□ 2100

Without such a system, our government has no idea who is coming to the United States and whether they leave when they are supposed to do so. It is particularly important that the United States protect its citizens from terrorism, drug smuggling and illegal aliens.

Mr. METCALF. Mr. Chairman, reclaiming my time, is it the gentleman's understanding that the INS is not yet prepared to implement section 110 at all ports this year?

Mr. SMITH of Texas. Mr. Chairman, if the gentleman will yield further, that is correct. It is my understanding that the INS will not be prepared to implement section 110 by the statutory deadline. Let me emphasize that section 110 should be implemented in a manner that will not have an adverse impact on trade, tourism or other legitimate traffic across our land borders.

Mr. METCALF. I thank the gentleman for his comments, and I look forward to working with him over the next year to find a solution to this section that will fulfill both of our priorities and ensure the economic success of our northern border communities.

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

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

There was no objection.

AMENDMENT NO. 29 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment, which I intend to withdraw.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 29 offered by Ms. JACKSON-LEE of Texas:

Page 38, after line 9, insert the following:

PROHIBITION ON HANDGUN TRANSFER WITHOUT LOCKING DEVICE

SEC. 112. (a) IN GENERAL.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(y)(1) It shall be unlawful, for any person to transfer a handgun to another person unless a locking device is attached to, or an integral part of, the handgun, or is sold or delivered to the transferee as part of the transfer.

"(2) Paragraph (1) shall not apply to the transfer of a handgun to the United States, or any department or agency of the United states, or a State, or a department, agency, or political subdivision of a State.".

(b) LOCKING DEVICE DEFINED.—Section 921(a) of such title is amended by adding at the end the following:

"(34) The term 'locking device' means a device which, while attached to or part of a firearm, prevents the firearm from being discharged, and which can be removed or deactivated by means of a key or a mechanically, electronically, or electro-mechanically operated combination lock.".

Mr. ROGERS. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Chairman, let me acknowledge the good works of my friends in the United States Senate and my colleague on the Subcommittee on Crime, the gentleman from New York (Mr. SCHUMER), and the gentlewoman from New York (Mrs. MCCARTHY), and others who realize that there is much that we could come together on on an amendment dealing with a very simple technology, and that is a safety lock on a gun to protect our children.

Mr. Chairman, there has been much debate on this floor about how best to and who has the high moral ground on impacting our children. The amendment that I would have proposed would save children's lives.

Let me give you an example. So many years ago I was on the City Council and passed an ordinance dealing with gun safety and responsibility. That ordinance was to hold parents responsible for the accidental shootings by their children. It was not punitive to haul parents and adults into prison or to put them under a judge's order, but it was to save children's lives.

Now, today, in Houston, and in the State of Texas, we have seen a 50 percent decrease in the number of accidental shootings. In this country today, the firearm homicide rate among children across our country has tripled in the last 10 years. It is tragic and shocking that there were over 500 accidental deaths among children as a result of young and curious hands reaching for a gun as a toy and over 5,000 deaths related to youth and guns. In my home State of Texas, 32 children died as a result of accidentally fired guns last year, and that is down, and 500 children died in my State as a result of firearms in children total. This is unacceptable, even in spite of the numbers we have seen go down.

The high incidence of this lethal violence against youth demands a national response. The need for this type of legislation is even more critical because younger and younger children are accessing guns and becoming increasingly involved in violence and gang activity.

I am withdrawing this amendment, Mr. Chairman, only because I want this very simple technology to pass. I want us to educate parents and teachers and constituents and this Nation that this is not gun control, this is gun responsibility.

The recent rash of school shootings which occurred across several of our States are a manifestation of not only a disturbing trend of hostility among our young people, hostility and confusion, I might say, but also how accessible violent weapons are to our children. No matter how much we as adults protest and say we have had them locked up in a drawer, we did not know they had them, we did not know they went into our glove compartment, we did not know they went into our car, those weapons are still weapons of violence when they get in the hand of a child, either accidentally or intentionally.

Just think of the impact of a simple trigger lock, a safety lock. We must not only look at what leads children to kill other children, we must also take the responsibility for placing the tools of death outside of their reach and providing that safety measure, that trigger lock. This trigger lock amendment will prevent children from shooting guns, either accidently or purposefully.

It will help to save our young people's lives and protect our communities and our families from accidental gun violence.

Let me say, Mr. Chairman, that I look forward to working with the many allies around this Nation, PTOs, school districts, local governments, Handgun, Inc., and my colleagues in the United States Congress, to finally recognize that after we educate the public, we educate those who are perceived opponents, my good friends in the National Rifle Association, who have always argued that they believe in prevention. Well, what is the best way to have prevention? That is the trigger lock.

At this time, Mr. Chairman, I am not going to offer this amendment, because I am prepared for the long haul. I believe we are going to win this, and we are going to win it when we educate the American people that to save more of our children's lives, we need to implement the safety lock, the trigger lock, and bring an end to this ceaseless or unending devastation against our children.

Mr. Chairman, thank you for the opportunity to speak on this important amendment to H.R. 4276. I have proposed an amendment to H.R. 4276 which I urge all my colleagues to support. My amendment will save children's lives! In this country today the firearm homicide rate among children across our country has tripled in the last 10 years. It is tragic and shocking that there were over 500 accidental deaths among children as a result of young and curious hands reaching for a gun as a toy. In my home State of Texas, 32 children died as a result of accidentally fired handguns last year, and 500 children died in my State as a result of firearm deaths in total. This is unacceptable.

The high incidence of lethality of youth violence demands a major national response. The need for this type of legislation is even more critical because younger and younger children are accessing guns and becoming increasingly involved in violence and gang activity.

The rash of recent school shootings which occurred across several of our states are a manifestation of not only a disturbing trend of hostility among our young people, but also how accessible violent weapons are to our children.

We must not only look at what leads children to kill other children, we must also take responsibility for placing the tools of death within their reach.

The trigger lock amendment will prevent children from shooting guns, either accidentally or purposefully. It will help to save our young people's lives and protect our communities and our families from accidental gun violence.

Mr. Chairman, only at this time, I ask unanimous consent to withdraw this amendment in order to offer this amendment after we have fully educated the American people on this needed gun safety feature.

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

The CHAIRMAN. Is there objection to the request of the gentlewoman from Texas?

There was no objection.

Mr. ROGERS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. PEASE) having assumed the chair, Mr. HASTINGS of Washington, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4276) making appropriations for the Departments of Commerce, Justice and State, the Judiciary and related agencies for the fiscal year ending September 30, 1999, and for other purposes, had come to no resolution thereon.

LIMITING AMENDMENTS AND DEBATE TIME THROUGH TITLE 6 DURING FURTHER CONSIDERATION OF H.R. 4276, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, AND JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999, IN THE COMMITTEE OF THE WHOLE TODAY

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that during the further consideration of H.R. 4276 in the Committee of the Whole, pursuant to H. Res. 508; the remainder of the bill through title 6 be considered as read; and no amendment shall be in order thereto except for the following amendments, which shall be considered as read, shall not be subject to amendment or to a demand for a division of the question in the House or in the Committee of the Whole, and shall be debatable for the time specified, equally divided and controlled by the proponent and a Member opposed thereto:

Mr. TRAFICANT of Ohio related to a prison study for 5 minutes;

Mr. COLLINS of Georgia for a colloquy for 10 minutes;

Mr. SANDERS of Vermont related to SBA offsets for 5 minutes;

Mr. ENGEL of New York related to PTFP for 10 minutes;

Mr. ROYCE of California, to strike ATP for 10 minutes;

Mr. ROGERS of Kentucky related to NOAA for 10 minutes;

Mr. PALLONE of New Jersey related to NOAA for 15 minutes;

Mr. CALLAHAN of Alabama related to NOAA for 10 minutes;

Mr. FARR of California related to NOAA for 10 minutes;

Mr. CALLAHAN of Alabama related to a general provision regarding fisheries for 20 minutes under the rule;

Mr. GILCHREST of Maryland to strike section 210 for 15 minutes;

Mr. BARTLETT of Maryland regarding UN arrears for 15 minutes;

Mr. STEARNS of Florida regarding UN arrears for 15 minutes;

Ms. MILLENDER-MCDONALD of California regarding SBA for 5 minutes;

Mr. TALENT of Missouri regarding SBA for 10 minutes;

and Mr. MOLLOHAN of West Virginia regarding the census, made in order under the rule, to title 2 be in order at a later point in the reading of the bill, notwithstanding that title 2 may be closed.

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

Mr. MOLLOHAN. Mr. Speaker, reserving the right to object, engaging the chairman for a further understanding with regard to the postponement of the census debate, the chairman and I have discussed this matter, and I would simply like to confirm that understanding, that the census debate will be had after we have votes on those amendments that we are going to roll until tomorrow from debates we have tonight?

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

Mr. MOLLOHAN. I yield to the gentleman from Kentucky.

Mr. ROGERS. Mr. Speaker, that would be my understanding, that we will continue proceeding this evening; that Members, after the four votes that have been called tonight, those four votes will take place immediately, after which there would be no further recorded votes for tonight, and we will proceed tonight with amendments and role those votes until tomorrow, in which case those votes would be taken tomorrow morning, and then proceed directly to the census amendment, if that is the gentleman's desire.

Mr. MOLLOHAN. It is, Mr. Speaker.

Mr. ROGERS. If the gentleman changes his mind between now and then and wants to do other amendments, that will be fine.

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

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

Mr. DREIER. Mr. Speaker, I would just like to inquire of the chair of the subcommittee, it is my understanding there are five pending recorded votes.

Mr. ROGERS. The gentleman is correct, there are five.

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

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

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3892, ENGLISH LANGUAGE FLUENCY ACT

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 105–675) on the resolution (H. Res. 516) providing for consideration of the bill (H.R. 3892) to amend the Elementary and Secondary Education Act of 1965 to establish a program to help

children and youth learn English, and for other purposes, which was referred to the House Calendar and ordered to be printed.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, AND JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The SPEAKER pro tempore. Pursuant to House Resolution 508 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4276.

□ 2111

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4276) making appropriations for the Departments of Commerce, Justice and State, the Judiciary and related agencies for the fiscal year ending September 30, 1999, and for other purposes, with Mr. HASTINGS of Washington in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose earlier today, the amendment of the gentlewoman from Texas (Ms. JACKSON-LEE) had been disposed of.

Pursuant to the order of the House of earlier today, the remainder of the bill through title 6 is considered as read.

The text of the remainder of the bill through title 6 is as follows:

This title may be cited as the "Department of Justice Appropriations Act, 1999".

TITLE II—DEPARTMENT OF COMMERCE AND RELATED AGENCIES

TRADE AND INFRASTRUCTURE DEVELOPMENT

RELATED AGENCIES

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, $24,000,000: *Provided*, That not to exceed $98,000 shall be available for official reception and representation expenses.

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles, and services as authorized by 5 U.S.C. 3109, and not to exceed $2,500 for official reception and representation expenses, $44,200,000, to remain available until expended.

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for international trade activities of the Department of Commerce provided for by law, and engaging in trade promotional activities abroad, including expenses of grants and cooperative agreements for the purpose of promoting exports of United States firms, without regard to 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas and employees temporarily posted overseas; travel and transportation of employees of the United States and Foreign Commercial Service between two points abroad, without regard to 49 U.S.C. 1517; employment of Americans and aliens by contract for services; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $327,000 for official representation expenses abroad; purchase of passenger motor vehicles for official use abroad, not to exceed $30,000 per vehicle; obtain insurance on official motor vehicles; and rent tie lines and teletype equipment; $284,123,000, to remain available until expended, of which $1,600,000 is to be derived from fees to be retained and used by the International Trade Administration, notwithstanding 31 U.S.C. 3302: *Provided*, That, of the $296,616,000 provided for in direct obligations (of which $282,523,000 is appropriated from the General Fund, $1,600,0000 is derived from fee collections, and $12,493,000 is derived from unobligated balances and deobligations from prior years), $49,225,000 shall be for Trade Development, $17,779,000 shall be for Market Access and Compliance, $31,047,000 shall be for the Import Administration, $186,650,000 shall be for the United States and Foreign Commercial Service, and $11,915,000 shall be for Executive Direction and Administration: *Provided further*, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities without regard to section 5412 of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4912); and that for the purpose of this Act, contributions under the provisions of the Mutual Educational and Cultural Exchange Act shall include payment for assessments for services provided as part of these activities.

EXPORT ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for export administration and national security activities of the Department of Commerce, including costs associated with the performance of export administration field activities both domestically and abroad; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $15,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law; $47,777,000, to remain available until expended, of which $3,877,000 shall be for inspections and other activities related to national security: *Provided*, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities: *Provided further*, That payments and contributions collected and accepted for materials or services provided as part of such activities may be retained for use in covering the cost of such activities, and for providing information to the public with respect to the export administration and national security activities of the Department of Commerce and other export control programs of the United States and other governments: *Provided further*, That no funds may be obligated or expended for processing licenses for the export of satellites of United States origin (including commercial satellites and satellite components) to the People's Republic of China, unless, at least 15 days in advance, the Committees on Appropriations of the House and the Senate and other appropriate Committees of the Congress are notified of such proposed action.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For grants for economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, Public Law 91-304, and such laws that were in effect immediately before September 30, 1982, and for trade adjustment assistance, $368,379,000: *Provided*, That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorneys' or consultants' fees in connection with securing grants and contracts made by the Economic Development Administration: *Provided further*, That, notwithstanding any other provision of law, the Secretary of Commerce may provide financial assistance for projects to be located on military installations closed or scheduled for closure or realignment to grantees eligible for assistance under the Public Works and Economic Development Act of 1965, as amended, without it being required that the grantee have title or ability to obtain a lease for the property, for the useful life of the project, when in the opinion of the Secretary of Commerce, such financial assistance is necessary for the economic development of the area: *Provided further*, That the Secretary of Commerce may, as the Secretary considers appropriate, consult with the Secretary of Defense regarding the title to land on military installations closed or scheduled for closure or realignment.

SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as provided for by law, $25,000,000: *Provided*, That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief Act of 1977.

MINORITY BUSINESS DEVELOPMENT AGENCY

MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, and other agreements with public or private organizations, $25,276,000.

ECONOMIC AND INFORMATION INFRASTRUCTURE

ECONOMIC AND STATISTICAL ANALYSIS

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of economic and statistical analysis programs of the Department of Commerce, $48,000,000, to remain available until September 30, 2000.

BUREAU OF THE CENSUS

SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, $140,147,000.

PERIODIC CENSUSES AND PROGRAMS

For expenses necessary to conduct the decennial census, $951,936,000 to remain available until expended: *Provided*, That, of this amount, $475,968,000 shall not be available for obligation or expenditure until after March 31, 1999, and until the following shall have occurred: (1) not later than March 15, 1999, the President has submitted a request to release the funds, and such request shall include the President's estimate of the expenditures required for the completion of the decennial census; and (2) the Congress has enacted legislation making available the unobligated and unexpended funds: *Provided further*, That the Congress is required to take legislative action on such legislation not later than March 31, 1999.

In addition, for necessary expenses of the Census Monitoring Board as authorized by section 210 of Public Law 105–119, $4,000,000, to remain available until expended.

In addition, for expenses to collect and publish statistics for other periodic censuses and programs provided for by law, $155,951,000, to remain available until expended.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, as provided for by law, of the National Telecommunications and Information Administration (NTIA), $10,940,000, to remain available until expended: *Provided*, That, notwithstanding 31 U.S.C. 1535(d), the Secretary of Commerce shall charge Federal agencies for costs incurred in spectrum management, analysis, and operations, and related services and such fees shall be retained and used as offsetting collections for costs of such spectrum services, to remain available until expended: *Provided further*, That hereafter, notwithstanding any other provision of law, NTIA shall not authorize spectrum use or provide any spectrum functions pursuant to the NTIA Organization Act, 47 U.S.C. 902–903, to any Federal entity without reimbursement as required by NTIA for such spectrum management costs, and Federal entities withholding payment of such cost shall not use spectrum: *Provided further*, That the Secretary of Commerce is authorized to retain and use as offsetting collections all funds transferred, or previously transferred, from other Government agencies for all costs incurred in telecommunications research, engineering, and related activities by the Institute for Telecommunication Sciences of the NTIA, in furtherance of its assigned functions under this paragraph, and such funds received from other Government agencies shall remain available until expended.

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION

For grants authorized by section 392 of the Communications Act of 1934, as amended, $21,000,000, to remain available until expended as authorized by section 391 of the Act, as amended: *Provided*, That not to exceed $1,800,000, shall be available for program administration as authorized by section 391 of the Act: *Provided further*, That notwithstanding the provisions of section 391 of the Act, the prior year unobligated balances may be made available for grants for projects for which applications have been submitted and approved during any fiscal year.

INFORMATION INFRASTRUCTURE GRANTS

For grants authorized by section 392 of the Communications Act of 1934, as amended, $16,000,000, to remain available until expended as authorized by section 391 of the Act, as amended: *Provided*, That not to exceed $3,000,000 shall be available for program administration and other support activities as authorized by section 391: *Provided further*, That, of the funds appropriated herein, not to exceed 5 percent may be available for telecommunications research activities for projects related directly to the development of a national information infrastructure: *Provided further*, That, notwithstanding the requirements of section 392(a) and 392(c) of the Act, these funds may be used for the planning and construction of telecommunications networks for the provision of educational, cultural, health care, public information, public safety, or other social services.

PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Patent and Trademark Office provided for by law, including defense of suits instituted against the Commissioner of Patents and Trademarks, $653,526,000, to remain available until expended: *Provided*, That, of this amount, $653,526,000 shall be derived from offsetting collections assessed and collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376 and shall be retained and used for necessary expenses in this appropriation: *Provided further*, That the sum herein appropriated from the General Fund shall be reduced as such offsetting collections are received during fiscal year 1999, so as to result in final fiscal year 1999 appropriation from the General Fund estimated at $0: *Provided further*, That, during fiscal year 1999, should the total amount of offsetting fee collections be less than $653,526,000, the total amounts available to the Patent and Trademark Office shall be reduced accordingly: *Provided further*, That any amount received in excess of $653,526,000 in fiscal year 1999 shall remain available until expended, but shall not be available for obligation until October 1, 1999.

In addition, upon enactment of legislation to increase fees collected pursuant to 35 U.S.C. 41, such fees shall be collected and credited to this account as offsetting collections and shall remain available until expended: *Provided*, That not to exceed $102,000,000 of such amounts collected shall be available for obligation in fiscal year 1999 for purposes as authorized by law: *Provided further*, That any amount received in excess of $102,000,000 in fiscal year 1999 shall remain available until expended, but shall not be available for obligation until October 1, 1999.

SCIENCE AND TECHNOLOGY

TECHNOLOGY ADMINISTRATION

UNDER SECRETARY FOR TECHNOLOGY/OFFICE OF TECHNOLOGY POLICY

SALARIES AND EXPENSES

For necessary expenses for the Under Secretary for Technology/Office of Technology Policy, $9,000,000, of which not to exceed $1,000,000 shall remain available until September 30, 2000.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Institute of Standards and Technology, $280,470,000, to remain available until expended, of which not to exceed $1,800,000 may be transferred to the "Working Capital Fund".

INDUSTRIAL TECHNOLOGY SERVICES

For necessary expenses of the Manufacturing Extension Partnership of the National Institute of Standards and Technology, $106,800,000, to remain available until expended: *Provided*, That, notwithstanding the time limitations imposed by 15 U.S.C. 278k(c)(1) and (5) on the duration of Federal financial assistance that may be awarded by the Secretary of Commerce to Regional Centers for the Transfer of Manufacturing Technology ("Centers"), such Federal financial assistance for a Center may continue beyond 6 years and may be renewed for additional periods, not to exceed 1 year, at a rate not to exceed one-third of the Center's total annual costs or the level of funding in the sixth year, whichever is less, subject before any such renewal to a positive evaluation of the Center and to a finding by the Secretary of Commerce that continuation of Federal funding to the Center is in the best interest of the Regional Centers for the Transfer of Manufacturing Technology Program: *Provided further*, That the Center's most recent performance evaluation is positive, and the Center has submitted a reapplication which has successfully passed merit review.

In addition, for necessary expenses of the Advanced Technology Program of the National Institute of Standards and Technology, $180,200,000, to remain available until expended, of which not to exceed $43,000,000 shall be available for the award of new grants, and of which not to exceed $500,000 may be transferred to the "Working Capital Fund".

CONSTRUCTION OF RESEARCH FACILITIES

For construction of new research facilities, including architectural and engineering design, and for renovation of existing facilities, not otherwise provided for the National Institute of Standards and Technology, as authorized by 15 U.S.C. 278c–278e, $56,714,000, to remain available until expended: *Provided*, That of the amounts provided under this heading, $40,000,000 shall be available for obligation and expenditure only after submission of a plan for the expenditure of these funds, in accordance with section 605 of this Act.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including maintenance, operation, and hire of aircraft; not to exceed 240 commissioned officers on the active list as of September 30, 1999; grants, contracts, or other payments to nonprofit organizations for the purposes of conducting activities pursuant to cooperative agreements; and relocation of facilities as authorized by 33 U.S.C. 883i; $1,470,042,000, to remain available until expended: *Provided*, That fees and donations received by the National Ocean Service for the management of the national marine sanctuaries may be retained and used for the salaries and expenses associated with those activities, notwithstanding 31 U.S.C. 3302: *Provided further*,

That, in addition, $62,381,000 shall be derived by transfer from the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries": *Provided further*, That grants to States pursuant to sections 306 and 306A of the Coastal Zone Management Act of 1972, as amended, shall not exceed $2,000,000: *Provided further*, That, of the $1,578,933,000 provided for in direct obligations under this heading (of which $1,470,042,000 is appropriated from the general fund, $74,895,000 is provided by transfer, and $33,996,000 is derived from unobligated balances and deobligations from prior years), $244,933,000 shall be for the National Ocean Service, $339,732,000 shall be for the National Marine Fisheries Service, $254,830,000 shall be for Oceanic and Atmospheric Research, $551,747,000 shall be for the National Weather Service, $104,232,000 shall be for the National Environmental Satellite, Data, and Information Service, $63,894,000 shall be for Program Support, $6,300,000 shall be for Fleet Maintenance, and $13,265,000 shall be for Facilities Maintenance: *Provided further*, That, not to exceed $31,069,000 shall be expended for Executive Direction and Administration, which consists of the Offices of the Under Secretary, the Executive Secretariat, Policy and Strategic Planning, International Affairs, Legislative Affairs, Public Affairs, Sustainable Development, the Chief Scientist, and the General Counsel: *Provided further*, That the aforementioned offices shall not be augmented by personnel details, temporary transfers of personnel on either a reimbursable or nonreimbursable basis or any other type of formal or informal transfer or reimbursement of personnel or funds on either a temporary or long-term basis: *Provided further*, That not to exceed $77,843,000 shall be expended for central administrative support and common services not otherwise provided for under "Program Support" except in accordance with the procedures set forth in section 605 of this Act: *Provided further*, That, except as provided for in the previous proviso, no additional administrative charge or other assessment shall be applied against any program, project, or activity for which funds are provided under this heading unless explicitly provided for in this Act: *Provided further*, That any use of deobligated balances of funds provided under this heading in previous years shall be subject to the procedures set forth in section 605 of this Act.

PROCUREMENT, ACQUISITION AND CONSTRUCTION

(INCLUDING TRANSFER OF FUNDS)

For procurement, acquisition and construction of capital assets, including alteration and modification costs, of the National Oceanic and Atmospheric Administration, $538,439,000, to remain available until expended: *Provided*, That not to exceed $67,667,000 is available for the advanced weather interactive processing system, and may be available for obligation and expenditure only pursuant to a certification by the Secretary of Commerce that the total cost to complete the acquisition and deployment of the advanced weather interactive processing system through Build 4.2 and NOAA Port system, including program management, operations, and maintenance costs through deployment, will not exceed $71,790,000: *Provided further*, That unexpended balances of amounts previously made available in the "Operations, Research, and Facilities" account for activities funded under this heading may be transferred to and merged with this account, to remain available until expended for the purposes for which the funds were originally appropriated.

COASTAL ZONE MANAGEMENT FUND

Of amounts collected pursuant to section 308 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a), not to exceed $7,800,000, for purposes set forth in sections 308(b)(2)(A), 308(b)(2)(B)(v), and 315(e) of such Act.

FISHERMEN'S CONTINGENCY FUND

For carrying out the provisions of title IV of Public Law 95–372, not to exceed $953,000, to be derived from receipts collected pursuant to that Act, to remain available until expended.

FOREIGN FISHING OBSERVER FUND

For expenses necessary to carry out the provisions of the Atlantic Tunas Convention Act of 1975, as amended (Public Law 96–339), and the Magnuson-Stevens Fishery Conservation and Management Act of 1976, as amended (Public Law 100–627), to be derived from the fees imposed under the foreign fishery observer program authorized by these Acts, not to exceed $189,000, to remain available until expended.

FISHERIES FINANCE PROGRAM ACCOUNT

For the cost of direct loans, $238,000, as authorized by the Merchant Marine Act of 1936, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That none of the funds made available under this heading may be used for direct loans for any new fishing vessel that will increase the harvesting capacity in any United States fishery.

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of Commerce provided for by law, including not to exceed $3,000 for official entertainment, $28,900,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App.), $21,400,000.

PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

(RESCISSION)

Of the unobligated balances available under this heading from prior year appropriations, fees collected in this fiscal year, and balances of prior year fees, $41,000,000 are rescinded.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

PROCUREMENT, ACQUISITION AND CONSTRUCTION

(RESCISSION)

Of the unobligated balances available under this heading, $5,000,000 are rescinded.

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

SEC. 201. During the current fiscal year, applicable appropriations and funds made available to the Department of Commerce by this Act shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by the Act, and, notwithstanding 31 U.S.C. 3324, may be used for advanced payments not otherwise authorized only upon the certification of officials designated by the Secretary of Commerce that such payments are in the public interest.

SEC. 202. During the current fiscal year, appropriations made available to the Department of Commerce by this Act for salaries and expenses shall be available for hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefore, as authorized by law (5 U.S.C. 5901–5902).

SEC. 203. None of the funds made available by this Act may be used to support the hurricane reconnaissance aircraft and activities that are under the control of the United States Air Force or the United States Air Force Reserve.

SEC. 204. None of the funds provided in this or any previous Act, or hereinafter made available to the Department of Commerce, shall be available to reimburse the Unemployment Trust Fund or any other fund or account of the Treasury to pay for any expenses paid before October 1, 1992, as authorized by section 8501 of title 5, United States Code, for services performed after April 20, 1990, by individuals appointed to temporary positions within the Bureau of the Census for purposes relating to the 1990 decennial census of population.

SEC. 205. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Commerce in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 10 percent by any such transfers: *Provided*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 206. (a) Should legislation be enacted to dismantle or reorganize the Department of Commerce, or any portion thereof, the Secretary of Commerce, no later than 90 days thereafter, shall submit to the Committees on Appropriations of the House and the Senate a plan for transferring funds provided in this Act to the appropriate successor organizations: *Provided*, That the plan shall include a proposal for transferring or rescinding funds appropriated herein for agencies or programs terminated under such legislation: *Provided further*, That such plan shall be transmitted in accordance with section 605 of this Act.

(b) The Secretary of Commerce or the appropriate head of any successor organization may use any available funds to carry out legislation dismantling or reorganizing the Department of Commerce, or any portion thereof, to cover the costs of actions relating to the abolishment, reorganization, or transfer of functions and any related personnel action, including voluntary separation incentives if authorized by such legislation: *Provided*, That the authority to transfer funds between appropriations accounts that may be necessary to carry out this section is provided in addition to authorities included under section 205 of this Act: *Provided further*, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 207. Any costs incurred by a department or agency funded under this title resulting from personnel actions taken in response to funding reductions included in this title or from actions taken for the care and protection of loan collateral or grant property shall be absorbed within the total budgetary resources available to such department or agency: *Provided*, That the authority to transfer funds between appropriations accounts as may be necessary to carry out this

section is provided in addition to authorities included elsewhere in this Act: *Provided further*, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 208. The Secretary of Commerce may award contracts for hydrographic, geodetic, and photogrammetric surveying and mapping services in accordance with title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.).

SEC. 209. The Secretary of Commerce may use the Commerce franchise fund for expenses and equipment necessary for the maintenance and operation of such administrative services as the Secretary determines may be performed more advantageously as central services, pursuant to section 403 of Public Law 103-356: *Provided*, That any inventories, equipment, and other assets pertaining to the services to be provided by such fund, either on hand or on order, less the related liabilities or unpaid obligations, and any appropriations made for the purpose of providing capital shall be used to capitalize such fund: *Provided further*, That such fund shall be paid in advance from funds available to the Department and other Federal agencies for which such centralized services are performed, at rates which will return in full all expenses of operation, including accrued leave, depreciation of fund plant and equipment, amortization of automated data processing (ADP) software and systems (either acquired or donated), and an amount necessary to maintain a reasonable operating reserve, as determined by the Secretary: *Provided further*, That such fund shall provide services on a competitive basis: *Provided further*, That an amount not to exceed 4 percent of the total annual income to such fund may be retained in the fund for fiscal year 1999 and each fiscal year thereafter, to remain available until expended, to be used for the acquisition of capital equipment, and for the improvement and implementation of Department financial management, ADP, and other support systems: *Provided further*, That such amounts retained in the fund for fiscal year 1999 and each fiscal year thereafter shall be available for obligation and expenditure only in accordance with section 605 of this Act: *Provided further*, That no later than 30 days after the end of each fiscal year, amounts in excess of this reserve limitation shall be deposited as miscellaneous receipts in the Treasury: *Provided further*, That such franchise fund pilot program shall terminate pursuant to section 403(f) of Public Law 103-356.

SEC. 210. Section 101 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1811) is amended—

(1) in subsection (a), by inserting "subsection (c) of this section and" after "Except as provided in"; and

(2) by adding at the end the following:

"(c) EXCLUSIVE STATE FISHERY MANAGEMENT AUTHORITY IN GULF OF MEXICO.—Each of the States of Alabama, Louisiana, and Mississippi has exclusive fishery management authority over all fish in the Gulf of Mexico within 9 miles of the coast of that State.".

This title may be cited as the "Department of Commerce and Related Agencies Appropriations Act, 1999".

TITLE III—THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

For expenses necessary for the operation of the Supreme Court, as required by law, excluding care of the building and grounds, including purchase or hire, driving, maintenance, and operation of an automobile for the Chief Justice, not to exceed $10,000 for the purpose of transporting Associate Justices, and hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; not to exceed $10,000 for official reception and representation expenses; and for miscellaneous expenses, to be expended as the Chief Justice may approve; $31,095,000.

CARE OF THE BUILDING AND GROUNDS

For such expenditures as may be necessary to enable the Architect of the Capitol to carry out the duties imposed upon the Architect by the Act approved May 7, 1934 (40 U.S.C. 13a-13b), $5,400,000, of which $2,364,000 shall remain available until expended.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SALARIES AND EXPENSES

For salaries of the chief judge, judges, and other officers and employees, and for necessary expenses of the court, as authorized by law, $16,143,000.

UNITED STATES COURT OF INTERNATIONAL TRADE

SALARIES AND EXPENSES

For salaries of the chief judge and 8 judges, salaries of the officers and employees of the court, services as authorized by 5 U.S.C. 3109, and necessary expenses of the court, as authorized by law, $11,822,000.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For the salaries of circuit and district judges (including judges of the territorial courts of the United States), justices and judges retired from office or from regular active service, judges of the United States Court of Federal Claims, bankruptcy judges, magistrate judges, and all other officers and employees of the Federal Judiciary not otherwise specifically provided for, and necessary expenses of the courts, as authorized by law, $2,848,329,000 (including the purchase of firearms and ammunition); of which not to exceed $13,454,000 shall remain available until expended for space alteration projects; and of which not to exceed $10,000,000 shall remain available until expended for furniture and furnishings related to new space alteration and construction projects.

In addition, for expenses of the United States Court of Federal Claims associated with processing cases under the National Childhood Vaccine Injury Act of 1986, not to exceed $2,515,000, to be appropriated from the Vaccine Injury Compensation Trust Fund.

VIOLENT CRIME REDUCTION PROGRAMS

For activities of the Federal Judiciary as authorized by law, $60,000,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund, as authorized by section 190001(a) of Public Law 103-322, and sections 818 and 823 of Public Law 104-132.

DEFENDER SERVICES

For the operation of Federal Public Defender and Community Defender organizations; the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended; the compensation and reimbursement of expenses of persons furnishing investigative, expert and other services under the Criminal Justice Act (18 U.S.C. 3006A(e)); the compensation (in accordance with Criminal Justice Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel; the compensation and reimbursement of travel expenses of guardians ad litem acting on behalf of financially eligible minor or incompetent offenders in connection with transfers from the United States to foreign countries with which the United States has a treaty for the execution of penal sentences; and the compensation of attorneys appointed to represent jurors in civil actions for the protection of their employment, as authorized by 28 U.S.C. 1875(d); $360,952,000, to remain available until expended as authorized by 18 U.S.C. 3006A(i).

FEES OF JURORS AND COMMISSIONERS

For fees and expenses of jurors as authorized by 28 U.S.C. 1871 and 1876; compensation of jury commissioners as authorized by 28 U.S.C. 1863; and compensation of commissioners appointed in condemnation cases pursuant to rule 71A(h) of the Federal Rules of Civil Procedure (28 U.S.C. Appendix Rule 71A(h)); $67,000,000, to remain available until expended: *Provided*, That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code.

COURT SECURITY

For necessary expenses, not otherwise provided for, incident to the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas, including building ingress-egress control, inspection of packages, directed security patrols, and other similar activities as authorized by section 1010 of the Judicial Improvement and Access to Justice Act (Public Law 100-702); $174,100,000, of which not to exceed $10,000,000 shall remain available until expended for security systems, to be expended directly or transferred to the United States Marshals Service, which shall be responsible for administering elements of the Judicial Security Program consistent with standards or guidelines agreed to by the Director of the Administrative Office of the United States Courts and the Attorney General.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

For necessary expenses of the Administrative Office of the United States Courts as authorized by law, including travel as authorized by 31 U.S.C. 1345, hire of a passenger motor vehicle as authorized by 31 U.S.C. 1343(b), advertising and rent in the District of Columbia and elsewhere, $54,500,000, of which not to exceed $7,500 is authorized for official reception and representation expenses.

FEDERAL JUDICIAL CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Judicial Center, as authorized by Public Law 90-219, $18,000,000; of which $1,800,000 shall remain available through September 30, 2000, to provide education and training to Federal court personnel; and of which not to exceed $1,000 is authorized for official reception and representation expenses.

JUDICIAL RETIREMENT FUNDS

PAYMENT TO JUDICIARY TRUST FUNDS

For payment to the Judicial Officers' Retirement Fund, as authorized by 28 U.S.C. 377(o), $27,500,000; to the Judicial Survivors' Annuities Fund, as authorized by 28 U.S.C.

376(c), $7,800,000; and to the United States Court of Federal Claims Judges' Retirement Fund, as authorized by 28 U.S.C. 178(l), $2,000,000.

UNITED STATES SENTENCING COMMISSION

SALARIES AND EXPENSES

For the salaries and expenses necessary to carry out the provisions of chapter 58 of title 28, United States Code, $9,600,000, of which not to exceed $1,000 is authorized for official reception and representation expenses.

GENERAL PROVISIONS—THE JUDICIARY

SEC. 301. Appropriations and authorizations made in this title which are available for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

SEC. 302. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Judiciary in this Act may be transferred between such appropriations, but no such appropriation, except "Courts of Appeals, District Courts, and Other Judicial Services, Defender Services" and "Courts of Appeals, District Courts, and Other Judicial Services, Fees of Jurors and Commissioners", shall be increased by more than 10 percent by any such transfers: *Provided*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 303. Notwithstanding any other provision of law, the salaries and expenses appropriation for district courts, courts of appeals, and other judicial services shall be available for official reception and representation expenses of the Judicial Conference of the United States: *Provided*, That such available funds shall not exceed $10,000 and shall be administered by the Director of the Administrative Office of the United States Courts in the capacity as Secretary of the Judicial Conference.

This title may be cited as "The Judiciary Appropriations Act, 1999".

TITLE IV—DEPARTMENT OF STATE AND RELATED AGENCIES

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

For necessary expenses of the Department of State and the Foreign Service not otherwise provided for, including expenses authorized by the State Department Basic Authorities Act of 1956, as amended; representation to certain international organizations in which the United States participates pursuant to treaties, ratified pursuant to the advice and consent of the Senate, or specific Acts of Congress; acquisition by exchange or purchase of passenger motor vehicles as authorized by 31 U.S.C. 1343, 40 U.S.C. 481(c), and 22 U.S.C. 2674; and for expenses of general administration; $1,641,000,000: *Provided*, That, of the amount made available under this heading, not to exceed $4,000,000 may be transferred to, and merged with, funds in the "Emergencies in the Diplomatic and Consular Service" appropriations account, to be available only for emergency evacuations and terrorism rewards: *Provided further*, That notwithstanding any other provision of law, not to exceed $250,000,000 of offsetting collections derived from fees collected under the authority of section 140(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236) during fiscal year 1999 shall be retained and used for authorized expenses in this appropriation and shall remain available until expended: *Provided further*, That any fees received in excess of $250,000,000 in fiscal year 1999 shall remain available until expended, but shall not be available for obligation until October 1, 1999.

In addition, not to exceed $700,000 in registration fees collected pursuant to section 38 of the Arms Export Control Act, as amended, may be used in accordance with section 45 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2717); in addition, not to exceed $1,252,000 shall be derived from fees collected from other executive agencies for lease or use of facilities located at the International Center in accordance with section 4 of the International Center Act (Public Law 90-553), as amended; in addition, as authorized by section 5 of such Act, $490,000, to be derived from the reserve authorized by that section, to be used for the purposes set out in that section; and, in addition, not to exceed $15,000, which shall be derived from reimbursements, surcharges, and fees for use of Blair House facilities in accordance with section 46 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2718(a)).

Notwithstanding section 402 of this Act, not to exceed 20 percent of the amounts made available in this Act in the appropriation accounts "Diplomatic and Consular Programs" and "Salaries and Expenses" under the heading "Administration of Foreign Affairs" may be transferred between such appropriation accounts: *Provided*, That any transfer pursuant to this sentence shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

In addition, for counterterrorism requirements overseas, including security guards and equipment, $25,700,000, to remain available until expended.

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of State and the Foreign Service, provided for by law, including expenses authorized by section 9 of the Act of August 31, 1964, as amended (31 U.S.C. 3721), and the State Department Basic Authorities Act of 1956, as amended, $365,235,000: *Provided*, That, of this amount, $813,333 shall be transferred to the Presidential Advisory Commission on Holocaust Assets in the United States.

CAPITAL INVESTMENT FUND

For necessary expenses of the Capital Investment Fund, $80,000,000, to remain available until expended, as authorized in Public Law 103-236: *Provided*, That section 135(e) of Public Law 103-236 shall not apply to funds available under this heading.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App.), $28,000,000, notwithstanding section 209(a)(1) of the Foreign Service Act of 1980, as amended (Public Law 96-465), as it relates to post inspections.

REPRESENTATION ALLOWANCES

For representation allowances as authorized by section 905 of the Foreign Service Act of 1980, as amended (22 U.S.C. 4085), $4,200,000.

PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

For expenses, not otherwise provided, to enable the Secretary of State to provide for extraordinary protective services in accordance with the provisions of section 214 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4314) and 3 U.S.C. 208, $8,100,000, to remain available until September 30, 2000.

SECURITY AND MAINTENANCE OF UNITED STATES MISSIONS

For necessary expenses for carrying out the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292-300), preserving, maintaining, repairing, and planning for, buildings that are owned or directly leased by the Department of State, and carrying out the Diplomatic Security Construction Program as authorized by title IV of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4851), $396,000,000, to remain available until expended as authorized by section 24(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696(c)): *Provided*, That none of the funds appropriated in this paragraph shall be available for acquisition of furniture and furnishings and generators for other departments and agencies.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service pursuant to the requirement of 31 U.S.C. 3526(e), $5,500,000 to remain available until expended as authorized by section 24(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696(c)), of which not to exceed $1,000,000 may be transferred to and merged with the Repatriation Loans Program Account, subject to the same terms and conditions.

REPATRIATION LOANS PROGRAM ACCOUNT

For the cost of direct loans, $593,000, as authorized by section 4 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2671): *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974. In addition, for administrative expenses necessary to carry out the direct loan program, $607,000, which may be transferred to and merged with the Salaries and Expenses account under Administration of Foreign Affairs.

PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

For necessary expenses to carry out the Taiwan Relations Act, Public Law 96-8, $15,000,000.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, $132,500,000.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress, $915,000,000: *Provided*, That any payment of arrearages shall be directed toward special activities that are mutually agreed upon by the United States and the respective international organization: *Provided further*, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States

Government by such organization for loans incurred on or after October 1, 1984, through external borrowings: *Provided further*, That, of the funds appropriated in this paragraph, $100,000,000 may be made available only on a semi-annual basis pursuant to a certification by the Secretary of State on a semi-annual basis, that the United Nations has taken no action during the preceding 6 months to increase funding for any United Nations program without identifying an offsetting decrease during that 6-month period elsewhere in the United Nations budget and cause the United Nations to exceed the expected reform budget for the biennium 1998–1999 of $2,533,000,000: *Provided further*, That not to exceed $15,000,000 shall be transferred from funds made available under this heading to the "International Conferences and Contingencies" account for United States contributions to the Comprehensive Nuclear Test Ban Treaty Preparatory Commission, except that such transferred funds may be obligated or expended only for Commission meetings and sessions, provisional technical secretariat salaries and expenses, other Commission administrative and training activities, including purchase of training equipment, and upgrades to existing internationally based monitoring systems involved in cooperative data sharing agreements with the United States as of the date of enactment of this Act, until the United States Senate ratifies the Comprehensive Nuclear Test Ban Treaty.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For necessary expenses to pay assessed and other expenses of international peacekeeping activities directed to the maintenance or restoration of international peace and security, $220,000,000: *Provided*, That none of the funds made available under this Act shall be obligated or expended for any new or expanded United Nations peacekeeping mission unless, at least 15 days in advance of voting for the new or expanded mission in the United Nations Security Council (or in an emergency, as far in advance as is practicable), (1) the Committees on Appropriations of the House of Representatives and the Senate and other appropriate committees of the Congress are notified of the estimated cost and length of the mission, the vital national interest that will be served, and the planned exit strategy; and (2) a reprogramming of funds pursuant to section 605 of this Act is submitted, and the procedures therein followed, setting forth the source of funds that will be used to pay for the cost of the new or expanded mission: *Provided further*, That funds shall be available for peacekeeping expenses only upon a certification by the Secretary of State to the appropriate committees of the Congress that American manufacturers and suppliers are being given opportunities to provide equipment, services, and material for United Nations peacekeeping activities equal to those being given to foreign manufacturers and suppliers.

ARREARAGE PAYMENTS

For an additional amount for payment of arrearages to meet obligations of membership in the United Nations, and to pay assessed expenses of international peacekeeping activities, $475,000,000, to remain available until expended: *Provided*, That none of the funds appropriated or otherwise made available by this Act for payment of arrearages may be obligated or expended unless such obligation or expenditure is expressly authorized by law: *Provided further*, That none of the funds appropriated or otherwise made available by this Act for payment of arrearages may be obligated or expended until such time as the share of the total of all assessed contributions for the regular budget of the United Nations does not exceed 22 percent for any single United Nations member, and the share of the budget for each assessed United Nations peacekeeping operation does not exceed 25 percent for any single United Nations member.

INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, to meet obligations of the United States arising under treaties, or specific Acts of Congress, as follows:

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

For necessary expenses for the United States Section of the International Boundary and Water Commission, United States and Mexico, and to comply with laws applicable to the United States Section, including not to exceed $6,000 for representation; as follows:

SALARIES AND EXPENSES

For salaries and expenses, not otherwise provided for, $18,490,000.

CONSTRUCTION

For detailed plan preparation and construction of authorized projects, $7,000,000, to remain available until expended, as authorized by section 24(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696(c)).

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for the International Joint Commission and the International Boundary Commission, United States and Canada, as authorized by treaties between the United States and Canada or Great Britain, and for the Border Environment Cooperation Commission as authorized by Public Law 103–182; $5,490,000, of which not to exceed $9,000 shall be available for representation expenses incurred by the International Joint Commission.

INTERNATIONAL FISHERIES COMMISSIONS

For necessary expenses for international fisheries commissions, not otherwise provided for, as authorized by law, $14,490,000: *Provided*, That the United States' share of such expenses may be advanced to the respective commissions, pursuant to 31 U.S.C. 3324.

OTHER

PAYMENT TO THE ASIA FOUNDATION

For a grant to the Asia Foundation, as authorized by section 501 of Public Law 101–246, $8,250,000, to remain available until expended, as authorized by section 24(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696(c)).

RELATED AGENCIES

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

For necessary expenses not otherwise provided, for arms control, nonproliferation, and disarmament activities, $41,500,000, of which not to exceed $50,000 shall be for official reception and representation expenses as authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.).

UNITED STATES INFORMATION AGENCY

INTERNATIONAL INFORMATION PROGRAMS

For expenses, not otherwise provided for, necessary to enable the United States Information Agency, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), to carry out international communication, educational and cultural activities; and to carry out related activities authorized by law, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed $700,000 of this appropriation), as authorized by section 801 of such Act of 1948 (22 U.S.C. 1471), and entertainment, including official receptions, within the United States, not to exceed $25,000 as authorized by section 804(3) of such Act of 1948 (22 U.S.C. 1474(3)); $457,146,000: *Provided*, That not to exceed $1,400,000 may be used for representation abroad as authorized by section 302 of such Act of 1948 (22 U.S.C. 1452) and section 905 of the Foreign Service Act of 1980 (22 U.S.C. 4085): *Provided further*, That not to exceed $6,000,000, to remain available until expended, may be credited to this appropriation from fees or other payments received from or in connection with English teaching, library, motion pictures, and publication programs as authorized by section 810 of such Act of 1948 (22 U.S.C. 1475e) and, notwithstanding any other law, fees from educational advising and counseling, and exchange visitor program services: *Provided further*, That not to exceed $920,000, to remain available until expended, may be used to carry out projects involving security construction and related improvements for agency facilities not physically located together with Department of State facilities abroad.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For expenses of educational and cultural exchange programs, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), $200,000,000, to remain available until expended as authorized by section 105 of such Act of 1961 (22 U.S.C. 2455): *Provided*, That not to exceed $800,000, to remain available until expended, may be credited to this appropriation from fees or other payments received from or in connection with English teaching and publication programs as authorized by section 810 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1475e) and, notwithstanding any other provision of law, fees from educational advising and counseling.

EISENHOWER EXCHANGE FELLOWSHIP PROGRAM TRUST FUND

For necessary expenses of Eisenhower Exchange Fellowships, Incorporated, as authorized by sections 4 and 5 of the Eisenhower Exchange Fellowship Act of 1990 (20 U.S.C. 5204–5205), all interest and earnings accruing to the Eisenhower Exchange Fellowship Program Trust Fund on or before September 30, 1999, to remain available until expended: *Provided*, That none of the funds appropriated herein shall be used to pay any salary or other compensation, or to enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376; or for purposes which are not in accordance with OMB Circulars A–110 (Uniform Administrative Requirements) and A–122 (Cost Principles for Non-Profit Organizations), including the restrictions on compensation for personal services.

ISRAELI ARAB SCHOLARSHIP PROGRAM

For necessary expenses of the Israeli Arab Scholarship Program as authorized by section 214 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452), all interest and earnings accruing to the Israeli Arab Scholarship Fund on or before September 30, 1999, to remain available until expended.

INTERNATIONAL BROADCASTING OPERATIONS

For expenses necessary to enable the United States Information Agency, as authorized by the United States Information and Educational Exchange Act of 1948, as amended, the Radio Broadcasting to Cuba Act, as amended, the Television Broadcasting to Cuba Act, the United States International Broadcasting Act of 1994, as amended, and Reorganization Plan No. 2 of 1977, to carry out international communication activities, including the purchase, installation, rent, construction, and improvement of facilities for radio and television transmission and reception to Cuba; $383,957,000, of which not to exceed $16,000 may be used for official receptions within the United States as authorized by section 804(3) of such Act of 1948 (22 U.S.C. 1747(3)), not to exceed $35,000 may be used for representation abroad as authorized by section 302 of such Act of 1948 (22 U.S.C. 1452) and section 905 of the Foreign Service Act of 1980 (22 U.S.C. 4085), and not to exceed $39,000 may be used for official reception and representation expenses of Radio Free Europe/Radio Liberty; and, in addition, notwithstanding any other provision of law, not to exceed $2,000,000 in receipts from advertising and revenue from business ventures, not to exceed $500,000 in receipts from cooperating international organizations, and not to exceed $1,000,000 in receipts from privatization efforts of the Voice of America and the International Broadcasting Bureau, to remain available until expended for carrying out authorized purposes.

RADIO CONSTRUCTION

For the purchase, rent, construction, and improvement of facilities for radio transmission and reception, and purchase and installation of necessary equipment for radio and television transmission and reception as authorized by section 801 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1471), $25,308,000, to remain available until expended, as authorized by section 704(a) of such Act of 1948 (22 U.S.C. 1477b(a)).

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, $31,000,000, to remain available until expended.

GENERAL PROVISIONS—DEPARTMENT OF STATE AND RELATED AGENCIES

SEC. 401. Funds appropriated under this title shall be available, except as otherwise provided, for allowances and differentials as authorized by subchapter 59 of title 5, United States Code; for services as authorized by 5 U.S.C. 3109; and hire of passenger transportation pursuant to 31 U.S.C. 1343(b).

SEC. 402. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of State in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: *Provided*, That not to exceed 5 percent of any appropriation made available for the current fiscal year for the United States Information Agency in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: *Provided further*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 403. (a) An employee who regularly commutes from his or her place of residence in the continental United States to an official duty station in Canada or Mexico shall receive a border equalization adjustment equal to the amount of comparability payments under section 5304 of title 5, United States Code, that he or she would receive if assigned to an official duty station within the United States locality pay area closest to the employee's official duty station.

(b) For purposes of this section, the term "employee" shall mean a person who—

(1) is an "employee" as defined under section 2105 of title 5, United States Code; and

(2) is employed by the United States Department of State, the United States Information Agency, the United States Agency for International Development, or the International Joint Commission, except that the term shall not include members of the Foreign Service as defined by section 103 of the Foreign Service Act of 1980 (Public Law 96–465), section 3903 of title 22, United States Code.

(c) An equalization adjustment payable under this section shall be considered basic pay for the same purposes as are comparability payments under section 5304 of title 5, United States Code, and its implementing regulations.

(d) The agencies referenced in subsection (c)(2) are authorized to promulgate regulations to carry out the purposes of this section.

SEC. 404. (a)(1) Section 6(4) of the Japan-United States Friendship Act (22 U.S.C. 2905(4)) is amended by striking "needed, except" and all that follows through "United States" and inserting "needed".

(2) The second sentence of section 7(b) of the Japan-United States Friendship Act (22 U.S.C. 2906(b)) is amended to read as follows: "Such investment may be made only in interest-bearing obligations of the United States, in obligations guaranteed as to both principal and interest by the United States, in interest-bearing obligations of Japan, or in obligations guaranteed as to both principal and interest by Japan.".

(b)(1) Effective on the date of enactment of this Act, the Japan-United States Friendship Commission shall be redesignated as the "United States-Japan Commission". Any reference in any provision of law, Executive order, regulation, delegation of authority, or other document to the Japan-United States Friendship Commission shall be considered to be a reference to the United States-Japan Commission.

(2) The heading of section 4 of the Japan-United States Friendship Act (22 U.S.C. 2903) is amended to read as follows:

"UNITED STATES-JAPAN COMMISSION".

(3) The Japan-United States Friendship Act is amended by striking "Japan-United States Friendship Commission" each place such term appears and inserting "United States-Japan Commission".

(c)(1) Effective on the date of enactment of this Act, the Japan-United States Friendship Trust Fund shall be redesignated as the "United States-Japan Trust Fund". Any reference in any provision of law, Executive order, regulation, delegation of authority, or other document to the Japan-United States Friendship Trust Fund shall be considered to be a reference to the United States-Japan Trust Fund.

(2) Section 3(a) of the Japan-United States Friendship Act (22 U.S.C. 2902(a)) is amended by striking "Japan-United States Friendship Trust Fund" and inserting "United States-Japan Trust Fund".

SEC. 405. The Director of the United States Information Agency is authorized to administer summer travel and work programs without regard to preplacement requirements.

SEC. 406. Section 12 of the International Organizations Immunities Act (22 U.S.C. 288f–2) is amended by inserting "and the United Nations Industrial Development Organization" after "International Labor Organization".

SEC. 407. (a) Section 5545a of title 5, United States Code, is amended by adding at the end the following:

"(k)(1) For purposes of this section, the term 'criminal investigator' includes a special agent occupying a position under title II of Public Law 99–399 if such special agent—

"(A) meets the definition of such terms under paragraph (2) of subsection (a) (applied disregarding the parenthetical matter before subparagraph (A) thereof); and

"(B) such special agent satisfies the requirements of subsection (d) without taking into account any hours described in paragraph (2)(B) thereof.

"(2) In applying subsection (h) with respect to a special agent under this subsection—

"(A) any reference in such subsection to 'basic pay' shall be considered to include amounts designated as 'salary';

"(B) paragraph (2)(A) of such subsection shall be considered to include (in addition to the provisions of law specified therein) sections 609(b)(1), 805, 806, and 856 of the Foreign Service Act of 1980; and

"(C) paragraph (2)(B) of such subsection shall be applied by substituting for 'Office of Personnel Management' the following: 'Office of Personnel Management or the Secretary of State (to the extent that matters exclusively within the jurisdiction of the Secretary are concerned)'.".

(b) Not later than the date on which the amendments made by this section take effect, each special agent of the Diplomatic Security Service who satisfies the requirements of subsection (k)(1) of section 5545a of title 5, United States Code, as amended by this section, and the appropriate supervisory officer, to be designated by the Secretary of State, shall make an initial certification to the Secretary of State that the special agent is expected to meet the requirements of subsection (d) of such section 5545a. The Secretary of State may prescribe procedures necessary to administer this subsection.

(c)(1) Paragraph (2) of section 5545a(a) of title 5, United States Code, is amended (in the matter before subparagraph (A)) by striking "Public Law 99–399)" and inserting "Public Law 99–399, subject to subsection (k))".

(2) Section 5542(e) of such title is amended by striking "title 18, United States Code," and inserting "title 18 or section 37(a)(3) of the State Department Basic Authorities Act of 1956,".

(d) The amendments made by this section shall take effect on the first day of the first applicable pay period—

(1) which begins on or after the 90th day following the date of the enactment of this Act; and

(2) on which date all regulations necessary to carry out such amendments are (in the judgment of the Director of the Office of Personnel Management and the Secretary of State) in effect.

This title may be cited as the "Department of State and Related Agencies Appropriations Act, 1999".

TITLE V—RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

MARITIME SECURITY PROGRAM

For necessary expenses to maintain and preserve a U.S.-flag merchant fleet to serve the national security needs of the United States, $97,650,000, to remain available until expended.

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, $67,600,000.

MARITIME GUARANTEED LOAN (TITLE XI) PROGRAM ACCOUNT

For the cost of guaranteed loans, as authorized by the Merchant Marine Act, 1936, $16,000,000, to remain available until expended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $1,000,000,000.

In addition, for administrative expenses to carry out the guaranteed loan program, not to exceed $3,725,000, which shall be transferred to and merged with the appropriation for Operations and Training.

ADMINISTRATIVE PROVISIONS—MARITIME ADMINISTRATION

Notwithstanding any other provision of this Act, the Maritime Administration is authorized to furnish utilities and services and make necessary repairs in connection with any lease, contract, or occupancy involving Government property under control of the Maritime Administration, and payments received therefore shall be credited to the appropriation charged with the cost thereof: *Provided*, That rental payments under any such lease, contract, or occupancy for items other than such utilities, services, or repairs shall be covered into the Treasury as miscellaneous receipts.

No obligations shall be incurred during the current fiscal year from the construction fund established by the Merchant Marine Act, 1936, or otherwise, in excess of the appropriations and limitations contained in this Act or in any prior appropriation Act, and all receipts which otherwise would be deposited to the credit of said fund shall be covered into the Treasury as miscellaneous receipts.

COMMISSION FOR THE PRESERVATION OF AMERICA'S HERITAGE ABROAD

SALARIES AND EXPENSES

For expenses for the Commission for the Preservation of America's Heritage Abroad, $280,000, as authorized by section 1303 of Public Law 99–83.

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

For necessary expenses of the Commission on Civil Rights, including hire of passenger motor vehicles, $8,740,000: *Provided*, That not to exceed $50,000 may be used to employ consultants: *Provided further*, That none of the funds appropriated in this paragraph shall be used to employ in excess of 4 full-time individuals under Schedule C of the Excepted Service exclusive of 1 special assistant for each Commissioner: *Provided further*, That none of the funds appropriated in this paragraph shall be used to reimburse Commissioners for more than 75 billable days, with the exception of the chairperson who is permitted 125 billable days.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

SALARIES AND EXPENSES

For necessary expenses of the Commission on Security and Cooperation in Europe, as authorized by Public Law 94–304, $1,170,000, to remain available until expended as authorized by section 3 of Public Law 99–7.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, as amended (29 U.S.C. 206(d) and 621–634), the Americans with Disabilities Act of 1990, and the Civil Rights Act of 1991, including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); non-monetary awards to private citizens; and not to exceed $28,000,000 for payments to State and local enforcement agencies for services to the Commission pursuant to title VII of the Civil Rights Act of 1964, as amended, sections 6 and 14 of the Age Discrimination in Employment Act, the Americans with Disabilities Act of 1990, and the Civil Rights Act of 1991; $260,500,000: *Provided*, That the Commission is authorized to make available for official reception and representation expenses not to exceed $2,500 from available funds.

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Communications Commission, as authorized by law, including uniforms and allowances therefor, as authorized by 5 U.S.C. 5901–02; not to exceed $600,000 for land and structure; not to exceed $500,000 for improvement and care of grounds and repair to buildings; not to exceed $4,000 for official reception and representation expenses; purchase (not to exceed 16) and hire of motor vehicles; special counsel fees; and services as authorized by 5 U.S.C. 3109; $181,514,000, of which not to exceed $300,000 shall remain available until September 30, 2000, for research and policy studies: *Provided*, That $172,523,000 of offsetting collections shall be assessed and collected pursuant to section 9 of title I of the Communications Act of 1934, as amended, and shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced as such offsetting collections are received during fiscal year 1999 so as to result in a final fiscal year 1999 appropriation estimated at $8,991,000: *Provided further*, That any offsetting collections received in excess of $172,523,000 in fiscal year 1999 shall remain available until expended, but shall not be available for obligation until October 1, 1999: *Provided further*, That none of the funds provided in this account shall be used for expenses for rental of headquarters space at the Portals II building assessed by the General Services Administration, or for any relocation expenses, until such time as ongoing investigations by the Congress and the Department of Justice determine that the lease agreement was lawfully entered into by the parties involved.

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission as authorized by section 201(d) of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1111), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–02; $14,000,000: *Provided*, That not to exceed $2,000 shall be available for official reception and representation expenses.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $2,000 for official reception and representation expenses; $80,490,000: *Provided*, That not to exceed $300,000 shall be available for use to contract with a person or persons for collection services in accordance with the terms of 31 U.S.C. 3718, as amended: *Provided further*, That, notwithstanding any other provision of law, not to exceed $76,500,000 of offsetting collections derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18(a)) shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: *Provided further*, That the sum herein appropriated from the General Fund shall be reduced as such offsetting collections are received during fiscal year 1999, so as to result in a final fiscal year 1999 appropriation from the General Fund estimated at not more than $3,990,000, to remain available until expended: *Provided further*, That any fees received in excess of $76,500,000 in fiscal year 1999 shall remain available until expended, but shall not be available for obligation until October 1, 1999: *Provided further*, That none of the funds made available to the Federal Trade Commission shall be available for obligation for expenses authorized by section 151 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Public Law 102–242, 105 Stat. 2282–2285).

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $141,000,000, of which $134,575,000 is for basic field programs and required independent audits; $1,125,000 is for the Office of Inspector General, of which such amounts as may be necessary may be used to conduct additional audits of recipients; and $5,300,000 is for management and administration.

ADMINISTRATIVE PROVISION—LEGAL SERVICES CORPORATION

SEC. 501. None of the funds appropriated in this Act to the Legal Services Corporation shall be expended for any purpose prohibited or limited by, or contrary to any of the provisions of, sections 501, 502, 503, 504, 505, and 506 of Public Law 105–119, and all funds appropriated in this Act to the Legal Services Corporation shall be subject to the same terms and conditions set forth in such sections, except that all references in sections 502 and 503 to 1997 and 1998 shall be deemed to refer instead to 1998 and 1999, respectively.

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92-522, as amended, $1,240,000.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For necessary expenses for the Securities and Exchange Commission, including services as authorized by 5 U.S.C. 3109, the rental of space (to include multiple year leases) in the District of Columbia and elsewhere, and not to exceed $3,000 for official reception and representation expenses, $23,000,000; and, in addition, to remain available until expended, from fees collected in fiscal year 1998, $87,000,000, and from fees collected in fiscal year 1999, $214,000,000; of which not to exceed $10,000 may be used toward funding a permanent secretariat for the International Organization of Securities Commissions; and of which not to exceed $100,000 shall be available for expenses for consultations and meetings hosted by the Commission with foreign governmental and other regulatory officials, members of their delegations, appropriate representatives and staff to exchange views concerning developments relating to securities matters, development and implementation of cooperation agreements concerning securities matters and provision of technical assistance for the development of foreign securities markets, such expenses to include necessary logistic and administrative expenses and the expenses of Commission staff and foreign invitees in attendance at such consultations and meetings including (1) such incidental expenses as meals taken in the course of such attendance, (2) any travel and transportation to or from such meetings, and (3) any other related lodging or subsistence: *Provided*, That fees and charges authorized by sections 6(b)(4) of the Securities Act of 1933 (15 U.S.C. 77f(b)(4)) and 31(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78ee(d)) shall be credited to this account as offsetting collections.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the Small Business Administration as authorized by Public Law 103-403, including hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344, and not to exceed $3,500 for official reception and representation expenses, $246,750,000: *Provided*, That the Administrator is authorized to charge fees to cover the cost of publications developed by the Small Business Administration, and certain loan servicing activities: *Provided further*, That, notwithstanding 31 U.S.C. 3302, revenues received from all such activities shall be credited to this account, to be available for carrying out these purposes without further appropriations: *Provided further*, That $78,800,000 shall be available to fund grants for performance in fiscal year 1999 or fiscal year 2000 as authorized by section 21 of the Small Business Act, as amended.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App.), $11,300,000.

BUSINESS LOANS PROGRAM ACCOUNT

For the cost of direct loans, $2,000,000, to be available until expended; and for the cost of guaranteed loans, $132,540,000, as authorized by 15 U.S.C. 631 note, of which $45,000,000 shall remain available until September 30, 2000: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That, during fiscal year 1999, commitments to guarantee loans under section 503 of the Small Business Investment Act of 1958, as amended, shall not exceed the amount of financing authorized under section 20(d)(1)(B)ii of the Small Business Act, as amended: *Provided further*, That, during fiscal year 1999, commitments for general business loans authorized under section 7(a) of the Small Business Act, as amended, shall not exceed $10,000,000,000 without prior notification of the Committees on Appropriations of the House of Representatives and Senate in accordance with section 605 of this Act.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $94,000,000, which may be transferred to and merged with the appropriations for Salaries and Expenses.

DISASTER LOANS PROGRAM ACCOUNT

For the cost of direct loans authorized by section 7(b) of the Small Business Act, as amended, $100,000,000, to remain available until expended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

In addition, for administrative expenses to carry out the direct loan program, $116,000,000, which may be transferred to and merged with appropriations for Salaries and Expenses.

SURETY BOND GUARANTEES REVOLVING FUND

For additional capital for the "Surety Bond Guarantees Revolving Fund", authorized by the Small Business Investment Act, as amended, $3,300,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note.

ADMINISTRATIVE PROVISION—SMALL BUSINESS ADMINISTRATION

Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Small Business Administration in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 10 percent by any such transfers: *Provided*, That any transfer pursuant to this paragraph shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

STATE JUSTICE INSTITUTE

SALARIES AND EXPENSES

For necessary expenses of the State Justice Institute, as authorized by the State Justice Institute Authorization Act of 1992 (Public Law 102-572 (106 Stat. 4515-4516)), $6,850,000, to remain available until expended: *Provided*, That not to exceed $2,500 shall be available for official reception and representation expenses.

TITLE VI—GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 602. 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. 603. 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. 604. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of each provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

SEC. 605. (a) None of the funds provided under this Act, or provided under previous appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 1999, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions, or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act, or provided under previous appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 1999, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $500,000 or 10 percent, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

SEC. 606. None of the funds made available in this Act may be used for the construction, repair (other than emergency repair), overhaul, conversion, or modernization of vessels for the National Oceanic and Atmospheric Administration in shipyards located outside of the United States.

SEC. 607. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is 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.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE

IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 608. None of the funds made available in this Act may be used to implement, administer, or enforce any guidelines of the Equal Employment Opportunity Commission covering harassment based on religion, when it is made known to the Federal entity or official to which such funds are made available that such guidelines do not differ in any respect from the proposed guidelines published by the Commission on October 1, 1993 (58 Fed. Reg. 51266).

SEC. 609. None of the funds appropriated or otherwise made available by this Act may be obligated or expended to pay for any cost incurred for (1) opening or operating any United States diplomatic or consular post in the Socialist Republic of Vietnam that was not operating on July 11, 1995; (2) expanding any United States diplomatic or consular post in the Socialist Republic of Vietnam that was operating on July 11, 1995; or (3) increasing the total number of personnel assigned to United States diplomatic or consular posts in the Socialist Republic of Vietnam above the levels existing on July 11, 1995; unless the President certifies within 60 days the following:

(A) Based upon all information available to the United States Government, the Government of the Socialist Republic of Vietnam is fully cooperating in good faith with the United States in the following:

(i) Resolving discrepancy cases, live sightings, and field activities.

(ii) Recovering and repatriating American remains.

(iii) Accelerating efforts to provide documents that will help lead to fullest possible accounting of prisoners of war and missing in action.

(iv) Providing further assistance in implementing trilateral investigations with Laos.

(B) The remains, artifacts, eyewitness accounts, archival material, and other evidence associated with prisoners of war and missing in action recovered from crash sites, military actions, and other locations in Southeast Asia are being thoroughly analyzed by the appropriate laboratories with the intent of providing surviving relatives with scientifically defensible, legal determinations of death or other accountability that are fully documented and available in unclassified and unredacted form to immediate family members.

SEC. 610. None of the funds made available by this Act may be used for any United Nations undertaking when it is made known to the Federal official having authority to obligate or expend such funds: (1) that the United Nations undertaking is a peacekeeping mission; (2) that such undertaking will involve United States Armed Forces under the command or operational control of a foreign national; and (3) that the President's military advisors have not submitted to the President a recommendation that such involvement is in the national security interests of the United States and the President has not submitted to the Congress such a recommendation.

SEC. 611. None of the funds made available in this Act shall be used to provide the following amenities or personal comforts in the Federal prison system—

(1) in-cell television viewing except for prisoners who are segregated from the general prison population for their own safety;

(2) the viewing of R, X, and NC-17 rated movies, through whatever medium presented;

(3) any instruction (live or through broadcasts) or training equipment for boxing, wrestling, judo, karate, or other martial art, or any bodybuilding or weightlifting equipment of any sort;

(4) possession of in-cell coffee pots, hot plates or heating elements; or

(5) the use or possession of any electric or electronic musical instrument.

SEC. 612. None of the funds made available in title II for the National Oceanic and Atmospheric Administration (NOAA) under the headings "Operations, Research, and Facilities" and "Procurement, Acquisition and Construction" may be used to implement sections 603, 604, and 605 of Public Law 102-567.

SEC. 613. Any costs incurred by a department or agency funded under this Act resulting from personnel actions taken in response to funding reductions included in this Act shall be absorbed within the total budgetary resources available to such department or agency: *Provided*, That the authority to transfer funds between appropriations accounts as may be necessary to carry out this section is provided in addition to authorities included elsewhere in this Act: *Provided further*, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 614. None of the funds made available in this Act to the Federal Bureau of Prisons may be used to distribute or make available any commercially published information or material to a prisoner when it is made known to the Federal official having authority to obligate or expend such funds that such information or material is sexually explicit or features nudity.

SEC. 615. Of the funds appropriated in this Act under the heading "Office of Justice Programs—State and Local Law Enforcement Assistance", not more than 90 percent of the amount to be awarded to an entity under the Local Law Enforcement Block Grant shall be made available to such an entity when it is made known to the Federal official having authority to obligate or expend such funds that the entity that employs a public safety officer (as such term is defined in section 1204 of title I of the Omnibus Crime Control and Safe Streets Act of 1968) does not provide such a public safety officer who retires or is separated from service due to injury suffered as the direct and proximate result of a personal injury sustained in the line of duty while responding to an emergency situation or a hot pursuit (as such terms are defined by State law) with the same or better level of health insurance benefits at the time of retirement or separation as they received while on duty.

SEC. 616. (a) None of the funds made available in this Act may be used to issue or renew a fishing permit or authorization for any fishing vessel of the United States greater than 165 feet in registered length or of more than 750 gross registered tons, and that has an engine or engines capable of producing a total of more than 3,000 shaft horsepower—

(1) as specified in the permit application required under part 648.4(a)(5) of title 50, Code of Federal Regulations, part 648.12 of title 50, Code of Federal Regulations, and the authorization required under part 648.80(d)(2) of title 50, Code of Federal Regulations, to engage in fishing for Atlantic mackerel or herring (or both) under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.); or

(2) that would allow such a vessel to engage in the catching, taking, or harvesting of fish in any other fishery within the exclusive economic zone of the United States (except territories), unless a certificate of documentation had been issued for the vessel and endorsed with a fishery endorsement that was effective on September 25, 1997, and such fishery endorsement was not surrendered at any time thereafter.

(b) Any fishing permit or authorization issued or renewed prior to the date of the enactment of this Act for a fishing vessel to which the prohibition in subsection (a)(1) applies that would allow such vessel to engage in fishing for Atlantic mackerel or herring (or both) during fiscal year 1999 shall be null and void, and none of the funds made available in this Act may be used to issue a fishing permit or authorization that would allow a vessel whose permit or authorization was made null and void pursuant to this subsection to engage in the catching, taking, or harvesting of fish in any other fishery within the exclusive economic zone of the United States.

SEC. 617. None of the funds provided by this Act shall be available to promote the sale or export of tobacco or tobacco products, or to seek the reduction or removal by any foreign country of restrictions on the marketing of tobacco or tobacco products, except for restrictions which are not applied equally to all tobacco or tobacco products of the same type.

SEC. 618. None of the funds made available in this Act may be used to pay the expenses of an election officer appointed by a court to oversee an election of any officer or trustee for the International Brotherhood of Teamsters.

SEC. 619. The Federal Communications Commission shall reinstate the license of radio station WXEE, 1340 AM, of Welch, West Virginia, notwithstanding the expiration of such license on February 1, 1998, pursuant to section 312(g) of the Communications Act of 1934 (47 U.S.C. 312(g)).

The CHAIRMAN. No amendment is in order except the amendments stated in the order of the House, which shall be considered as read, shall not be subject to amendment or to a demand for a division of the House of the question in the House or in the Committee of the Whole, and shall be debatable for the time specified in the order of the House, equally divided and controlled by a proponent and a Member opposed thereto.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to House Resolution 508, proceedings will now resume on those amendments on which further proceedings were postponed in the following order:

The amendment offered by the gentleman from Indiana (Mr. SOUDER); the amendment No. 10 offered by the gentleman from New Hampshire (Mr.

BASS); the amendment No. 9 offered by the gentleman from Virginia (Mr. SCOTT); the amendment offered by the gentleman from Minnesota (Mr. GUTKNECHT); and the amendment offered by the gentlewoman from Colorado (Ms. DEGETTE).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT OFFERED BY MR. SOUDER

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Indiana (Mr. SOUDER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 91, noes 327, not voting 16, as follows:

[Roll No. 383]

AYES—91

Armey
Bachus
Ballenger
Barr
Barrett (NE)
Barton
Bateman
Blunt
Boehner
Burton
Camp
Canady
Cannon
Chabot
Christensen
Coble
Coburn
Cox
Crane
Cubin
Davis (FL)
Deal
DeLay
Doggett
Doolittle
Ehrlich
Fawell
Foley
Fowler
Fox
Gilman
Goss
Gutknecht
Hall (TX)
Hastert
Hayworth
Hefley
Hobson
Hoekstra
Hostettler
Hunter
Inglis
Istook
Johnson, Sam
Kasich
Kolbe
Largent
Leach
Manzullo
McCollum
McIntosh
McKeon
Miller (FL)
Myrick
Neumann
Paul
Paxon
Pease
Pitts
Portman
Pryce (OH)
Ramstad
Riggs
Rogan
Rohrabacher
Roukema
Royce
Ryun
Salmon
Sanford
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Smith (MI)
Smith, Linda
Snowbarger
Solomon
Souder
Stearns
Stump
Sununu
Talent
Tauzin
Thornberry
Tiahrt
Upton
Weldon (FL)
Wolf

NOES—327

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Baesler
Baker
Baldacci
Barcia
Barrett (WI)
Bartlett
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Boehlert
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Buyer
Callahan
Calvert
Campbell
Capps
Cardin
Carson
Castle
Chambliss
Chenoweth
Clayton
Clement
Clyburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Coyne
Cramer
Crapo
Cummings
Danner
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fazio
Filner
Forbes
Ford
Fossella
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goodling
Gordon
Graham
Granger
Green
Greenwood
Gutierrez
Hall (OH)
Hamilton
Hansen
Harman
Hastings (FL)
Hastings (WA)
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Horn
Houghton
Hoyer
Hulshof
Hutchinson
Hyde
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Jones
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kucinich
LaFalce
LaHood
Lampson
Lantos
Latham
LaTourette
Lazio
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (NY)
McCrery
McDermott
McGovern
McHale
McHugh
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Miller (CA)
Minge
Mink
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Nadler
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickett
Pombo
Pomeroy
Porter
Poshard
Price (NC)
Quinn
Radanovich
Rahall
Rangel
Redmond
Regula
Reyes
Riley
Rivers
Rodriguez
Roemer
Rogers
Ros-Lehtinen
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schumer
Scott
Serrano
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Snyder
Spence
Spratt
Stabenow
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thune
Thurman
Tierney
Torres
Traficant
Turner
Velazquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wilson
Wise
Woolsey
Wynn
Young (AK)
Young (FL)

NOT VOTING—16

Archer
Clay
Conyers
Cunningham
Gonzalez
Kilpatrick
McCarthy (MO)
McDade
McInnis
Millender-McDonald
Moakley
Oxley
Pickering
Stark
Towns
Yates

□ 2131

Messrs. BASS, ORTIZ, CRAPO, GREENWOOD, and KLECZKA changed their vote from "aye" to "no."

Messrs. BURTON of Indiana, INGLIS of South Carolina, and STUMP changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Ms. MILLENDER-McDONALD. Mr. Chairman, during rollcall vote No. 383 on (Souder Amendment) H.R. 4276 I was unavoidably detained. Had I been present, I would have voted "no."

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to House Resolution 508, the Chair announces that he will reduce to minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings.

AMENDMENT NO. 10 OFFERED BY MR. BASS

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment No. 10 offered by the gentleman from New Hampshire (Mr. BASS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 155, noes 267, not voting 12, as follows:

[Roll No. 384]

AYES—155

Andrews
Armey
Bachus
Baesler
Baker
Ballenger
Barr
Barrett (WI)
Barton
Bass
Berry
Bilirakis
Blunt
Boehner
Boyd
Bryant
Bunning
Burton
Buyer
Camp
Campbell
Canady
Cannon
Carson
Chabot
Chambliss
Christensen
Coble
Coburn
Condit
Cox
Crane
Cubin
Deal
DeFazio
DeLay
Diaz-Balart
Doolittle
Duncan
Dunn
Ehrlich
Ensign
Foley
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Ganske
Gibbons
Gilman
Goodling
Goss
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hutchinson
Istook
Johnson, Sam
Kasich
Kingston
Knollenberg
Kolbe
Largent
Lazio
Leach
Lewis (KY)
Linder
Livingston
LoBiondo
Luther
Manzullo
McCollum
McCrery
McHugh
McIntyre
McKeon
McKinney
Metcalf
Miller (FL)
Mink
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Norwood
Pappas

Pastor
Paul
Paxon
Pease
Peterson (MN)
Petri
Pitts
Pombo
Portman
Pryce (OH)
Radanovich
Ramstad
Redmond
Riggs
Rogan
Rohrabacher
Roukema
Royce
Ryun
Salmon
Sanford
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Sensenbrenner
Shadegg
Shaw
Shays
Shimkus
Shuster
Skelton
Smith (MI)
Smith, Linda
Snowbarger
Solomon
Souder
Stump
Sununu
Talent
Taylor (MS)
Thornberry
Thune
Tiahrt
Turner
Upton
Visclosky
Wamp
Watkins
Watts (OK)
Weldon (FL)
White
Whitfield

NOES—267

Abercrombie
Ackerman
Aderholt
Allen
Archer
Baldacci
Barcia
Barrett (NE)
Bartlett
Bateman
Becerra
Bentsen
Bereuter
Berman
Bilbray
Bishop
Blagojevich
Bliley
Blumenauer
Boehlert
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Burr
Callahan
Calvert
Capps
Cardin
Castle
Chenoweth
Clayton
Clement
Clyburn
Collins
Combest
Cook
Cooksey
Costello
Coyne
Cramer
Crapo
Cummings
Danner
Davis (FL)
Davis (IL)
Davis (VA)
DeGette
Delahunt
DeLauro
Deutsch
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dreier
Edwards
Ehlers
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Forbes
Ford
Frank (MA)
Frost
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Gilchrest
Gillmor
Goode
Goodlatte
Gordon
Graham
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Horn
Houghton
Hoyer
Hyde
Inglis
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Jones
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
Kind (WI)
King (NY)
Kleczka
Klink
Klug
Kucinich
LaFalce
LaHood
Lampson
Lantos
Latham
LaTourette
Lee
Levin
Lewis (CA)
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (NY)
McDade
McDermott
McGovern
McHale
McIntosh
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (CA)
Minge
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Northup
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Packard
Pallone
Parker
Pascrell
Payne
Pelosi
Peterson (PA)
Pickett
Pomeroy
Porter
Poshard
Price (NC)
Quinn
Rahall
Rangel
Regula
Reyes
Riley
Rivers
Rodriguez
Roemer
Rogers
Ros-Lehtinen
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Scott
Serrano
Sessions
Sherman
Sisisky
Skaggs
Skeen
Slaughter
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Snyder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Tauzin
Taylor (NC)
Thomas
Thompson
Thurman
Tierney
Torres
Traficant
Velazquez
Vento
Walsh
Waters
Watt (NC)
Waxman
Weldon (PA)
Weller
Wexler
Weygand
Wicker
Wilson
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NOT VOTING—12

Clay
Conyers
Cunningham
Gonzalez
Kilpatrick
McCarthy (MO)
McInnis
Moakley
Oxley
Pickering
Towns
Yates

□ 2139

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 9 OFFERED BY MR. SCOTT

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment No. 9 offered by the gentleman from Virginia (Mr. SCOTT) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 149, noes 271, not voting 14, as follows:

[Roll No. 385]

AYES—149

Abercrombie
Ackerman
Allen
Baldacci
Barrett (WI)
Becerra
Berman
Bishop
Blumenauer
Bonior
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Carson
Clayton
Clement
Clyburn
Condit
Coyne
Cummings
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
Dicks
Dixon
Doggett
Dooley
Duncan
Edwards
Engel
Ensign
Eshoo
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gilman
Green
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hefner
Hilliard
Hinchey
Hinojosa
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Johnson, E. B.
Kaptur
Kennedy (MA)
Kennedy (RI)
Kildee
Kind (WI)
Kleczka
Klink
LaFalce
Lampson
Lantos
LaTourette
Leach
Lee
Lewis (GA)
Lofgren
Luther
Maloney (NY)
Manton
Markey
Matsui
McDermott
McGovern
McKinney
McNulty
Meehan
Meeks (NY)
Miller (CA)
Minge
Mink
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne
Pease
Pelosi
Peterson (MN)
Pickett
Rahall
Ramstad
Rangel
Reyes
Rodriguez
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Snyder
Stabenow
Stark
Stenholm
Stokes
Thompson
Tierney
Torres
Turner
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weygand
Wicker
Woolsey
Wynn

NOES—271

Aderholt
Andrews
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berry
Bilbray
Bilirakis
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boswell
Boucher
Boyd
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Danner
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dingell
Doolittle
Doyle
Dreier
Dunn
Ehlers
Ehrlich
Emerson
English
Etheridge
Evans
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Gutknecht
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kennelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
Kucinich
LaHood
Largent
Latham
Lazio
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lowey
Lucas
Maloney (CT)
Manzullo
Martinez
Mascara
McCarthy (NY)
McCollum
McCrery
McHale
McHugh
McIntosh
McIntyre
McKeon
Meek (FL)
Menendez
Metcalf
Mica
Miller (FL)
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Packard
Pappas
Parker
Pascrell
Paul
Paxon
Peterson (PA)
Petri
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Redmond
Regula
Riggs
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Spratt
Stearns
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)

Thomas
Thornberry
Thune
Thurman
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wexler
White
Whitfield
Wilson
Wise
Wolf
Young (AK)
Young (FL)

NOT VOTING—14

Clay
Conyers
Cunningham
Gonzalez
Kilpatrick
McCarthy (MO)
McDade
McInnis
Millender-McDonald
Moakley
Oxley
Pickering
Towns
Yates

□ 2145

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Ms. MILLENDER-McDONALD. Mr. Chairman, during rollcall vote No. 385, the Scott amendment to H.R. 4276, I was unavoidably detained. Had I been present, I would have voted yes.

PERSONAL EXPLANATION

Mr. GREENWOOD. Mr. Speaker, on rollcall vote No. 385, the Scott amendment to H.R. 4276, the fiscal 1999 Commerce, Justice, State and the Judiciary Appropriations Act, it was my intention to vote "no".

AMENDMENT OFFERED BY MR. GUTKNECHT

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Minnesota (Mr. GUTKNECHT) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 136, noes 286, not voting 12, as follows:

[Roll No. 386]

AYES—136

Andrews
Archer
Armey
Bachus
Ballenger
Barr
Bartlett
Barton
Berry
Bliley
Blunt
Boehner
Brady (TX)
Burton
Buyer
Camp
Campbell
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Combest
Cook
Cox
Crane
Crapo
Cubin
Deal
DeLay
Diaz-Balart
Doolittle
Duncan
Ehrlich
Emerson
Ensign
Foley
Fossella
Fowler
Fox
Gallegly
Gibbons
Gillmor
Gilman
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hobson
Hoekstra
Hostettler
Hunter
Inglis
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kingston
Klug
Largent
Lazio
Linder
LoBiondo
Manzullo
McCollum
McIntosh
Meehan
Meek (FL)
Meeks (NY)
Miller (FL)
Myrick
Neumann
Norwood
Ortiz
Pappas
Pastor
Paul
Paxon
Pease
Petri
Pitts
Pombo
Portman
Pryce (OH)
Radanovich
Rangel
Redmond
Riggs
Riley
Rogan
Rohrabacher
Royce
Ryun
Sanford
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shays
Shuster
Smith (MI)
Smith (NJ)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Thornberry
Thune
Tiahrt
Turner
Upton
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weller
Wicker

NOES—286

Abercrombie
Ackerman
Aderholt
Allen
Baesler
Baker
Baldacci
Barcia
Barrett (NE)
Barrett (WI)
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Bilbray
Bilirakis
Bishop
Blagojevich
Blumenauer
Boehlert
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Callahan
Calvert
Capps
Cardin
Carson
Castle
Clayton
Clement
Clyburn
Collins
Condit
Cooksey
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dreier
Dunn
Edwards
Ehlers
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Forbes
Ford
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Ganske
Gejdenson
Gekas
Gephardt
Gilchrest
Goode
Goodlatte
Goodling
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Hansen
Harman
Hastings (FL)
Hefner
Hilleary
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Horn
Houghton
Hoyer
Hulshof
Hutchinson
Hyde
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
Kind (WI)
King (NY)
Kleczka
Klink
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
Livingston
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (NY)
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McIntyre
McKeon
McKinney
McNulty
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Minge
Mink
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Nadler
Neal
Nethercutt
Ney
Northup
Nussle
Oberstar
Obey
Olver
Owens
Packard
Pallone
Parker
Pascrell
Payne
Pelosi
Peterson (MN)
Peterson (PA)
Pickett
Pomeroy
Porter
Poshard
Price (NC)
Quinn
Rahall
Ramstad
Regula
Reyes
Rivers
Rodriguez
Roemer
Rogers
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schumer
Scott
Serrano
Shaw
Sherman
Shimkus
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (OR)
Smith, Adam
Snyder
Spence
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thurman
Tierney
Torres
Traficant
Velazquez
Vento
Visclosky
Walsh
Waters
Watt (NC)
Waxman
Weldon (PA)
Wexler
Weygand
White
Whitfield
Wilson
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NOT VOTING—12

Clay
Conyers
Cunningham
Gonzalez
Kilpatrick
McCarthy (MO)
McInnis
Moakley
Oxley
Pickering
Towns
Yates

□ 2153

Mrs. KELLY changed her vote from "aye" to "no."

Mr. CRAPO and Mrs. JOHNSON of Connecticut changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MS. DEGETTE

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from Colorado (Ms. DEGETTE) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 148, noes 271, not voting 15, as follows:

[Roll No. 387]

AYES—148

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barrett (WI)
Becerra
Bentsen
Berman
Bishop
Blagojevich
Blumenauer
Boehlert
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Carson
Clayton
Clyburn
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dixon
Doggett
Dooley
Engel
Eshoo
Evans
Farr
Fattah
Fawell
Fazio
Filner
Ford
Frank (MA)
Frelinghuysen
Frost
Furse
Gejdenson
Gephardt
Gilman
Green
Greenwood
Gutierrez
Harman
Hastings (FL)
Hilliard
Hinchey
Hinojosa
Hooley
Horn
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Kelly
Kennedy (MA)

Kennedy (RI)
Kennelly
Kind (WI)
Lantos
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Matsui
McCarthy (NY)
McDermott
McGovern
McKinney
Meehan
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moran (VA)
Morella
Nadler
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pickett
Price (NC)
Rangel
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Shays
Sherman
Skaggs
Slaughter
Smith, Adam
Stabenow
Stark
Stokes
Tauscher
Thomas
Thompson
Tierney
Torres
Velazquez
Vento
Waters
Watt (NC)
Waxman
Wexler
Wise
Woolsey
Wynn

NOES—271

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Berry
Bilbray
Bilirakis
Bliley
Blunt
Boehner
Bonilla
Bonior
Bono
Borski
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dicks
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Everett
Ewing
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (WI)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kildee
Kim
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manton
Manzullo
Mascara
McCollum
McCrery
McDade
McHale
McHugh
McIntosh
McIntyre
McKeon
McNulty
Meek (FL)
Metcalf
Mica
Miller (FL)
Mollohan
Moran (KS)
Murtha
Myrick
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Ortiz
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Reyes
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stump
Stupak
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thornberry
Thune
Thurman
Tiahrt
Traficant
Turner
Upton
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weygand
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NOT VOTING—15

Clay
Conyers
Cunningham
Gonzalez
Kilpatrick
McCarthy (MO)
McInnis
Moakley
Obey
Oxley
Pickering
Strickland
Towns
Weller
Yates

□ 2159

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Ms. McCARTHY of Missouri. Mr. Chairman, on rollcalls No.'s 380–387, I was unavoidably detained participating in the primary elections in Missouri. Had I been present, I would have voted in the following manner: No. 380—H. Con. Res. 213, Yes; 381—Mollohan Amendment on Legal Services, Yes; 382—Skaggs Amendment on TV Marti, Yes; 383—Souder Amendment on drug counts, No; 384—Bass Amendment on ATP, No; 385—Scott on Truth in Sentencing, No; 386—Gutknecht on Public Broadcasting, No; and 387—DeGette on Abortion, Yes.

□ 2200

AMENDMENT OFFERED BY MR. TRAFICANT

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. TRAFICANT:

Page 38, after line 9, insert the following:

SEC. . The Director of the Bureau of Prisons shall conduct a study, not later than 270 days after the date of the enactment of this Act, of private prisons that evaluates the growth and development of the private prison industry during the past 15 years, training qualifications of personnel at private prisons, and the security procedures of such facilities, and compares the general standards and conditions between private prisons and Federal prisons. The results of such study shall be submitted to the Committees on the Judiciary and Appropriations of the House of Representatives and the Senate.

The CHAIRMAN. Pursuant to the previous order of the House of today, the gentleman from Ohio (Mr. TRAFICANT) and a Member opposed will each control 2½ minutes.

The Chair recognizes the gentleman from Ohio (Mr. TRAFICANT).

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

Mr. Chairman, last week, six prisoners, most of them incarcerated for murder, escaped from a private for-profit prison in my congressional district. The development of private prisons for profit around America is a sign of the times, but in the contract that this private prison had these were to be medium security prisoner inmate risks. There is still one murderer at large.

The Traficant amendment simply calls for a study to evaluate the growth and development of private for-profit prisons, the training qualifications of their personnel, the security program and the quality of security programs that they offer and how their standards compare to those of the Federal Bureau of Prisons.

It requires that this study be completed in 9 months and that the fruits of this study shall be reported to both the Judiciary Committees of the House and Senate and the Appropriations Committees of the House and Senate. It is just the beginning, because on the D.C. appropriations bill, where this contract exists between D.C. prisons and the City of Youngstown, and I do not at this point support closing that prison, I just want to make sure that the guidelines and the contractual stipulations for the inmate risk is as it should be. This amendment does not deal with that. That will be handled in the D.C. appropriations bill.

This calls for a study, and with the development of these private for-profit prisons, we must make sure their standards are up to par, their training is up to par, they are certified. The Bureau of Prisons can evaluate them and make recommendations to Congress, because it is a sign of the times.

Mr. Chairman, with that, I yield to the distinguished chairman, the gentleman from Kentucky (Mr. ROGERS).

Mr. ROGERS. Mr. Chairman, I ask unanimous consent to claim the additional 2½ minutes that is allotted to this provision.

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

There was no objection.

The CHAIRMAN. Each side is granted an additional 2½ minutes.

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

Mr. TRAFICANT. I yield to the gentleman from Kentucky.

Mr. ROGERS. Mr. Chairman, the gentleman brings a very somber and important point to the body, and he has crafted this amendment which we think is appropriate and are prepared and willing to accept.

I congratulate the gentleman from Ohio (Mr. TRAFICANT) for having the wisdom and the fortitude to persevere to be sure that there is something in this bill dealing with a very, very tragic problem in his State but potentially a problem in all the other States. I congratulate the gentleman on bringing the amendment.

Mr. TRAFICANT. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from West Virginia (Mr. MOLLOHAN), the ranking member.

Mr. MOLLOHAN. Mr. Chairman, likewise, I echo the sentiments of the chairman. The gentleman, who rightly has a very serious concern about the situation in his congressional district, has I think approached it in the appropriate way.

The time frame in which he requested he gets a response from the Bureau of Prisons I think is appropriate, it is expeditious, and I think he is moving in a very smart way. So I support the amendment.

Mr. ROGERS. Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. HOBSON).

Mr. HOBSON. Mr. Chairman, I thank the gentleman for yielding the time.

I want to congratulate the ex-chair for coming forth with this amendment. I think it is very timely and very needed.

As my colleague knows, one of the things I hope will be in this study is that the Governor of the State of Ohio has been told that he does not have the power to shut this facility down. Here it is in our State, and we do not have the ability to have any control over what is going on there, except when they escape, we have got to go out and try to find them at the expense of the taxpayers of the State of Ohio and other States.

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

I do not want to be misinterpreted here. But I think Governor Voinovich has done a good job. The State is looking at it and the Federal Government, as we are talking about today, is doing it with the Governor to improve matters.

Mr. ROGERS. Mr. Chairman, again we salute the gentleman from Ohio (Mr. TRAFICANT) for bringing this matter before us, and we want to be of assistance in trying to solve a problem that the Federal Government is a part of in a big way. I congratulate the gentleman.

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

The CHAIRMAN (Mr. HASTINGS of Washington). The question is on the amendment offered by the gentleman from Ohio (Mr. TRAFICANT).

The amendment was agreed to.

Mr. COLLINS. Mr. Chairman, I rise to join in a colloquy with the subcommittee chairman.

The CHAIRMAN. Pursuant to the previous order of the House of today, the gentleman from Georgia (Mr. COLLINS) is recognized for 5 minutes for the purposes of a colloquy with the distinguished chairman of the subcommittee.

Mr. COLLINS. Mr. Chairman, I have serious concerns about whether the United States Trade Representative is actively enforcing the terms of existing trade agreements. Specifically, compelling evidence has been provided by the U.S. industry which indicates that actions by at least one Japanese company involved in selling insurance products in Japan's third sector insurance market are in direct violation of the U.S.-Japan insurance agreement.

For over a year I have asked the USTR to open an investigation into this matter, but until recently such acts has not been taken. However, in a recent meeting the USTR committed to several Members of Congress that she would hold an open, fair, and complete interagency review of this matter.

However, unofficial reports from the interagency meetings indicate that government officials outside of the USTR are calling for a full 30-day investigation of these allegations. Mr. Chairman, it is my hope that the USTR will hold a fair and open interagency review and will heed the advice of those agency officials calling for a full investigation.

As the chairman knows, I was prepared to offer an amendment to reduce funding for the USTR, but because of my concerns that existing trade agreements are not being enforced, I will not offer the amendment. And at this time, as the bill moves forward through the process, I would appreciate the support of the chairman in pursuing alternative remedies if the USTR fails to live by the commitment that she has made to the Members.

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

Mr. COLLINS. I yield to the gentleman from Kentucky.

Mr. ROGERS. Mr. Chairman, I understand the concerns that have been raised by the gentleman and others. I agree that the USTR should fully enforce existing trade agreements, and expect the USTR to fulfill the commitments she has made to the Members.

I will be glad to work with the gentleman and others in the future to ensure that this occurs.

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

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

Mr. CALLAHAN. Mr. Chairman, I would like to stand and associate myself with the remarks of the gentleman from Georgia (Mr. COLLINS).

Mr. Chairman, I had intended to offer an amendment to H.R. 4276 which would have reduced funding for the Office of the United States Trade Representative.

A number of my colleagues and I have been deeply concerned that the USTR has not adequately enforced that U.S.-Japan insurance trade agreement. There is considerable material supporting the claim that Yasuda Fire and Marine, Japan's second largest insurance company, had entered the so-called third sector of Japan's insurance marketplace in violation of the agreement, which reserves this sector to American firms until the other insurance sectors are open to U.S. companies. There is considerable evidence, which was outlined last month in the CONGRESSIONAL RECORD, that Yasuda has circumvented the agreement.

Initially it was my view, and the view of a number of my colleagues, that the interagency review be undertaken as promptly as possible. Indeed, we had hoped it would be completed within a time frame that would afford members of the Appropriations Committee and others a chance to understand its conclusions prior to leaving for the August District Work Period. However, given the large volume of evidence that has been submitted, the expressed need among members of the interagency group to more closely focus on the activities of Yasuda, and the broad implications that matter has for the sustainability of the U.S.-Japan insurance agreement, it is now our view that the interagency process requires more time. In fact, a too quick review of this important matter would be a disservice to the aims and goals of the agreement.

With this in mind, Mr. Chairman, and trusting that sufficient time will be given to all participants in the interagency group to conduct a thorough review, I shall not offer my amendment at this time. However, I would encourage conferees on the bill to be aware of this situation and to be open to initiatives to address it if necessary. It is my hope that by then the agencies involved will have had an opportunity to study in depth, including an on ground study investigation to full insure that Yasuda is not violating the agreement, the critical situation faced by American companies wishing to remain and compete in Japan's third sector insurance market.

Mr. Chairman, I would be remiss if I did not commend the USTR, Ambassador Barshefsky and her Deputy Richard Fisher for their willingness to meet with members of Congress to hear our concerns. I was also very pleased she commenced a full interagency review of the case and the specific questions we have raised regarding this matter.

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

Mr. COLLINS. I yield to the gentleman from Colorado.

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

I have a copy of the USTR letter of this date dealing with this whole issue. It appears that she is committed, one, to cooperate fully with the GAO review that will be looking at this entire issue, as well as reconvening, as I think the gentleman indicated, the interagency process.

I just wanted to be clear, based on the conversation of the gentleman from Georgia (Mr. COLLINS) with the chairman, that at this point we are not asking for yet another review of this, and we are relying on the USTR to follow through on that commitment.

Is that essentially correct?

Mr. COLLINS. Mr. Chairman, reclaiming my time, what we are asking for, and we have received cooperation from the trade representative, Ms.

Barshefsky, is for full interagency review. That is taking place today, and we are very appreciative of their cooperation in doing this.

It has come to our attention that some of the agencies that are involved in the review feel like it may be necessary for that agency involved in the review, not USTR, to do an investigation of their own for over a 30-day period, maybe even with involving a trip to Japan for some investigating procedures. That is what we are speaking of. There is nothing to mandate that they go along with that or that they do that.

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

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

Mr. CALLAHAN. Mr. Chairman, in response to the inquiry by the gentleman, I would just like to say that Ms. Barshefsky, as well as her Associate Deputy Representative Fisher, have done an outstanding job in responding to the Members of Congress in the last week and have done an outstanding job bringing together the various factions to discuss this issue.

But, in further response to the inquiry of the gentleman, I have requested that Mr. Fisher contact Ms. Barshefsky and ask her to do an on-ground investigation of Yasuda, because in my opinion, Yasuda, the Japanese insurance company, is trying to pull the wool over the eyes of the United States insurance industry by buying a 10-percent interest in an American company and contending that that is a foreign country when they already have an agreement, as soon as this thing is expiring, then they can take over that entire entity.

So I have asked for an on-ground investigation for further requests, but she has not committed to that. And she has been most cooperative in the last week or so.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. COLLINS) has expired.

Mr. ROGERS. Mr. Chairman, I ask unanimous consent to claim an additional 5 minutes and to allot the time.

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

There was no objection.

Mr. ROGERS. Mr. Chairman, I yield 1 minute to the gentleman from Colorado (Mr. SKAGGS).

Mr. SKAGGS. Mr. Chairman, I thank the gentleman for yielding the time.

I just was happy to hear the comments of the gentleman from Alabama (Mr. CALLAHAN) that USTR really is being forthcoming in trying to address this issue. I know the gentleman was very concerned about it when we marked up the bill in full committee, and I appreciate learning that she and her staff are being responsive to his concerns.

Mr. ROGERS. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. ENGLISH).

Mr. ENGLISH of Pennsylvania. Mr. Chairman, while I have the highest respect for the colleagues who are involved and who have expressed these concerns, I would point out to these gentlemen that this insurance issue is not new. The Yasuda/INA venture, which is controlled by a Pennsylvania-based employer, was announced on July 7, 1993, well in advance of the 1994 and 1996 U.S.-Japan trade agreements.

Furthermore, by the very terms of those agreements, this venture, which is 90 percent owned by a Pennsylvania company, is permitted to compete in Japan. Indeed, there have been ongoing discussions between Committee on Ways and Means and Committee on Commerce staff with all three interested U.S. companies on this issue for some time now, and the distinguished chairman of the Subcommittee on Trade of the Committee on Ways and Means has asked the GAO to review progress in opening up Japanese markets, including a review of the specific matter.

While I recognize that reasonable people can differ, one fact that is not disputed by any of the parties is that one U.S. company controls 80 percent of the Japanese third sector market, another U.S. company controls roughly 10 percent, and the Pennsylvania company controls about 3 percent of the market.

For these reasons, I feel strongly that we need to have an objective review. I think the USTR has done that so far, and I strongly support their effort.

Mr. Chairman, I know the committee recognizes the value of the work done by the Office of the United States Trade Representative, and that a reduction in that office's appropriation below your recommendation could have a profoundly negative affect on our ability to open foreign markets to U.S. products and services. Additionally budget reductions could damage pending international negotiations to further open foreign markets for our agricultural products—just as our farm communities are already suffering—as well as planned negotiations to allow U.S. financial companies to fairly compete overseas.

For these reasons, I must object to the gentleman's statements and object to any direction to the Administration with regard to their current review of the Japanese Insurance Agreement. My understanding is the gentlemen, and other Members, have requested the Administration to again review a prior interagency decision on this issue. Any Congressional direction would interfere with the very process the gentleman has requested, as well as disturb an ongoing substantive, legal process and I would ask the Chairman not to agree to any such legislative history.

I would like to commend the gentleman from Kentucky for the fair and evenhanded way he has approached this dispute between various U.S. companies and his willingness to see that all parties in this matter are treated fairly without bringing any undue pressure on the USTR to force them to advantage one American company at the expense of another. I look forward to working with the gentlemen on this issue in the future and I look forward to supporting the Committee's budget for the USTR.

□ 2215

Mr. ROGERS. Mr. Chairman, I yield 2 minutes to the gentleman from West Virginia (Mr. MOLLOHAN).

Mr. MOLLOHAN. Mr. Chairman, I want to compliment the gentleman for withdrawing the amendment. I think it was a bit heavy-handed and I think that they made their point.

I just want to clarify, in all this, the gentleman from Alabama (Mr. CALLAHAN) is trying to affect process here, not substance, as I understand it. Is the gentleman satisfied with the responsiveness?

Mr. CALLAHAN. If the gentleman will yield, yes, I am satisfied that the Trade Representative has responded to our initial request and, that is, to involve all of the agencies that have some jurisdiction over this issue. However, the Yasuda Insurance Company in Japan, it is true most of the insurance is controlled by one American firm, but by this insurance company who does about 3 percent of the business selling out to a Japanese firm and with an agreement to buy all of it after the expiration date of this treaty gives them a distinct advantage over American insurance interests. I further requested of the Trade Representative that she do an on-ground investigation into the Yasuda purchase of the 10 percent interest in the American company.

Mr. MOLLOHAN. The gentleman talks about substance when he gets into this issue, and I just want to clarify that what he is asking from the Trade Representative is that they have an exhaustive study and investigation of this. He is not asking for a particular result to come out of this.

Mr. CALLAHAN. I am not asking for a result. I am just asking that the Trade Representative look deeply into this issue to see whether or not the 10 percent acquisition by the Japanese firm of the American firm is violative of the agreement that is in existence. I have asked her for what they have termed as an on-ground investigation into the matter. But in defense of the Trade Representative, she has been most responsive in the last 2 weeks.

Mr. MOLLOHAN. Mr. Chairman, I include for the RECORD a letter from the Trade Representative on this subject to clarify her position.

The letter referred to is as follows:

U.S. TRADE REPRESENTATIVE,
Washington, DC, August 4, 1998.

Hon. ALAN MOLLOHAN,
Ranking Member, Subcommittee on Commerce, Justice, State and Judiciary, House of Representatives, Washington, DC.

DEAR REPRESENTATIVE MOLLOHAN: I am writing to express my strong opposition to

the amendment filed by Rep. Collins, and any other proposal, to reduce appropriations for the Office of the United States Trade Representative for the next fiscal year. This amendment is ill-considered and would severely impair our ability to open markets around the world for U.S. workers and companies.

The amendment filed today is an effort to pressure USTR into reversing a recent decision involving complex factual and legal issues regarding the application of the U.S.-Japan Insurance Agreement. The dispute over this question has divided the U.S. insurance industry. The amendment is prompted by a single American insurance company that disagrees with the Administration's decision.

The underlying dispute in question involves three American insurance companies that compete against each other in the "third sector" of the Japanese insurance market, which has been set aside largely for U.S. and other non-Japanese firms. The disagreement concerns whether a subsidiary that is 90-percent-owned by one of the American companies should, despite its overwhelming American ownership, be deemed to be a Japanese company and whether the activities of this company therefore violate the U.S.-Japan insurance agreement. For obvious reasons, compelling evidence would be needed to find that a 90 percent American-owned subsidiary is in fact Japanese. USTR conducted an extensive review of the arguments made by the parties and of all of the facts presented. Moreover, USTR made certain that the arguments were presented to and the matter reviewed by the interagency process. The evidence provided did not demonstrate that the subsidiary in question is Japanese, and the decision the Administration reached reflected that fact.

Separate from this decision, the Administration told the Japanese Government that it has failed to comply with key aspects of the Agreement regarding access to its largely closed insurance sector (the so-called primary insurance sector). As a result, we have told the Japanese that they may not invoke those provisions of the Agreement that would otherwise have opened the third sector of the Japanese insurance market on January 1, 2001.

It would be highly inappropriate for USTR's funding—which we use to secure export opportunities for all of America's workers and firms—to be reduced based on the urging of one company, regarding one issue, in a single sector of one foreign market. This is especially true given that the U.S. insurance industry is split over the issue and that USTR has taken strong steps just this month to hold Japan to its commitments under the Insurance Agreement. Moreover, the General Accounting Office will shortly be undertaking a review of the operation of the entire Insurance Agreement, including the disputed issue. In addition, at the request of interested Members, we have reconvened the interagency process to again review the matter.

If enacted, the amendment introduced today would impair USTR's ability to reduce trade barriers around the world and to enforce the agreements we have already negotiated, including the Insurance Agreement itself. This Administration has a strong record of opening markets and enforcing our trade agreements. The Insurance Agreement is no exception.

The Insurance Agreement already has provided enormous benefits to the U.S. insurance industry, and USTR has worked diligently to make sure that Japan abides by the commitments it has made.

Sincerely,

CHARLENE BARSHEFSKY.

Mr. ROGERS. Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. COLLINS).

Mr. COLLINS. Mr. Chairman, let me just point out, we understand fully the ownership of INA in Japan. That is not the question. The question is in the activities of the Yasuda Insurance Company in Japan and what they are doing to affect the market of the third sector insurance market in Japan. As far as the investigations, we are very pleased that the Trade Representative is conducting a full interagency review. However, we would hope that the Trade Representative would not prohibit or try to discourage any agency that is in the interagency review from doing a further investigation as far as their agency is concerned. That is what we are speaking of.

AMENDMENT NO. 45 OFFERED BY MR. SANDERS

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 45 offered by Mr. SANDERS:

Page 40, line 8 insert "(decreased by $1,000,000)" after the dollar amount.

Page 40, line 12 insert "(decreased by $1,000,000)" after the dollar amount.

Page 40, line 13 insert "(decreased by $1,000,000)" after the dollar amount.

Page 40, line 16 insert "(decreased by $1,000,000)" after the dollar amount.

Page 76, line 3 insert "(decreased by $1,000,000)" after the dollar amount.

Page 101, line 21 insert "(increased by $2,000,000)" after the dollar amount.

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Vermont (Mr. SANDERS) and the gentleman from Kentucky (Mr. ROGERS) will each control 2½ minutes.

The Chair recognizes the gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. Mr. Chairman, I yield myself 1¼ minutes. This amendment is cosponsored by the gentlewoman from New York (Ms. VELÁZQUEZ). It increases funding for the Women's Demonstration Projects, currently known as the Women's Business Centers, from $4 million to $6 million for fiscal year 1999.

The Women's Business Centers currently have more than 60 centers in over two-thirds of the States. The centers offer financial management, marketing and technical assistance to current and potential women business owners. Each center tailors its style and offerings to the particular needs of its community. The SBA with the support of the Congress and the Administration plans to expand the program adding 30 new centers so that there will be a center in every State, including the State of Vermont.

Fostering the growth of small, women-owned businesses is a smart investment. Women are starting new firms at twice the rate of all other businesses and own more than one-third of all firms in the United States. They contribute $2.3 trillion to the economy. The 8 million women-owned firms employ 18.5 million people, or one in every five U.S. worker, and 35 percent more people in the United States than the Fortune 500 companies employ worldwide.

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

Mr. ROGERS. Mr. Chairman, I yield myself such time as I may consume. We think the gentleman's amendment makes sense. We have conferred with him at some length on the matter, we think it is a good amendment, and we accept it.

Mr. SANDERS. Mr. Chairman, I yield the balance of my time to the gentlewoman from New York (Ms. VELÁZQUEZ), the cosponsor of this amendment.

The CHAIRMAN. The gentlewoman from New York is recognized for 1¼ minutes.

Ms. VELÁZQUEZ. Mr. Chairman, I rise in strong support of the Sanders-Velázquez amendment. My colleagues, the face of business is changing. We are seeing a phenomenal growth in the number of women-owned businesses. In 1976, women owned just 6 percent of our Nation's businesses. Today, 20 years later, that number has grown to 36 percent. That is over 8 million businesses owned by women. By the year 2000 it is expected that one out of every two businesses will be owned by a woman.

These centers provide a broad range of training and counseling services to women in the areas of finance, management and marketing. By tailoring their services to the needs of the local community, Women's Business Development Centers have given women-owned businesses a fighting chance. They have also played an important role in amplifying the voice of women business owners.

In New York City, one center is working with women who are welfare recipients to start their own business, and they are succeeding. On the two-year anniversary of the President's signing the welfare bill into law, moving from welfare to work is still a great achievement. Moving from welfare to self-employment is pure inspiration. Women's Business Development Centers help make this dream possible. The Sanders-Velázquez amendment will ensure that this dream is a reality for many, many women. I urge the adoption of this amendment.

Mr. WATTS of Oklahoma. Mr. Chairman, I am proud to offer my support for the Women's Business Center program. This program has served the State of Oklahoma extremely well.

The Women's Business Center in Oklahoma City, serving all of central Oklahoma's women entrepreneurs, is a tremendous example of a public-private partnership. Not only does this

very "entrepreneurial" non-profit organization leverage its federal grant 2:1 with community support, it has created a unique program offering a "support-system" to micro-entrepreneurs. First and foremost, the organization offers hands-on training led by successful entrepreneurs. Over the past 3 years more than 2,000 people have attended training workshops with more than 250 participating in an in-depth 45 hour business expansion course.

An example in my district is Rosemary Carslile, owner of Mattress and Furniture Direct in Norman, Oklahoma. She has been in business for more than 5 years, yet after training, coaching and mentoring from the Women's Business Center program her sales increased by 40%.

Another success story is Deborah Clark owner of Prarie Moons also of Norman. Deborah not only received business plan development assistance, but was able to secure start-up financing for her retail store thanks to connections made through the Women's Business Center.

Expanded funding for this program nationwide would achieve the Small Business Committee's goal of one women's business center in every state. Women Business owners represent the fastest growing segment of our economy, with more than two-thirds of all new businesses being started today by women. These programs focus on issues specific to micro-enterprise and the needs of emerging entrepreneurs.

I am delighted to support increased funding for this very important program.

Mr. ROGERS. Mr. Chairman, we accept the amendment, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Vermont (Mr. SANDERS).

The amendment was agreed to.

AMENDMENT NO. 44 OFFERED BY MR. PALLONE

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 44 offered by Mr. PALLONE:

Page 52, line 13, after the dollar amount, insert the following: "(increased by $8,000,000)".

Page 52, line 25, after the dollar amount, insert the following: "(increased by $8,000,000)".

Page 53, line 1, after the dollar amount, insert the following: "(increased by $8,000,000)".

Page 53, line 5, after the dollar amount, insert the following: "(increased by $8,000,000)".

Page 54, line 18, after the dollar amount, insert the following: "(reduced by $15,000,000)".

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from New Jersey (Mr. PALLONE) and the gentleman from Kentucky (Mr. ROGERS) each will control 7½ minutes.

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

Mr. PALLONE. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, polluted runoff into our bays, lakes, rivers and estuaries is the Nation's number one water pollution problem and affects over half of all Americans who live along the coast. It also impacts the 32 percent of the Nation's gross national product that is derived from coastal areas and resources.

This amendment, which is cosponsored by the gentleman from Maryland (Mr. GILCHREST), increases funding for the coastal nonpoint pollution program and the Coastal Zone Management Act to meet the levels in the Administration's Clean Water Action Plan. Both of these programs provide invaluable financial assistance to the States to deal with the problems of coastal nonpoint pollution. More specifically, the Pallone-Gilchrest amendment provides an additional $4 million for coastal States to complete their coastal nonpoint source pollution control programs.

Since 1995, only $1 million has been appropriated for this purpose. The amendment also adds $1 million in coastal zone management grants so that all eligible coastal States can receive maximum support from this program, including three newly eligible States, Minnesota, Ohio and Georgia. These grants are used for important projects such as waterfront revitalization, improving public access to beaches, and controlling coastal nonpoint source pollution, the country's leading cause of water quality problems.

Finally, the amendment increases funding for coastal zone management enhancement grants by $3 million. This funding is particularly important to those States which have already reached the existing cap in coastal zone management funding. This is a modest amendment, Mr. Chairman, $8 million in all, but it is an amendment that will have an enormous impact for 30 coastal States and four territories. It is money that can easily be leveraged. The coastal zone management program has a proven $2 return for every Federal dollar invested.

Mr. Chairman, clean water is not only important for our environment, it is important for our ports and tourism industry. I urge my colleagues to join the gentleman from Maryland and myself in casting a vote for clean water and adopting this important amendment.

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

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

Mr. Chairman, I rise in opposition to the amendment. I want to be sure that every Member knows what he or she is voting for if they vote for this amendment.

A vote for this amendment is a vote to cut critical Weather Service programs. Ninety-eight percent of the moneys the gentleman proposes to cut pays for the critical equipment and computer systems now being put in your local Weather Service offices as a part of the Weather Service modernization and for the weather satellites that these offices depend on to provide weather warnings and forecasts to your constituents. Fifteen million dollars worth.

The other program his amendment would cut is the construction of the National Marine Fisheries Service lab being constructed now at Santa Cruz, California. These are the cuts that are being made by this amendment.

I just cannot support cutting these important programs related to the National Weather Service. I appreciate the gentleman's support for clean water programs, and I would say to the gentleman that this subcommittee has been very supportive of these programs. Despite the very difficult funding constraints that we faced, we increase funding for clean water programs by over 17 percent. This bill provides over $70 million for these activities, including an 8 percent increase for grants to States under the Coastal Zone Management Act.

While I can appreciate that the gentleman would like to have seen more, I would have liked to have seen more, we simply had to make hard choices and prioritize, and this is the way it came out. Clearly clean water programs were a priority as evidenced by the significant increase that they received in this bill. But our other priority was ensuring that the National Weather Service was adequately funded and that the modernization of your local weather offices would be completed so that your constituents would have the best weather forecasting that we can afford. I think it is foolhardy to cut this priority in order to fund any other program.

Therefore, I urge rejection of the amendment.

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

Mr. PALLONE. Mr. Chairman, I yield 1½ minutes to the gentleman from North Carolina (Mr. JONES).

□ 2230

Mr. JONES. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise tonight in support of the Pallone-Gilchrest amendment. This amendment would add $8 million to the coastal nonpoint pollution program which is of vital importance to my coastal district in North Carolina and other coastal areas throughout the Nation that are faced with pollution threats daily.

Just last week a fish kill killing approximately 200,000 menhaden occurred along the Neuse River in North Carolina that can be attributed to the deadly toxin pfiesteria. The coastal nonpoint program has allowed North Carolina to adopt nutrient-sensitive waters strategies for the river.

The coastal nonpoint pollution program allows States to develop and implement plans to control coastal runoff. Each State may use the grant money to best fit its needs, if it be improving pesticide and nutrient management or improving storm water treatment. The program is flexible enough to help States solve the problems, the problems in each individual State.

The Pallone-Gilchrest amendment does three important things. First, it provides critical money for the States to draft these plans; second, it provides money for the implementation of these plans; and, third, it provides much-needed money for the new Coastal Zone Management programs.

As summer wears on, more and more constituents of ours will be vacationing along our oceans and waterways. It is important, even for non-coastal Members, that we fully fund these programs and address the needs of waterways.

I hope my colleagues will support the Pallone-Gilchrest amendment.

Mr. ROGERS. Mr. Chairman, I yield 2 minutes to the gentleman from West Virginia (Mr. MOLLOHAN), my distinguished friend.

Mr. MOLLOHAN. Mr. Chairman, I rise in reluctant opposition to the Pallone amendment, reluctant because I strongly support the clean water initiative and would love to see $8 million more put into that account. Unfortunately, I cannot support the gentleman's amendment because of the offset, a $15 million reduction in NOAA procurement, acquisition and construction.

Now, first of all, why would we be taking $15 million from NOAA procurement, acquisition and construction when we are only increasing the clean water grants by $8 million? It is because we have an outlay problem with regard to it, and it takes more money out of NOAA construction to get $8 million for clean water grants. So we are not talking about an $8 million reduction, we are really talking about almost twice that much, a $15 million reduction in these accounts.

Mr. Chairman, these accounts can ill afford to be reduced. These are the NOAA weather accounts primarily. Ninety-eight percent of the money in NOAA procurement is for weather, either for satellites or for the Weather Service. We can ill afford to reduce that money, and this committee has already reduced the Weather Service by significant amounts, roughly $90 million below the President's request or thereabouts. We really cannot afford to take any more money out of there.

Mr. Chairman, we have had a satellite failure. We need desperately to spend money on satellites. We are behind there already. And, in addition, the second part of the NOAA procurement account, which this $15 million would come out of, is for systems and equipment for the National Weather Service. This category includes continued development, procurement and acquisition of the AWHPS system, the weather forecasting and warning system, which I do not think can afford at all to have this money taken out.

So, while the amendment is very worthy in terms of the account which it wants to increase, the offsets make it untenable, and I reluctantly oppose the amendment, Mr. Chairman.

Mr. PALLONE. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. GILCHREST), the cosponsor of the amendment.

Mr. GILCHREST. Mr. Chairman, I thank the gentleman for yielding this time to me.

I know the difficulty of transferring money from one account do another account, and I realize and understand the $8 million would account for close to, if not including, $15 million from these various accounts. It is my understanding, though, that there is a fairly large pot of money that is in unobligated funds carried over from one year to the next, but I do not want to get into a discussion about fine-tuning the amounts of how much money is available for satellites and Weather Service and how much money for other areas.

Mr. ROGERS. Mr. Chairman, will the gentleman yield on that point?

Mr. GILCHREST. I yield to the gentleman from Kentucky.

Mr. ROGERS. Mr. Chairman, funds have already been allocated. All the unobligated have now been taken.

Mr. GILCHREST. The point I would like to make, Mr. Chairman, is that there is a lot of money that is carried over from year to year. We have problems in numerous areas in the NOAA account.

The point is that this particular issue, which we would like to bring before the House tonight, is that there simply is not enough money to deal with the problems of nonpoint-source pollution among our coastal areas, including the Great Lakes. There simply is not enough money, since we realize that 100 percent of the Great Lakes are under a fish advisory for consumption by people. The Great Lakes will tell women that are pregnant, do not eat any fish. In the Delaware estuary and the Delaware River, in the coastal areas around Maryland and Delaware and New Jersey, women that are pregnant are told not to eat the fish.

I recognize the problems with not enough money, but we certainly need to understand the nature of the problem of nonpoint-source pollution in our coastal areas, and we need to recognize an even more serious problem of persistent toxic chemicals that not only are a problem of yesterday, are not only a problem of today, but unless these problems are dealt with they are a problem for generations to come.

Mr. ROGERS. Mr. Chairman, I yield 1 minute to the gentleman from Colorado (Mr. SKAGGS), a member of the subcommittee.

Mr. SKAGGS. Mr. Chairman, I thank the gentleman for the time.

Both of the gentlemen, all three that have spoken in favor of this amendment, make very compelling cases, and I guess I am in the awkward position of wanting to help love their amendment to death, to acknowledge how meritorious their claim is for additional resources but then say, as the chairman has, "Not here." Because the account that they would be going after by this offset I think has an even more critical priority for the country, especially with the very tenuous status of our weather satellite system right now. It is already being stretched very thin by the constraints in this bill.

To further eat into this account I think really puts into severe jeopardy our overall capability to keep track of weather forecasting, severe weather events that carry even greater threat to the health and safety of the people of this country than do the risks that the gentlemen's amendment would be designed to address.

So, as with everyone else that has spoken against my colleagues, I do so reluctantly.

Mr. PALLONE. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Chairman, I rise in support of the Pallone-Gilchrest amendment to provide full funding for the State Coastal Pollution Control Program. This amendment puts funds where they are needed most, at the State and local level.

A recent report by the Natural Resources Defense Council showed that pollution warnings for California beaches went up by almost 8 percent last year. In my district, Santa Barbara County issued beach advisories on 198 days during 1997, warning the public of elevated bacterial levels in the surf, and after the storms of this last year we know that the numbers will be even higher.

This amendment is supported by conservation, commercial and recreational fishing and business organizations, as well as many State associations and municipalities.

Mr. Chairman, we must remember that everything runs downstream and eventually into the ocean. We cannot continue to treat our waterways as a dumping ground for our wastes. Clean waterways are essential to our Nation's fishing, tourism and recreation industries, and I urge my colleagues to support the Pallone-Gilchrest amendment.

Mr. Chairman, I rise in support of the Pallone-Gilchrest Amendment to provide full funding for State Coastal Pollution Control programs.

This amendment would provide critically needed funding to protect our nation's waterways, oceans, and coastal regions. It would

provide full funding for NOAA's Clean Water Initiative, a critical component to the President's Clean Water Action Plan.

I had the opportunity to participate in the historic National Ocean Conference in Monterey, CA where a variety of topics were discussed regarding ocean protection. At follow up conferences which I convened in my district, a reoccurring theme was the need to protect our oceans from non point sources of pollution.

Too much pollution from the land runs straight to the sea. Polluted runoff—from our nation's roads, farms, grazing, logging, mining, housing development, and other land uses, is the single largest threat to water quality in this country. This runoff is a major cause of increased beach closures and of the current crisis in our fisheries. Polluted runoff threatens our ecosystems, our health, and indeed our economies.

This amendments puts funds where they are needed most—at the state and local level.

A recent report by the Natural Resources Defense Council showed that pollution warnings for California beaches went up by almost 8 percent last year. In my District, Santa Barbara County issued beach advisories warning the public of elevated bacterial level in the surf on 198 days during the year 1997. We know the numbers will be higher this year.

This amendment is supported by conservation, commercial and recreational fishing, and business organizations, as well as many State associations and municipalities.

Mr. Chairman, we must remember that everything runs downstream and eventually into the ocean. We cannot continue to treat or waterways as a dumping ground for our wastes.

Clean waterways are essential to our nation's fishing, tourism, and recreation industries.

I urge my colleagues to support the Pallone-Gilchrist amendment.

Mr. ROGERS. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman is recognized for 2 minutes.

Mr. ROGERS. Mr. Chairman, I have a letter in my hands from the Department of Commerce of the administration dated July 31 in which they say that they cannot support, in essence, this amendment. They say that we cannot support further reductions in this account or other Commerce programs, and they say that because they go ahead to say in the letter:

"The committee bill already reduces this account by $88.2 million, and a proposal to reduce PAC by another reduction of $15 million would cause delays and increase costs to the Federal Government for the remaining projects."

That is satellites, that is weather forecasting of the floods and the hurricanes and the tornadoes and all the other disasters that we are facing already.

And so I urge the committee not to yield to the temptation to put more money in clean water, which we would all like to do, but as the gentleman from Colorado says, this is an even higher priority, and that is forecasting the weather for our constituents.

So I urge a defeat of this amendment.

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

Mr. PALLONE. Mr. Chairman, I yield 1 minute to the gentlewoman from New York (Mrs. LOWEY), a member of the Committee on Appropriations.

Mrs. LOWEY. Mr. Chairman, I thank the gentleman for yielding this time to me, and with great respect for our chairman and our ranking member, I support the amendment of my colleague from New Jersey.

I would like to point out to my colleagues that I notice in one of our press releases that this bill does provide $439 million for weather satellites, which is a $110 million increase over fiscal year 1998. So although this is clearly an important need and we support it, I think the greater need here is to support the amendment of the gentleman from New Jersey (Mr. PALLONE), because from Long Island Sound to Chesapeake Bay, from the Gulf of Mexico to San Francisco Bay, nonpoint-source pollution is a major cause of water quality impairment.

In fact, polluted runoff is the number one water problem nationwide, causing beach closures, fish kills, oxygen depleting algae bloom, shellfish harvest restrictions. The pollution takes a significant toll both on the environment and the economies of our coastal areas, an area where more than 50 percent of the United States population lives.

To tackle this threat to our coastal areas, this bill is very, very important, Mr. Chairman, and I urge support for my colleague.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. PALLONE).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. PALLONE. Mr. Chairman I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 508, further proceedings on the amendment offered by the gentleman from New Jersey (Mr. PALLONE) will be postponed.

AMENDMENT OFFERED BY MR. ENGEL

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. ENGEL:

Page 47, line 11, after the dollar amount insert the following: "(increased by $5,000,000)".

Page 92, line 25, after the dollar amount insert the following: "(reduced by $5,000,000)".

The CHAIRMAN. Pursuant to the previous order of the House of today, the gentleman from New York (Mr. ENGEL) and a Member opposed will each control 5 minutes.

The gentleman from New York (Mr. ENGEL) is recognized for 5 minutes.

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

Mr. Chairman, I rise today to offer an amendment to increase funding for the Public Telecommunication Facilities Program, PTFP, by $5 million. I support public broadcasting, and I think this is a very important amendment to help public broadcasting.

I am offering this amendment because I believe we must address the daunting challenge that the public broadcasters are facing in the conversion to digital broadcast transmission. Additional funding for PTFP can help with this transition. PTFP is a success story that demonstrates what the government and the private sector can accomplish when they work together.

The facilities program is a matching grants plan for public radio and television stations. It helps stations purchase equipment to extend their signals to unserved areas as well as replace outdated hardware such as transmitters, master control rooms or towers. Many of these stations are in rural areas and do not have the resources to upgrade their systems or receive signals. The facilities program has been an unqualified success because it has helped extend public television and public radio services to most of the country, and certainly that is a very worthwhile endeavor.

PTFP is the sole program in the Federal Government that assists in the maintenance of the vast public broadcasting inventory, which now exceeds an estimated $1 billion in value. Since its inception, PTFP has invested $500 million in public telecommunication facilities that deliver informational, cultural and educational programming to the American people. That is a significant investment in a system that is now nearly universal, reaching communities as diverse as Point Barrow, Alaska; Jackson, Mississippi; and Los Angeles, California.

This universality provides an amazing potential for communication among Americans as we move further into a digital information age. The Federal Communications Commission has mandated that all public television stations be on the air with a digital signal by May 2003. Public radio stations face a similar transition, although no timetable has been set.

The industry has done extensive research and estimates the costs associated with the transition conversion to be $1.7 billion. Public broadcasting stations are facing huge financial obstacles with digital transition. Tower replacements costing $1 to $3 million are estimated for about one-third of public television stations.

□ 2245

In addition, each analog transmitter and antenna will have to be replicated

in digital formats over the next seven years at high cost. Furthermore, the cost to displace radio stations could run from thousands to millions of dollars because of dislocations or structural problems with older towers.

We have an obligation to help public broadcasters finance this enormous venture. Public stations must have the ability to keep up with changing technologies. With proper resources, we can ensure that the public-private partnership between the Federal Government and public broadcasting will guarantee that all Americans will continue to benefit from the services and programming available through public broadcasting.

I am strongly supportive of a proposal put forth by the President that would create a new digital transition program that would help stations with digital conversion. While the Committee on Appropriations chose not to authorize the program, it is my hope that such a plan can be created in the future so that we can properly assist public broadcasters with their digital transmission needs.

This amendment is a modest attempt to help them adapt to the digital, and start a dialogue for future actions that can be taken. Let us fully support these efforts, so the American people can continue to receive the quality programming they deserve. I urge my colleagues to support this amendment.

Mr. Chairman, I yield the balance of my time to the gentleman from West Virginia (Mr. MOLLOHAN).

The CHAIRMAN. The gentleman from West Virginia (Mr. MOLLOHAN) is recognized for one minute.

Mr. MOLLOHAN. Mr. Chairman, I thank the gentleman for yielding me time, and I rise in support of his amendment.

I would like to compliment the gentleman on his fine work, both this year and in the past, on behalf of public radio and television. Our bill funds PTFP at last year's funding level of $21 million. The gentleman's amendment would provide an additional $5 million to help our public radio and TV stations convert to digital formatting. This is much less than is actually needed, but it represents a good first start.

I want to again rise in support of the amendment, and compliment the gentleman for his good efforts.

Mr. LIVINGSTON. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Louisiana (Mr. LIVINGSTON), the distinguished chairman of the Committee on Appropriations, is recognized for 5 minutes.

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

Mr. Chairman, I rise in reluctant opposition to the amendment offered by the gentleman from New York. I know the gentleman feels strongly about this subject and he would like to help the Public Television Facilities Program, but the fact is that that program has been funded at $6 million above the President's request. It is a level equal to last year. So it has gotten $6 million more than the President requested, and level-funded with what was appropriated in this act last year.

Now, public television is certainly popular throughout every region of this Nation, but, in the other bill, the Labor-Health-Education appropriations bill, we actually appropriate some hundreds of millions of dollars in one fashion or another to public television.

I dare say that as important as this project is, it is not so important that it should take $5 million from the already depleted funding of Title XI, which provides for maritime construction subsidies. That program provided initially, before we came to the floor in this bill, some $16 million, and $10 million of that $16 million was siphoned away to pay for the increase that Members wanted to apply to the Legal Services Corporation.

Now, our business on the Committee on Appropriations and here in the House is to assess priorities. It is obviously a priority of the House to meet the higher level funding demand for Legal Services. But the maritime subsidy program is not any less important today and at this moment than it was when it was written into the bill at $16 million. It is currently $6 million because of Legal Services.

The gentleman from New York (Mr. ENGEL) would like to take $5 million of the remaining $6 million out for the public television facilities grant program. That may be a meritorious program, but that leaves $1 million for the Maritime Title XI program, which is entirely inadequate.

That program basically is intended to provide guarantees, loan guarantees, for U.S. shipbuilders. The fact is we have shipbuilders all around this Nation who used to rely on a very robust Naval program, and cannot do that anymore because our Navy is not building any ships. If we build more than three or four ships in a single year, it is amazing. That is not enough to sustain our shipbuilders around this country.

If this country gets into a major conflict abroad and we need ships, we need supplies, we need to recreate the situation that we saw ourselves in in Desert Storm, we, quite frankly, could not build the ships fast enough to begin with, and, even if we could, we could not afford the demand.

This program allows us for every $1 million to shipbuilders, we can actually leverage that into $20 million of loan guarantees for U.S. ships, and that creates jobs in the shipbuilding industry.

I happen to represent a shipbuilding center in south Louisiana. Others represent shipbuilding centers around the coastal regions of this country. For those Members who represent shipbuilding communities, I would say that this is a very, very important program, no less important, in fact, a lot more important, than the public television facilities grant program. Mr. Chairman, I ask that Members consider that this program from which the gentleman hopes to take $5 million will be crippled if it loses five/sixths of what remains.

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

Mr. LIVINGSTON. I yield to the gentleman from West Virginia.

Mr. MOLLOHAN. Mr. Chairman, I stood up to support this amendment based upon the new estimates that there would be as much as $60 or $63 million carryover. I hope that that happens, and that that addresses some of the distinguished chairman's thoughts.

Mr. LIVINGSTON. Mr. Chairman, reclaiming my time, the gentleman is correct, there is carry-over, although I think the gentleman's figures are greatly inflated. I think it is about half of that.

I would simply say without those already obligated funds, the current contracts would have to be terminated and jobs would be immediately lost; and that is not a good idea.

The CHAIRMAN. All time on the amendment has expired.

The question is on the amendment offered by the gentleman from New York (Mr. ENGEL).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. ENGEL. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 508, further proceedings on the amendment offered by the gentleman from New York (Mr. ENGEL) will be postponed.

AMENDMENT OFFERED BY MR. FARR OF CALIFORNIA

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. FARR of California:

Page 52, line 19, after the dollar amount insert "(increased by $1,000,000)".

Page 52, line 25, after the dollar amount insert "(increased by $1,000,000)".

Page 53, line 2, after the dollar amount insert "(increased by $1,000,000)".

Page 53, line 5, after the dollar amount insert "(increased by $1,000,000)".

The CHAIRMAN. Pursuant to the previous order of the House today, the gentleman from California (Mr. FARR) and a Member opposed will each control 5 minutes.

The gentleman from California (Mr. FARR) is recognized for 5 minutes.

Mr. FARR of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today to offer an amendment that would support an additional $1 million for the National Estuary and Research Reserve program. Our Nation's fishery nursery is in these estuaries, which supports 75 percent of the U.S. commercial fish catch. I offer the amendment by taking carry-over funds from the Saltonstall-Kennedy fund.

I ask that the gentleman from Kentucky (Mr. ROGERS) if he would accept the amendment.

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

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

Mr. ROGERS. Mr. Chairman, we have worked with the gentleman on his amendment. We have no objection to the amendment.

Mr. FARR of California. Mr. Chairman, reclaiming my time, I have a question, if I may, on another issue.

Mr. Chairman, I would ask the distinguished gentleman from Kentucky (Chairman ROGERS) if he would respond to a question I have. I would like to ask the gentleman from Kentucky (Chairman ROGERS) to participate in a brief colloquy regarding the new National Marine Fisheries Lab in Santa Cruz, California.

Some concerns have been expressed regarding the current design of the seawater system as it relates to the ability of the laboratory to support live marine mammal research. I know on May 12, 1998, in a letter to the Department of Commerce, the committee addressed this issue and indicated that should additional funds above the current plan be necessary to address deficiencies in the system, the committee will be willing to entertain a reprogramming request from NOAA for no more than $600,000 to cover the costs of any necessary changes.

My question to the chairman is, does he believe that this is the appropriate way to address the issue of the seawater system at the Santa Cruz laboratory, and will the gentleman agree to do so?

Mr. ROGERS. If the gentleman will yield further, the answer is yes.

Mr. FARR of California. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. Does any Member claim time in opposition to the amendment?

If not, the question is on the amendment offered by the gentleman from California (Mr. FARR).

The amendment was agreed to.

AMENDMENT NO. 15 OFFERED BY MR. ROYCE

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 15 offered by Mr. ROYCE:

Page 51, line 9, insert "(reduced by $180,200,000)" after "$180,200,000".

Page 51, line 10, insert "(reduced by $43,000,000)" after "$43,000,000".

Page 51, line 12, insert "(reduced by $500,000)" after "$500,000".

The CHAIRMAN. Pursuant to the previous order of the House today, the gentleman from California (Mr. ROYCE) and a Member opposed to the amendment will each control 5 minutes.

The gentleman from California (Mr. ROYCE) is recognized for 5 minutes.

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

Mr. Chairman, the Advanced Technology Program provides subsidies to multimillion dollar corporations and joint ventures to fund high technology research and development. High-tech R&D has been central to our economy and continued economic growth, and I have the highest praise for these activities.

However, I take issue in asking the American taxpayers to foot the bill for these activities which should be left to the market free of politics and free of government meddling.

Private industry does not need this program and, quite frankly, competes unfairly, has to compete with these grants, and we have heard from Silicon Valley CEO's who have said that economic rivals, competing firms receive these grants, and then compete with them in the marketplace.

In studying ATP, the General Accounting Office found that 65 percent of ATP recipients did not even attempt to secure private funding for the projects before asking for taxpayer subsidies.

ATP has created a perverse incentive. Firms come to Washington to seek millions of dollars in subsidies provided by working families, instead of going first to the private market. Proponents of these subsidies claim that cooperation between government and industry is essential to compete in the global marketplace. Well, if this kind of cooperation were indeed the panacea they claim, then Eastern Europe would be the dominant economic superpower in the world. It is not.

We commend the American economy for being the most productive in the world. Our economy was not built on government subsidies and those socialist economies that are built on subsidies are economies that are failing and attempting to reform along the lines of a free market.

Now, high-tech R&D will continue if they are deemed worthy by those that choose to invest their own money. High definition TV is one of the clearest failures of government targeted handouts. Japanese businesses with subsidies that totalled $1 billion in the 1980's sought to help HDTV using existing analog technology. The French did the same. $1 billion of their taxpayers' money went into that.

Luckily, here in the U.S., our administration at the time took a pass at providing $1.2 billion in subsidies to compete with these foreign rivals. As a result of being denied massive subsidies, American companies were forced to develop an alternative with their own money.

The alternative that AT&T and Zenith developed was a fully digital system that made analog Japanese and European systems obsolete. Before they were ever put into production, the Japanese and European taxpayers lost $2 billion because their governments directed and handed out the subsidies. We relied on the market, and, again, it showed that the market works.

We are the economic leader of the world precisely because of the relative lack of government involvement in the economy, not because of centralization. The market where people choose to put their own money at risk should determine what activities should be funded, not bureaucrats in Washington using other people's money.

We have also heard the argument that ATP is the catalyst for high tech R&D and is therefore crucial. Well, ATP was appropriated $192 million, and, as of today, $23 million from last year has not been doled out yet. In contrast, over $133 billion was invested last year in industrial R&D by the private sector. Over $37 billion of this went to applied and basic research. It is obvious the engine driving America's dominance in high technology is the result of our vital private sector, not government picking winners and losers.

□ 2300

Many execs in the high tech industry do not support this corporate welfare. A Silicon Valley CEO told the Senate, I am here to say that such subsidies will hurt my company and our industry because they represent tax and spend economics. Another venture capitalist knows that ATP grants undercut his industry. He said, whenever the government doles out money, it is unfair. If money is being offered, you have to apply or else your competitors will get it. It took 9 months from when we applied to when we were answered, leaving the company in limbo. While his company waited, he said, the delay scared off private investors.

Mr. Chairman, I yield to the gentleman from South Carolina (Mr. SANFORD).

Mr. SANFORD. Mr. Chairman, I thank the gentleman for yielding me the time. He has already touched on the significance of markets. He has touched on the significance of fairness.

I would just add one little postscript to what has been already said on how important the Royce amendment is;

that is, simply the issue of effectiveness. If you think about effective individuals, they are individuals that actually focus. If you think about effective corporations, whether it is McDonald's or Holiday Inn or Sears & Roebuck, they focused.

The same can be said of governments, governments that try to do too many things ultimately are ineffective. If we are to get monetary policy right and defense policy right and Social Security checks on time, this government too has to be limited. And for that reason alone, I would stand in support of the Royce amendment.

Mr. ROYCE. Mr. Chairman, reclaiming my time, besides the question of the constitutionality of these types of subsidies, let us begin with the task of lifting this enormous burden, this enormous government off the backs of America's taxpayers by taking the small step to reduce wasteful subsidies.

I ask my colleagues to join Citizens Against Government Waste, the Competitive Enterprise Institute, Americans for Tax Reform and other groups in support of this amendment.

The CHAIRMAN. Is there a Member in opposition to the amendment?

The gentleman from West Virginia (Mr. MOLLOHAN) is recognized for 5 minutes.

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

We have had similar debate earlier today in which I pointed out that the ATP program is the centerpiece of the administration's research and its strategy to maintain its competitiveness in the global marketplace.

I also pointed out that this is in real competition with other countries around the world who are investing strategically, governments are investing strategically and far more deeply than the United States. Nevertheless, this program, however small relative to those other strategic investments by government and civilian technology research, it is an important program. It is a program that is getting better.

It has listened to its critics who have expressed concern about too much of the money going to large corporations. The program has been reconstituted by the Secretary of Commerce, taking into consideration those concerns, so that the grantees of these monies are increasingly consortium groups, including academia, small businesses, increasingly, and, of course, large businesses also, all of it directed at precompetitive, generic technology development, which would not otherwise be undertaken by private industry.

ATP is decidedly not corporate welfare. That is not what it is about. It is not about picking winners and losers. It is also not about product development. ATP is about funding the research and development efforts behind high risk technologies.

While the government provides a catalyst, industry can seize, manage and execute along with academician and nonprofit sector partners, these ATP projects. These funds are risky. ATP funds are risky. They are precompetitive technologies, and they are strategically picked out to ensure America's competitiveness in core sectors.

That has a big potential payoff for this country, as we are in competition with the world's economy. It is a program that was bipartisan in its initiation. Although it has become political, it has become a political issue, a partisan issue in recent years, less so maybe in the last several years, it was conceived in a very nonpartisan way under the President Reagan's administration and was authored by a former Republican member of Congress, the distinguished member from Pennsylvania, Don Ritter.

I remember well his support for this program. He particularly appreciated the benefits of the government being a strategic partner in ensuring America's competitiveness by focusing in these strategic areas and providing some seed catalyst money by the government to make sure that these precompetitive technology research efforts went forward.

I strongly support the program. I believe that the Congress increasingly is coming to support the program. I would hope that that would be expressed by defeating the gentleman's amendment.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. ROYCE).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. MOLLOHAN. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 508, further proceedings on the amendment offered by the gentleman from California (Mr. ROYCE) will be postponed.

AMENDMENT NO. 3 OFFERED BY MR. BARTLETT OF MARYLAND

Mr. BARTLETT of Maryland. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. BARTLETT of Maryland:

Page 78, strike line 15, and all that follows through line 6 on page 79.

The CHAIRMAN. Pursuant to the previous order of the House of today, the gentleman from Maryland (Mr. BARTLETT) and a Member opposed, each will control 7½ minutes.

The Chair recognizes the gentleman from Maryland (Mr. BARTLETT).

Mr. BARTLETT of Maryland. Mr. Chairman, I yield myself such time as I may consume.

This is a very simple amendment. It simply strikes the funding for the payment of U.N. debt arrearages, and I do this for several reasons.

First of all, whatever debt we owe for arrearages and dues has already been paid several times over by our participation in legitimate U.N. peacekeeping activities.

First of all, here is a GAO report that says that between 1992 and 1995, the United States spent $6.6 billion on legitimate U.N. peacekeeping activities. Recognizing the legitimacy of this, the U.N. has credited us with $1.8 billion of that against back dues, no credit for the remainder.

Secondly, here is a CRS report, more recently. This report covers from 1992 to May of last year. This report says that we have spent during that time period $11.1 billion on legitimate U.N. peacekeeping activities. This, of course, includes the monies that were in the GAO report.

In addition to that, the Pentagon itself, in two reports that I have, one for last year which says that just last year alone we spent $2.9 billion on U.N. peacekeeping activities, the other report says that the year before last we spent $3.3 billion on U.N. peacekeeping activities. So whatever back dues we might owe, we have paid them several times over as indicated by these reports by our participation in legitimate U.N. peacekeeping activities.

This past spring President Clinton requested $1.36 billion in emergency funds for the Department of Defense to pay for the ongoing mission in Iraq. Recognizing that this was a U.N. peacekeeping activity, the United States, Kofi Annan said, would be required to get U.N. approval prior to bombing Iraq.

These monies were spent in pursuit of a legitimate U.N. peacekeeping activity. The CRS reports that in 1995, the U.S. State Department estimated that the United States paid for 54 percent of all United Nations peacekeeping activities. We are required to pay for just over 30 percent; clearly, a big surplus that should be credited against our dues.

The second reason for striking this language is that the United Nations is not reforming. A year ago we put them on notice that they would get back dues when they had reformed. They are clearly not reforming. They are putting 100 new people on when they said they were going to reduce their staff. And a committee of the United Nations itself, the General Assembly's Advisory Committee on Administrative and Budgetary Questions said, and I quote, Mr. Kofi Annan's report was wrong to say U.N. headquarters staff had to support 4,921 troops. He wants a big headquarters staff to support nearly 5000 troops, but those troops are reduced to zero, this committee said, by July 1, 1998. He still has the staff there.

Another reason, a third reason for striking these funds is that we now have a major problem with the International Criminal Court. The Clinton administration was party to spawning this. Now it has become a major problem, because it is going to be an agency of the General Assembly in which we have no veto, rather than the Security Council where we do have a veto. As a matter of fact, the United Nations voted against us 120 to 7 relative to the International Criminal Court. And we want to give them $475? I think not.

□ 2310

In summary, we need to strike this language because we have already paid the dues, whatever they are, several times over with legitimate U.N. peacekeeping activities. Witness the four government reports. Secondly, the U.N. is not reforming, as they promised they would. And, thirdly, we have a major problem with the international criminal court.

Mr. Chairman, I yield 2½ minutes to the gentleman from Indiana (Mr. HOSTETTLER).

Mr. HOSTETTLER. Mr. Chairman, I thank the gentleman from Maryland (Mr. BARTLETT) for yielding me this time.

As we all know, the U.S. easily pays the lion's share of the burden for keeping the U.N. in operation. Each year the U.S. spends approximately $1 billion for the U.N.'s regular budget, peacekeeping operations, and various other U.N. programs. In addition, in 1995, the U.S. spent approximately $1 billion for U.N. peacekeeping operations above and beyond our assessed dues.

In fact, a recent GAO report documents that from 1992 to 1995 the U.S. supported the U.N. in its peacekeeping ventures to the tune of $6.6 billion, but only $1.8 billion of this was counted toward our assessed dues to the U.N. Of the remaining $4.8 billion, only $79 million has been reimbursed to the United States. If we deduct the $1.3 billion the U.N. claims we owe them from the $4.8 billion of nonreimbursed U.S. expenditures, the result is $3.5 billion that the U.N. still must pay or credit to the United States.

Perhaps the U.N. bureaucrats think this was a gift from American taxpayers, but it certainly was not. That is why 31 Members of Congress, myself included, sent a letter to President Clinton following his State of the Union address in February 1997. This letter voiced our disagreement with the President's statement that we owe money to the U.N.

Currently, we pay at least 25 percent of the U.N. regular budget through assessed dues. This is 2 to 3 percent below what the U.N. believes we should pay and 5 percent below what this administration wants us to pay.

Also, for peacekeeping operations, we contribute over 30 percent of the U.N.'s budget. On top of these assessed dues, the U.S. appropriates roughly $300 million as voluntary contributions for various U.N. programs, including $30 million in fiscal year 1998 for the U.N. population program, which we all know is a front for funding overseas abortions.

This Congress and the President need to realize we cannot provide any so-called back payments to the U.N. until the U.S. is properly reimbursed or credited for our contributions to the various peacekeeping ventures and until certain U.N. reforms have been implemented.

Let me just remind the House that, first, we do not owe the $1.3 billion in arrears, as the U.N. claims. Second, we do not owe $921 million in arrears, as the administration's request for fiscal year 1998 and 1999. And, thirdly, we do not owe $819 million in U.N. back dues, as H.R. 1757 authorizes for fiscal year 1998 and 2000.

Accordingly, we should not fund $475 in so-called unpaid arrears for fiscal year 1999, as proposed in this State Department appropriations bill. Equally important, we do not need to throw any extra chunk of the American taxpayers' hard earned money at an institution that, one, often contradicts U.S. national interest, fails to acknowledge the extent and significance of U.S. contributions, and fails to implement many of the badly needed U.N. reforms necessary to help the U.N.

Support the Bartlett amendment.

Mr. ROGERS. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Kentucky (Mr. ROGERS) is recognized for 7½ minutes.

Mr. ROGERS. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, I think the Members know that I am no patsy for the United Nations. I believe the United Nations is a bloated organization, in need of terminating obsolete and duplicative functions, ridding itself of unneeded positions and unproductive employees, trimming its budget, reforming its procurement practices, crediting the United States for off-budget contributions, decreasing the lopsided amount of U.S. contributions, and burying any ambitions to be some kind of world government.

I have tried to use every piece of leverage at my disposal for years in this subcommittee, including conditioning payment of our assessment to insist on overall budget reductions, personnel reductions and the creation of an Inspector General to become an independent watchdog to sniff out waste, fraud and abuse. And that is exactly what the funding of arrearages in this bill, again, is meant to do. Not one penny of the $475 million for payment of arrearages in this bill will be spent, not one penny, unless and not until a series of conditions is met by the United Nations.

The first condition is: The State Department authorization bill by this Congress must be passed and signed into law. The United Nations' reforms that are contained in that regulation include: Reducing the U.S. assessment rate, reducing the number of personnel, reimbursement for U.S. goods and services, writing off arrears that the U.S. disavows, sunsetting U.N. programs, merit-based employment, a code of conduct, and a cap on payment to international organizations.

That is just the first condition, Mr. Chairman.

Condition two: The United Nations must actually implement those reforms. Once an authorization bill gets signed into law, still not a penny goes out. The U.N. has to implement these reforms. First, the assessment rate has to be reduced, sunsetting of U.N. programs has to be agreed to, and so on.

Condition three: The U.S. assessment rate must be reduced at least to 22 percent and 25 for peacekeeping, guaranteeing lower payments by our taxpayers from here on out. This $475 million is provided subject to authorization and subject to achievement of these reforms. It will be spent if and only if we get the kind of reform we want from the United Nations, and the money may never be spent.

But the choice will be up to the administration and to the U.N. There is one and only one true constituency for reform at the U.N., and that is this body: The United States Congress.

This is our best chance to change an institution that all of us believes desperately needs changing. This is no time to refrain from being bold. We must stick to our guns, and for that reason support this bill and reject the Bartlett amendment.

Mr. Chairman, I yield the balance of my time to the gentleman from West Virginia (Mr. MOLLOHAN).

The CHAIRMAN. The gentleman from West Virginia (Mr. MOLLOHAN) is recognized for 4 minutes.

Mr. MOLLOHAN. Mr. Chairman, I appreciate the distinguished chairman of the committee for yielding me this time and appreciate his very strong statement in opposition to this amendment. He is in a good position to make a strong statement on this issue because he has been at the forefront in trying to affect reforms at the United Nations, and has been very effective in doing so. I am pleased to have supported, as has been the minority on our committee has been pleased likewise to support him.

This is a very ill-advised amendment for two immediate reasons. First of all, we owe the money. We owe the United Nations money. Now, it is over a billion dollars, or less than a billion dollars, depending on how we count it. But we certainly owe the money, and we owe them as much money as is appropriated in this bill, $475 million, which

is the subject of the gentleman's amendment.

Unless we want to be total pikers in the world community, we need to pay this money. Now, that is just what it boils down to. Are we going to be responsible partners in this international organization and pay the money, stand up, meet our obligations; or are we going to be pikers and not pay it; welch on our debts? That is what this amendment asks us to do.

Now, it is perfectly appropriate for the Congress of the United States, that holds the pursestrings, to say, yes, we owe this money; yes, we want to participate in this international organization, but international organization, United Nations, we have concerns about the way you operate and we think, in many ways, you are irresponsible and you need to reform.

□ 2320

So here is what you have to do in order to receive money from us. That is using our leverage, exactly the power of the purse that the United States Congress has, to effect reforms in this case or to effect policy in this country and as we relate to the world through this organization. That is very appropriate, and that is what we are doing here.

We have a bipartisan agreement which the Secretary of State, the United Nations ambassador, have worked extremely hard on during the last 2, 3 and 4 years. They have worked with Members of Congress, both on the House and the Senate side, both Democrats and Republicans, to effect this agreement. The linchpin is the leverage we have with withholding funding and doling it out in response to the United Nations being responsive for our demands for reforms. That is all responsible.

What is not responsible is for us to say we are just not going to pay it. The gentleman argues, as I understand his argument, that our contribution to peacekeeping efforts or to our military operations ought to offset this debt. Well, that is not a part of this deal. Countries that participate in this way militarily, in the ways we have, do not offset those military contributions against these peacekeeping and other U.N. funding programs.

So I simply say, this is the second year, and I think the gentleman was unsuccessful last year and I hope he is unsuccessful this year, it is just a totally irresponsible amendment to come here and suggest we should withdraw.

We do not have a authorization so this is subject to an authorization. This funding is subject to an authorization.

We are effecting reforms at the United Nations, which is what we ought to be doing with our money, leveraging our payment based upon their performance for reforms. Then we have achieved assessment rate reductions and this money is also contingent upon their accepting that.

I do not know how much more you can ask but what you cannot ask is for the United States of America to be pikers on this debt and the Members of the United States Congress to be accomplices in reneging on the obligation.

Mr. BARTLETT of Maryland. Mr. Chairman, will the gentleman yield?

Mr. MOLLOHAN. I yield to the gentleman from Maryland.

The CHAIRMAN. The time of the gentleman from West Virginia has expired.

Mr. MOLLOHAN. Mr. Chairman, my intentions were good but I just did not have enough time.

Mr. FARR of California. Mr. Chairman, earlier this year, Congress passed the State Department authorization bill which authorized $819 million to pay the United Nations back dues over the next two years. The Commerce, Justice, State, and Judiciary Appropriations bill includes $475 million of the $1.3 billion owed to the U.N. It is essential that this funding not be decreased or stricken.

Because of its large debt to the United Nations, the United States actually risks automatically losing its vote in the United Nations General Assembly early next year. We can not afford to lose our voting rights.

The United States has been trying to reduce its United Nations budget share, but negotiations ended last year when other members would not agree to pay more until the United States paid at least its current obligated share. Who can blame them.

Seven former Secretaries of State wrote Congress, telling Members that "without a U.S. commitment to pay arrears . . . U.S. efforts to consolidate and advance U.N. reforms and reduce U.S. assessments are not going to succeed." The continued failure of the United States to honor these obligations threatens the financial and political viability of the United Nations.

OPPONENTS ARGUE

The United Nations doesn't reimburse countries for their participation in U.N.-run peace operations. NOT True—The United Nations pays countries $998 per soldier per month in U.N. peace operations. The U.N. does not reimburse countries for operations which they conduct on their own, or outside the U.N. system.

The United Nations owes the U.S. $109 million for peacekeeping. True—The U.N. recognizes this fact, but has no money to pay the U.S. or others of the 70-plus countries that contribute to U.N. peacekeeping. Countries have failed to pay over $1 billion in peacekeeping assessments; currently the U.S. owes about $900 million in peacekeeping arrears.

The United States is relinquishing command of American soldiers. Not True—Presidential Decision Directive 25 (PDD–25) described the overall Clinton policy for using U.S. troops in peacekeeping operations. It is classified, but according to the declassified summary, participation in peacekeeping operations is contingent upon several factors, including command and control of U.S. troops by American commanders.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Maryland (Mr. BARTLETT).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. BARTLETT of Maryland. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 508, further proceedings on the amendment offered by the gentleman from Maryland will be postponed.

AMENDMENT NO. 32 OFFERED BY MS. MILLENDER-MCDONALD

Ms. MILLENDER-McDONALD. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 32 offered by Ms. MILLENDER-MCDONALD:

Page 101, line 21 insert "(increased by $250,000 to be used for the National Women's Business Council as authorized by section 409 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note)" after the dollar amount.

The CHAIRMAN. Pursuant to the previous order of the House today, the gentlewoman from California (Ms. MILLENDER-MCDONALD), and a Member opposed will each control 2½ minutes.

The Chair recognizes the gentlewoman from California (Ms. MILLENDER-MCDONALD).

Ms. MILLENDER-McDONALD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Millender-McDonald/Bartlett/Forbes amendment increases funding for the National Women's Business Council to the full amount that was authorized by Congress last year. I would like to thank the gentleman from Kentucky (Mr. ROGERS), the chairman, and the gentleman from West Virginia (Mr. MOLLOHAN), the ranking member, the gentleman from Missouri (Mr. TALENT), for their support of women business owners and this amendment. I appreciate having their bipartisan support.

As a member the Committee on Small Business and co-chair of the Women's Business Legislative Team, I was actively involved in reauthorizing the Small Business Administration, including the Women's Business Centers and the National Women's Business Council under its jurisdiction.

The Small Business Programs Reauthorization and Amendments Act was unanimously passed by the Committee on Small Business and passed by the House on the Suspension Calendar by a vote of 397 to 17. Clearly, the programs authorized through this legislation, such as the National Women's Business Council, have strong bipartisan support. I am here today to ensure that this bipartisan authorization is matched with full appropriation.

The Senate passed the Commerce, Justice, State and Judiciary appropriations bill with the full appropriation and so should the House. This increase for the Women's Business Council is small and reasonable and the Congressional Budget Office has assured me that it does not increase the budget outlays and it does not need any offset.

The National Women's Business Council is a bipartisan advisory panel created in 1988 by Congress to provide advice and counsel to the President, Congress and the Interagency Committee on Women's Business Enterprise.

As many of my colleagues who are actively involved with women business owners in their districts know, the council has played an integral role in helping us meet the needs of women-owned businesses today. The council serves as a powerful voice for more than 8 million women-owned businesses in the country that are providing jobs for 15.5 million people and generating nearly $1.4 trillion in sales.

Mr. Chairman, how much time do I have left? Because I would like the gentleman from West Virginia (Mr. MOLLOHAN) to speak on the issue.

The CHAIRMAN. The gentlewoman from California has 30 seconds remaining.

Ms. MILLENDER-McDONALD. Mr. Chairman, I yield 30 seconds to the gentleman from West Virginia (Mr. MOLLOHAN).

Mr. MOLLOHAN. Mr. Chairman, I rise in strong support of the Millender-McDonald amendment, and I compliment her for her efforts in support of the National Women's Business Council.

Her increase is especially responsible because it raises the amount of money appropriated to this organization to the authorized and to that amount requested by the administration, and she did it in a way that did not require an offset. And I compliment her for her amendment and her support of the council and rise in strong support of her amendment.

Mr. ROGERS. Mr. Chairman, I rise to claim the remaining time.

The CHAIRMAN (Mr. HASTINGS of Washington). The gentleman from Kentucky (Mr. ROGERS) is recognized for 2½ minutes.

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

Mr. Chairman, we have had a chance to examine the amendment and in fact have worked with the gentlewoman from California (Ms. MILLENDER-MCDONALD) on the amendment. We think it is a good amendment, and we compliment her, and we accept the amendment.

Mrs. CLAYTON. Mr. Chairman, small businesses have been at the very core of our commercial activities since our Nation's beginnings. In the last decade large numbers of women had the opportunity to become small business owners. However, as of about 1996, women owned a little less than 40 percent of all businesses.

In my own state of North Carolina, women own only 34 percent of the state's firms. The wonderful news is that, during this period, the number of North Carolina's women-owned businesses grew by 94 percent, employment grew by 140 percent, and sales rose 200 percent.

As a Congress, we must do all that we can to help women continue to cultivate these opportunities. The National Women's Business Council (NWBC) is an organization vital to this goal.

I urge my colleagues in the House to support the Millender-McDonald/Bartlett/Forbes Amendment of the Commerce-Justice-State Appropriations Bill to fully fund the Council for the $600,000 authorized by the Congress and targeted for appropriations by the Senate.

We encourage small business development through our commitment and investment. I believe strongly that we must continue to enable our communities' business people. That is why, today, I support the Millender-McDonald amendment on behalf of the National Women's Business Council and on behalf of current and prospective women business owners across the United States and in my own state of North Carolina.

NWBC is a bipartisan and independent source of advice to the President, the Congress, and the private sector's Interagency Committee on Women's Business Enterprise. Through its 15-member Board of prominent women and leaders in the business community, NWBC represents the voice of this nation's more than 8 million women-owned businesses.

The Council's critical mission also includes completing two research studies requested by the Congress: one on why women-owned businesses are awarded only 2 percent of federal contracts, and the other, on why women have accessed only 2 percent of all venture capital.

Most women entrepreneurs just don't know about the many local, state, and federal-level resources available to them. Women need to access capital, information, and markets in order to start and grow successful businesses. As policymakers, we have a responsibility to assist women access those services and build a public policy infrastructure that supports them. The National Women's Business Council is available to help us make this happen.

This summer I hosted a Roundtable discussion to connect women in the First District of North Carolina interested in starting or growing their businesses with some of the potential local and national resources available to assist them. We employed the latest technological advances. The first to use the North Carolina Information Highway System to its fullest capacity, we simultaneously linked and connected women at five different sites for satellite-fed and computer-delivered interactive discussions.

The Roundtable not only was a successful and energizing beginning, it marked the first meeting hosted by a member of Congress where the local input will feed directly into a national economic forum on women's entrepreneurship.

The Council will host a national-level "Summit '98" where women entrepreneurs and experts from around the country will develop action plans about how to address the four critical needs of women entrepreneurs, to build the 21st century economy, and grow women-owned businesses.

It is important to assist women business owners find ways to develop their businesses so that if they choose to, they can increase the scope, the employment rate, and profitability. This is the essence of our entrepreneual system.

I urge support for the Millender-McDonald/Bartlett/Forbes Amendment on behalf of the National Women's Business Council.

Ms. DEGETTE. Mr. Chairman, I rise in support of this important amendment to increase funding for the National Women's Business Council.

Last year, the National Women's Business Council was unanimously passed by the Small Business Committee and went on to pass the House by an overwhelming vote of 397 to 17. The Senate has already provided full funding for the Council in their CJS Appropriations bill. I urge the House to vote for this amendment and continue to support National Women's Business Council.

The National Women's Business Council is a bi-partisan Federal government advisory panel created to serve as an independent source of advice and council to the President and Congress. The Council consists of 15 prominent women business owners and leaders of Women's business organizations. It is essentially the voice of approximately 8 million women-owned businesses in the country.

The Council was recently instructed by Congress to complete a study on women's business participation in the federal government. The main goals are to find out why women-owned businesses continue to receive so few federal contracts, and do a study on women's access to capital.

Women-owned businesses play an increasingly more important role in our economy. Between 1987 and 1996 the number of firms owned by women grew by 78%, and the number of minority women-owned firms grew 206%. Current estimates are that the nearly eight million women-owned businesses in this country account for nearly $1.4 trillion in sales. And yet, women-owned businesses continue to receive just 2% of federal contracts, and just 2% of all venture capital.

In 1996, women-owned firms accounted for 40% of all businesses in Colorado, provided employment for 33% of Colorado's workers, and generated 19% of the state's business sales. During the entire 1987–1996 period, the National Foundation for Women Business owners estimates that the number of women-owned firms in Colorado has increased by 65%, that employment has grown by 235% and sales have risen 276%.

These astounding statistics underscore the importance of the studies conducted by the National Women's Business Council. The Council needs its full appropriation to be able to carry out these studies which are clearly of great importance to small businesswomen in my state and throughout this country.

I ask my colleagues to vote for small business in this country and pass this amendment.

Mr. ROGERS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from California (Ms. MILLENDER-MCDONALD).

The amendment was agreed to.

AMENDMENT NO. 8 OFFERED BY MR. TALENT

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

The Clerk read as follows:

Amendment No. 8 offered by Mr. TALENT:

Page 102, line 15 insert "(increased by $7,090,000)" after the dollar amount.

Page 103, line 7 insert "(decreased by $7,090,000)" after the dollar amount.

The CHAIRMAN. Pursuant to the previous order of the House of today, the gentleman from Missouri (Mr. Talent) and a Member opposed to the amendment each will control 5 minutes.

The gentleman from Missouri (Mr. Talent) is recognized for 5 minutes.

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

Mr. Chairman, this amendment will add slightly over $7 million to the Business Loan Program Account for the Small Business Administration. The purpose is to add that funding for the purpose of the Small Business Investment Program.

H.R. 4276 currently appropriates $13.1 million for the SBIC program, which is well below fiscal 1998. This amendment will raise funding to an amount equal to this year's level. That is necessary to create a level kind of funding stream. We anticipate, Mr. Chairman, increased demand for the program, and this amount guarantees that sufficient funding will be available for the SBIC program.

Mr. Chairman, the SBIC program is a Small Businesses Venture Capital program, really the only one that we have. It provides venture capital lenders with leverage funds for the purpose of equity and long-term investment in small business.

The participants in the SBIC program look to the Congress for clear signals of our support and consequently our commitment to funding venture capital for small businesses. By adding these funds, we will maintain this program at a level equal to that of previous years and send a clear message of our support for this program.

The gentleman from Kentucky (Mr. Rogers), the subcommittee chairman, has spoken with me about the program and understands our concern about possible serious negative impact on private capital commitments to the program. He has expressed his support for the program and my amendment and I want to thank him for his support.

I want to mention also at this point, before yielding to the chairman, that the gentlewoman from New York (Ms. VELÁZQUEZ), the ranking member of the Committee on Small Business, also supports the amendment. And I want to thank her for her help and her consistent aid on behalf of small business.

I will add also that the amendment is supported by the Small Business Legislative Council, an organization representing over 80 small business groups.

I ask my colleagues for their support for this amendment, as well.

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

Mr. TALENT. I yield to the gentleman from Kentucky.

Mr. ROGERS. The gentleman from Missouri (Mr. Talent), the chairman of the SBA authorizing committee, is a talented chairman and has this very strongly on his mind, and he has conferred with me at great length and numerous times on the necessity of doing what his amendment achieves. He has convinced me of the need for that. And as chairman of the subcommittee, I am in agreement with the amendment and would urge Members to support it.

Mr. TALENT. Mr. Chairman, reclaiming my time, I appreciate the sentiments of the gentleman and the distinguished chairman of the subcommittee.

Ms. VELÁZQUEZ. Mr. Chairman, will the gentleman yield?

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

□ 2330

Ms. VELÁZQUEZ. Mr. Chairman, I rise today in strong support of the amendment of gentleman from Missouri (Mr. TALENT).

Mr. Chairman, I rise today in strong support of Mr. TALENT'S amendment to increase funding for the Small Business Investment Company Program. I would like to thank the distinguished Chairman of the Small Business Committee for bringing this important issue to the floor. I urge my colleagues to support this amendment which provides critical funding for our nation's small business community.

There is no question that the value of Small Business Investment Companies has been felt across this nation. SBICs have invested nearly $15 billion in long-term debt and equity capital to over 90,000 small businesses. Over the years, SBICs have given companies like Intel Corporation, Federal Express and America Online the push they needed to succeed. The result has been the creation of millions of new jobs and billions of dollars in economic growth.

By restoring necessary levels of funding, Mr. Talent's amendment ensures that future Intels and Federal Expresses will have a fighting chance. Cutting funding for this program is short-sighted. Past experience has shown that failure to adequately fund SBICs has had a detrimental effect on our nation's small businesses. In FY 95 and FY 96 when Congress failed to show strong support for the SBIC program, private investors left. This caused investments in new SBICs to fall by 60 percent from FY 94 to FY 95. Investment fell by another 32 percent from FY 95 to FY 96. The reason for the drop in resources was clear—scarcity in funding and uncertainty regarding future Congressional intent caused private investors to put their money in other investment opportunities.

Fortunately, in recent years, this trend has been reversed. Congressional support for SBICs has dramatically improved the outlook for small business. Private capital invested in new SBICs has jumped 118 percent. Additionally, the SBIC program has been able to expand into new areas. This year we have witnessed the creation of two women owned SBIC's, and shortly we'll see the establishment of the first Hispanic owned SBIC. This is building on an important trend. The SBIC program is increasingly becoming a vehicle to assist historically under-served markets, namely, women, minorities and inner-cities. If this body fails to restore funding to the SBIC program, we risk losing many of these groups and blocking efforts to serve the small entrepreneur.

My colleagues, the benefits that SBICs provide are quite clear. Last year alone, SBIC's invested over $2.4 billion in more than 2,500 entrepreneurs allowing them—regardless of their chosen business form—to benefit from SBIC financing. Adoption of the Talent amendment will enable us to continue to build even further, allowing us to create more jobs and provide even greater economic opportunity to our nation's small entrepreneurs. I urge the adoption of this amendment.

Mr. TALENT. Mr. Chairman, I appreciate the support of the gentlewoman from New York and also of course the distinguished gentleman from Kentucky, the chairman of the subcommittee. I would ask my colleagues for their support of the amendment.

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

The CHAIRMAN. Does any Member rise in opposition to the amendment?

Mr. TALENT. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. TALENT).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. MOLLOHAN. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 508, further proceedings on the amendment offered by the gentleman from Missouri (Mr. TALENT) will be postponed.

Mr. SENSENBRENNER. Mr. Chairman, H.R. 4276, the Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Bill for Fiscal Year 1999, includes funding for the National Institute of Standards and Technology (NIST) and the National Oceanic and Atmospheric Administration (NOAA).

Last year the Science Committee and the full House passed H.R. 1274, the National Institute of Standards and Technology Authorization Act of 1997. H.R. 1274 includes authorizations of $621 million for NIST and $7 million for the Technology Administration (TA) for FY 1999. H.R. 4276 largely follows those authorizations by funding NIST at $624 million, and TA at $7 million for FY 1999.

As did the authorization, this bill gives priority to NIST's core laboratory functions, including a $4 million increase over the FY 1998

appropriated level for the Scientific and Technical Research and Services (STRS) account. STRS funds NIST's laboratories and the Baldrige Quality Awards. While the increase is less than the authorization, the increase is a recognition that running NIST's laboratory programs is the agency's most important function.

By contrast, H.R. 4276 includes a $12 million decrease in funding for the Advanced Technology Program (ATP), reducing the program to $180 million from the FY 1998 funding level of $192 million. While H.R. 1274 phased-down ATP funding from the $225 million appropriation in FY 1997 to $150 million in FY 1999, the trajectory of ATP's funding in H.R. 4276, if not the speed of its decline, is in keeping with the authorization.

With respect to the Technology Administration, H.R. 4276 includes funding for the Experimental Program to Stimulate Competitive Technology (EPSCoT) despite the fact that the program was specifically not authorized by H.R. 1274. As expressed in the Science Committee's report accompanying H.R. 1274, I continue to have concerns that once EPSCoT is established, it will grow substantially beyond the $2.1 million contained in H.R. 4276. The program, which was initiated last year and has done little with its $1.6 million FY 1998 appropriation, is now slated to receive a 31% increase. Even with the increased funding, it seems unlikely EPSCoT will be able to help the 18 states it is designed to assist. I hope that EPSCoT is not allowed to grow into another very expensive Administration technology initiative.

Mr. Chairman, H.R. 4276 also includes funding for the National Oceanic and Atmospheric Administration (NOAA).

Without the benefit of the increased revenues from a non-existent tobacco settlement, and notwithstanding the very tight budget caps, Chairman Rogers and the Appropriations Committee have managed to increase funding for high-priority programs, most importantly local warnings and forecasts within the National Weather Service.

This was made possible in part after an agreement was reached by the Appropriations Committee, the Science Committee and Secretary Daley to maintain the $550 million budget cap on the Advanced Weather Interactive Processing System (AWIPS) weather modernization program.

I am also pleased that report language in the bill echoes the Science Committee's concern over adequate weather radar coverage for northwest Pennsylvania. I hope during the new fiscal year that NOAA will see the light and place a National Environmental Satellite, Data and Information Service (NEXRAD) system in this area that is so obviously necessary.

Mr. ROGERS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. TALENT) having assumed the chair, Mr. Hastings of Washington, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4276) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1999, and for other purposes, had come to no resolution thereon.

CENSUS

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

Mr. SAWYER. Mr. Speaker, later on today we are going to take up an issue of enormous importance to the Nation, and that is how we count and measure ourselves. Last week in a debate that was largely constructive on the floor, we had a discussion that was thoughtful and well informed. However, insofar as one of our Members, the gentleman from Florida (Mr. MILLER), suggested that there was a hand-picked nature of the scientific panels that recommended statistical sampling methods, I wanted to share with the Members the reply of the American Statistical Association, whose president wrote to me over the weekend and said that the members of the panel that made this recommendation are recognized by their peers as among the Nation's leading experts on sampling large human populations. It included Janet Norwood, who served three administrations, Carter and Reagan and Bush, with, as the New York Times put it, her near legendary reputation for nonpartisanship. Dr. Moore, the president of the American Statistical Association, went on to cite the extraordinary quality of the members of that panel.

Mr. Speaker, I would like to insert into the RECORD at this point the substance of his letter.

AMERICAN STATISTICAL ASSOCIATION,
Alexandria, VA, August 3, 1998.

Congressman THOMAS SAWYER,
Longworth House Office Building,
Washington, DC.

DEAR CONGRESSMAN SAWYER: Thank you for sending me the CONGRESSIONAL RECORD account of debate on H. Res. 508, containing the remarks of several Members regarding the use of statistical sampling methods in the 2000 Census. Despite obvious differences in perspective, the discussion is thoughtful and well-informed, the sole major exception being the incorrect statement by Mr. Miller of California that the Census Bureau plans to intentionally not count 10 percent of the population. The overall level of the discussion does credit to the House of Representatives.

I do wish to respond on behalf of the American Statistical Association to the remarks of Mr. Miller of Florida concerning the "hand-picked" nature of the scientific panels that have recommended consideration of statistical sampling methods. I refer specifically to the Blue Ribbon Panel of the American Statistical Association. The members of this panel are recognized by their peers as among the nation's leading experts on sampling large human populations. They are certainly not identified with any political interest.

The ASA Blue Ribbon Panel included Janet Norwood, who served three administrations as Commissioner of Labor Statistics from 1979 to 1991. On her retirement, the New York Times (December 31, 1991) spoke of her "near-legendary reputation for nonpartisanship." Dr. Norwood is a past president of ASA, as is Dr. Neter of the University of Georgia, another panel member. Like these, the other members of the panel have been repeatedly elected by their peers to posts of professional responsibility. For example, Dr. Rubin of Harvard University is currently chair of ASA's Section on Survey Research Methods, the statistical specialty directly relevant to the census proposals. I assure you that this panel was selected solely on the basis of their widely recognized scientific expertise. Their judgment that "sampling has the potential to increase the quality and accuracy of the count and to reduce costs" is authoritative.

Mr. Miller, in hearings before his committee, has indeed produced reputable academics who disagree with the findings of the ASA Blue Ribbon Panel and the several National Research Council panels which reported similar conclusions. Those whose names I have seen lack the expertise and experience in sampling that characterize the panel members. Statistics, like medicine, has specialties: one does not seek out a proctologist for heart bypass surgery.

I do wish to make it clear that the American Statistical Association takes no position on the political or constitutional issues surrounding the census. We also express no opinion on details of the specific proposals put forth by the Census Bureau for employing statistical sampling. As the nation's primary professional association of statisticians and users of statistics, we wish to make only two points in this continuing debate:

- Estimation based on statistical sampling is a valid and widely-based scientific method. The general attacks on sampling that the census debate has called forth from some quarters are uninformed and unjustified.
- The non-partisan professional status of government statistical offices is a national asset that should be carefully guarded. We depend on the statistical professionals in these offices for information widely used in both government and private sector decisions. Attacks on these offices as "politicized" damage public confidence in vital data.

Thank you for the opportunity to make these comments.

Sincerely yours,

DAVID S. MOORE,
President.

OMISSION FROM THE CONGRESSIONAL RECORD OF WEDNESDAY, JULY 29, 1998

A portion of the following was omitted from the debate of the gentleman from Texas, Mr. FROST at page 17835 during consideration of H. Res. 510, providing for consideration of the H.R. 4328, Department of Transportation and related agencies appropriation Act 1999.

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

Mr. Speaker, it is my intention to make a fairly brief opening statement and then to yield back all of our time in an effort to try and move this along.

Mr. Speaker, while I rise in support of this rule and this bill making appropriations for the Department of Transportation for fiscal year 1999. I am concerned that a point of order may lie against an amendment which seeks to limit expenditures of funds for a highway project funded in this bill. Mr. Speaker, should this point of order be pursued and ultimately upheld, the House will set a terrible precedent which may have ramifications far beyond this transportation appropriations.

The matter is now being negotiated, but I do want to express my concern that a major change in the rules that govern this House was included in T–21 and was never even considered by the Committee on Rules. That being said, Mr. Speaker, while the funding level of this appropriations bill is slightly below the levels requested by the President in several areas, overall, the Committee on Appropriations did a good job of providing adequate funding for most of the programs and services in the bill.

Mr. Speaker, while I rise in support of this rule and this bill making appropriations for the Department of Transportation for Fiscal Year 1999, I am concerned that a point of order may be against an amendment which seeks to limit expenditures of funds for a highway project funded in this bill. Mr. Speaker, should this point of order be pursued and ultimately upheld, the House will set a terrible precedent which may have ramifications far beyond this transportation appropriation. The matter is now being negotiated, but I do want to express my concern that a major change in the rules that govern this House were included in TEA–21 and were never even considered by the Committee on Rules. That being said, Mr. Speaker, while the funding level of this appropriations bill is slightly below the levels requested by the President in several area, overall the Appropriations Committee did a good job of providing adequate funding for most of the programs and services in the bill. The bill provides a total $46.9 billion, a nine percent increase over last year's funding levels, much of which is required for the new and guaranteed funding levels for highway and transit programs pursuant to the recently enacted TEA–21 bill.

I am particularly pleased that the Committee has provided $10.6 million for RAILTRAN funding for Phase II of a modern and efficient commuter rail connection between the cities of Dallas and Fort Worth. While funding for the Dallas Area Rapid Transit system North Central line is considerably less than the amount that had been requested, I remain hopeful that the Committee will, within the constraints imposed upon it by subcommittee allocations, be able to increase this funding when the bill goes to conference.

Mr. Speaker, I would like to express my concern about a particular problem that has been brought to my attention which affects a number of cities in the Dallas-Fort Worth metropolitan area. Because TEA–21 zeroed out operating assistance for transit systems in large urbanized areas, suburban cities within those metro areas have also found that they too have been restricted in the manner in which they can use federal transit funds. In my own congressional District, the cities of Arlington and Grand Prairie will be particularly hard hit by the elimination of operating assistance. In both instances, the suburban city transit systems are used exclusively to provide transportation for the elderly and the disabled but neither city has a dedicated sales tax to pay for such a system.

Consequently, Mr. Speaker, I am currently writing legislation that seeks to correct this problem now confronting cities like Grand Prairie and Arlington. I hope to be able to introduce this bill before the August recess and would urge the Transportation and Infrastructure Committee as well as the Transportation Committee to give this legislation careful consideration. If the Congress does not provide a remedy, cities like Grand Prairie which serve 3,500 disabled and elderly persons a year will most likely have to cut back their services by 50 percent next year.

Mr. Speaker, given the constraints with which the Committee must address the concerns of individual Members as well as the component parts of the Transportation Department, this is a good bill. I urge my colleagues to support the rule and the bill.

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

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CUNNINGHAM (at the request of Mr. ARMEY) for today after 2 p.m. and the balance of the week, on account of medical reasons.

Mr. MCINNIS (at the request of Mr. ARMEY) for today, on account of medical reasons.

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. TALENT) to revise and extend their remarks and include extraneous material:)

Mr. SESSIONS, for 5 minutes, today.

Mr. BARR of Georgia, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. TALENT) and to include extraneous material:)

Mr. HOYER.
Mrs. CAPPS.
Mr. KIND.
Ms. SANCHEZ.
Ms. SLAUGHTER.
Mr. SANDERS.
Mr. HAMILTON.
Mrs. MALONEY of New York.
Mr. TOWNS.
Mr. GEJDENSON.
Mr. ORTIZ.
Mr. WYNN.
Mr. LAFALCE.
Ms. VELÁZQUEZ.
Mr. SERRANO.
Mr. BERMAN.
Mr. FILNER.
Ms. NORTON.
Mr. BRADY of Pennsylvania.

(The following Members (at the request of Mr. TALENT) and to include extraneous material:)

Mr. LEWIS of California.
Mr. HUNTER.
Mr. PORTER.
Mr. SMITH of Oregon.
Mr. PAUL.
Mr. WATTS of Oklahoma.
Mr. COBLE.
Mr. SOLOMON.
Mrs. CUBIN.
Mr. PAPPAS.
Mr. CUNNINGHAM.
Mr. BARR of Georgia.
Mr. MICA.
Mr. BEREUTER.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on this day present to the President, for his approval, bills of the House of the following titles:

H.R. 4237. An act to amend the District of Columbia Convention Center and Sports Arena Authorization Act of 1995 to revise the revenues and activities covered under such Act, and for other purposes.

H.R. 3731. An act to designate the auditorium located within the Sandia Technology Transfer Center in Albuquerque, New Mexico, as the "Steve Schiff Auditorium."

H.R. 3504. An act to amend the John F. Kennedy Center Act to authorize appropriations for the John F. Kennedy Center for the Performing Arts and to further define the criteria for capital repair and operation and maintenance.

H.R. 3152. An act to provide that certain volunteers at private non-profit food banks are not employees for purposes of the Fair Labor Standards Act of 1938.

H.R. 872. An act to establish rules governing product liability actions against raw materials and bulk component suppliers to medical device manufacturers, and for other purposes.

H.R. 765. An act to ensure maintenance of a herd of wild horses on Cape Lookout National Seashore.

H.R. 643. An act to designate the United States courthouse to be constructed at the corner of Superior and Huron Roads, in Cleveland, Ohio, as the "Carl B. Stokes United States Courthouse."

H.R. 434. An act to provide for the conveyance of small parcels of land in the Carson

National Forest and the Santa Fe National Forest, New Mexico, to the village of El Rito and the town of Jemez Springs, New Mexico.

H.R. 4354. An act to establish the United States Capitol Police Memorial Fund on behalf of the families of Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut of the United States Capitol Police.

H.R. 1085. An act to revise, codify, and enact without substantive change certain general and permanent laws, related to patriotic and national observances, ceremonies, and organizations, as title 36, United States Code, "Patriotic and National Observances, Ceremonies, and Organizations."

ADJOURNMENT

Mr. TALENT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 34 minutes p.m.), the House adjourned until tomorrow, Wednesday, August 5, 1998, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

10490. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Western Aleutian Distict of the Bering Sea and Aleutian Islands [Docket No. 971208298–8055–02; I.D, 071698A] received July 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10491. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pelagic Shelf Rockfish in the Central Regulatory Area of the Gulf of Alaska [Docket No. 971208297–8054–02; I.D. 071698H] received July 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10492. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pelagic Shelf Rockfish in the Western Regulatory Area of the Gulf of Alaska [Docket No. 971208297–8054–02; I.D. 071698E] received July 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10493. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pelagic Shelf Rockfish in the Eastern Regulatory Area of the Gulf of Alaska [Docket No. 971208297–8054–02; I.D. 071698I] received July 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10494. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Western Regulatory Area of the Gulf of Alaska [Docket No. 971208297–8054–02; I.D. 071698G] received July 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10495. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Western Regulatory Area of the Gulf of Alaska [Docket No. 971208297–8054–02; I.D. 070298A] received July 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10496. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Scallop Fishery off Alaska; Amendment 3 [Docket No. 980402084–8166–02; I.D. 032398B] (RIN: 0648–AJ51) received July 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10497. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Western Regulatory Area [Docket No. 971208297–8054–02; I.D. 071398A] received July 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10498. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; "Other Rockfish" in the Eastern Regulatory Area of the Gulf of Alaska [Docket No. 971208297–8054–02; I.D. 071698F] received July 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10499. A communication from the President of the United States, transmitting notification of budget program revisions for the Commodity Credit Corporation for FY 1998 and FY 1999 totaling $600 million, pursuant to 15 U.S.C. 714c; (H. Doc. No. 105—296); to the Committee on Appropriations and ordered to be printed.

10500. A letter from the Acting Director, Office of Management and Budget, transmitting a report to Congress on direct spending or receipts legislation within seven days of enactment; to the Committee on the Budget.

10501. A letter from the Secretary, Securities and Exchange Commission, transmitting the Commission's final rule—Statement Of The Commission Regarding Disclosure Of Year 2000 Issues And Consequences By Public Companies, Investment Advisers, Investment Companies, And Municipal Securities Issuers [Release Nos. 33–7558; 34–40277; IA–1738; IC–23366; International Series Release No. 1149] received July 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10502. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed Manufacturing License Agreement with Federation of Bosnia and Herzegovina [DTC–71–98] received July 30, 1998, pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

10503. A letter from the Employee Benefits Manager, Farm Credit Bank, transmitting a report on the Annual Federal Pension Plans, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Reform and Oversight.

10504. A letter from the Acting Executive Director, Interstate Commission On the Potomac River Basin, transmitting the Fifty-Seventh Financial Statement for the period October 1, 1996—September 30, 1997; to the Committee on Government Reform and Oversight.

10505. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; "Other Rockfish" in the Central Regulatory Area of the Gulf of Alaska [Docket No. 971208297–8054–02; I.D. 071798A] received July 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10506. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Northern Rockfish in the Western Regulatory Area of the Gulf of Alaska [Docket No. 971208297–8054–02; I.D. 071698D] received July 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10507. A letter from the Chief, Regulations Branch, U.S. Customs Service, transmitting the Service's final rule—Geographical Description Of Kodiak, Alaska Customs Port Of Entry [T.D. 98–65] received July 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

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. YOUNG of Alaska: Committee on Resources. H.R. 1865. A bill to designate certain lands in the San Isabel National Forest, in Colorado, as the Spanish Peaks Wilderness (Rept. 105–673). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 3498. A bill to amend the Magnuson-Stevens Fishery Conservation and Management Act to authorize the States of Washington, Oregon, and California to regulate the Dungeness crab fishery in the exclusive economic zone; with an amendment (Rept. 105–674). Referred to the Committee of the Whole House on the State of the Union.

Mr. GOSS: Committee on Rules. House Resolution 516. Resolution providing for consideration of the bill (H.R. 3892) to amend the Elementary and Secondary Education Act of 1965 to establish a program to help children and youth learn English, and for other purposes (Rept. 105–675). 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. LAFALCE:

H.R. 4388. A bill to amend the Consumer Credit Protection Act to ensure financial institution privacy protections, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. DOOLITTLE:

H.R. 4389. A bill to provide for the conveyance of various reclamation project facilities to local water authorities, and for other purposes; to the Committee on Resources.

By Mr. ABERCROMBIE:

H.R. 4390. A bill to amend the Internal Revenue Code of 1986 to restore the deduction for the travel expenses of a taxpayer's spouse who accompanies the taxpayer on business travel; to the Committee on Ways and Means.

By Mr. BARR of Georgia (for himself, Mr. GINGRICH, Mr. CHAMBLISS, Mr. KINGSTON, Mr. DEAL of Georgia, Mr. LEWIS of Georgia, Mr. BISHOP, Mr. LINDER, and Mr. COLLINS):

H.R. 4391. A bill to direct the Secretary of Veterans Affairs to establish a national cemetery for veterans in the Atlanta, Georgia, metropolitan area; to the Committee on Veterans' Affairs.

By Mr. CUNNINGHAM (for himself and Mr. PACKARD):

H.R. 4392. A bill to amend the San Luis Rey Indian Water Rights Settlement Act, and for other purposes; to the Committee on Resources.

By Mr. LEACH (for himself and Mr. LAFALCE):

H.R. 4393. A bill to revise the banking and bankruptcy insolvency laws with respect to the termination and netting of financial contracts, and for other purposes; to the Committee on Banking and Financial Services, and in addition to the Committees on the Judiciary, and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PETERSON of Minnesota:

H.R. 4394. A bill to establish temporary enrollment priorities for the conservation reserve program; to the Committee on Agriculture.

By Ms. RIVERS:

H.R. 4395. A bill to amend the Real Estate Settlement Procedures Act of 1974 to prohibit a lender from requiring a borrower in a residential mortgage transaction to provide the lender with unlimited access to the borrower's tax return information; to the Committee on Banking and Financial Services.

By Mr. SCHUMER:

H.R. 4396. A bill to amend title IV of the Employee Retirement Income Security Act of 1974 to protect the rights of participants and beneficiaries of terminated pension plans; to the Committee on Education and the Workforce.

By Mr. SCHUMER:

H.R. 4397. A bill to amend the Internal Revenue Code of 1986 to modify the rules for determining whether a corporation is a cooperative housing corporation for purposes of such Code; to the Committee on Ways and Means.

By Ms. SLAUGHTER (for herself, Mrs. MALONEY of New York, and Ms. WOOLSEY):

H.R. 4398. A bill to establish a commission, in honor of the 105th Anniversary of the Seneca Falls Convention, to further protect sites of importance in the historic efforts to secure equal rights for women; to the Committee on Resources.

By Mr. SMITH of Michigan (for himself, Mr. SOLOMON, Mr. NETHERCUTT, Mrs. EMERSON, Mr. THORNBERRY, Mr. CHRISTENSEN, Mr. NUSSLE, Mr. EWING, and Mr. BOB SCHAFFER):

H.R. 4399. A bill to amend the Internal Revenue Code of 1986 to make permanent the income averaging rules for farmers; to the Committee on Ways and Means.

By Mr. GINGRICH (for himself, Mr. ARMEY, Mr. BARR of Georgia, Mr. BARRETT of Nebraska, Mr. BASS, Mr. BATEMAN, Mr. BLILEY, Mr. BOEHLERT, Mr. BRYANT, Mr. CALVERT, Mr. COX of California, Mr. DEAL of Georgia, Mr. DELAY, Ms. DUNN of Washington, Mr. ENGLISH of Pennsylvania, Mr. GIBBONS, Mr. GREENWOOD, Mr. HASTERT, Mr. HAYWORTH, Mr. HOBSON, Mr. KASICH, Mrs. KELLY, Mr. LINDER, Mr. MCINTOSH, Mr. METCALF, Mrs. MYRICK, Mrs. NORTHUP, Mr. NORWOOD, Mr. PETERSON of Pennsylvania, Mr. PITTS, Ms. PRYCE of Ohio, Mr. REDMOND, Mr. SCARBOROUGH, Mr. SENSENBRENNER, Mr. SESSIONS, Mr. SMITH of Texas, Mr. SMITH of Michigan, Mr. SOLOMON, Mr. SPENCE, Mr. STEARNS, Mr. STUMP, Mr. TALENT, Mr. WATTS of Oklahoma, Mr. WELDON of Florida, and Mr. WOLF):

H. Con. Res. 316. Concurrent resolution to express the sense of Congress that State and local governments and local educational agencies are encouraged to dedicate a day of learning to the study and understanding of the Declaration of Independence, the United States Constitution, and the Federalist Papers; to the Committee on Education and the Workforce.

By Mrs. MYRICK (for herself, Mr. DELAY, Mr. LEWIS of Georgia, Mr. GINGRICH, Mr. BLILEY, Mr. LIVINGSTON, Mr. COX of California, Mr. ARMEY, Mr. THUNE, Mr. BOEHNER, Mr. HOBSON, Mr. KASICH, Mr. DOOLITTLE, Mr. MCINTOSH, Mr. HASTERT, Mr. LAZIO of New York, Ms. PRYCE of Ohio, Mr. MCCRERY, Mr. THOMAS, Mr. LINDER, and Ms. DUNN of Washington):

H. Con. Res. 317. Concurrent resolution expressing the sense of Congress that Members of Congress should follow the examples of self-sacrifice and devotion to character displayed by Jacob Chestnut and John Gibson of the United States Capitol Police; to the Committee on House Oversight.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

388. The SPEAKER presented a memorial of the General Assembly of the State of California, relative to Assembly Joint Resolution No. 60 memorializing the President and the Congress of the United States to endorse, support, and fund the 940th ARW as the next KC-135 unit to convert to KC135-R model aircraft, because that conversion would ensure that the 940th ARW remains a relevant, capable, and necessary part of the United States Air Force mission in the 21st century and a viable and productive asset to the Department of Defense, the State of California, and the nation; to the Committee on National Security.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. DEFAZIO introduced A bill (H.R. 4400) to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade and fisheries for the vessel S.S.; which was referred to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

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

H.R. 74: Mrs. MALONEY of New York.

H.R. 218: Mr. BILIRAKIS.

H.R. 284: Ms. LEE.

H.R. 880: Mr. BONILLA.

H.R. 1126: Mrs. FOWLER, Mr. TIERNEY, Mr. STEARNS, and Ms. JACKSON-LEE of Texas.

H.R. 1231: Mr. DAVIS of Florida.

H.R. 1401: Mr. BECERRA.

H.R. 1450: Mr. BARRETT of Wisconsin.

H.R. 1560: Mrs. MALONEY of New York, Mr. BUYER, Mr. CRAPO, Mr. GILCHREST, Mr. HOEKSTRA, Mr. HOUGHTON, Mr. HUNTER, Mr. LUCAS of Oklahoma, Mr. PAXON, Mr. SMITH of New Jersey, Mr. TAYLOR of North Carolina, Mr. YOUNG of Alaska, Mr. ROGAN, Mr. POMBO, Mr. BARTON of Texas, Mr. DOOLITTLE, Mr. BOEHNER, Mr. HOBSON, Mr. HYDE, Mr. DREIER, Mr. SENSENBRENNER, Mr. TRAFICANT, Mr. PORTER, Mr. GALLEGLY, Mr. SAXTON, Mr. GILMAN, Mr. POSHARD, Mr. COLLINS, Mr. MCHUGH, Mr. OBEY, Mr. SAM JOHNSON, Mrs. MORELLA, Mr. ANDREWS, Mr. BALDACCI, Mr. BISHOP, Mr. BLAGOJEVICH, Mr. BOYD, Ms. CARSON, MR. DAVIS of Illinois, Mr. ETHERIDGE, Mr. GEJDENSON, Mr. GOODE, Mr. HALL of Texas, Mr. HOLDEN, Mr. JEFFERSON, Mr. JOHN, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. KENNEDY of Rhode Island, Mr. LEVIN, Mrs. MCCARTHY of New York, Mr. OBERSTAR, Mr. PALLONE, Mr. PASCRELL, Mr. RAHALL, Mr. SANDLIN, Mr. WEXLER, Mr. VENTO, Mr. BURTON of Indiana, Mr. LINDER, Mr. GOODLATTE, Mr. QUINN, Mr. MARTINEZ, Mr. MORAN of Virginia, Mr. OLVER, Mr. PRICE of North Carolina, Mr. SAWYER, Mr. SHERMAN, Mr. BORSKI, Mr. BRADY of Pennsylvania, Mr. CUMMINGS, Mr. DINGELL, and Mr. FATTAH.

H.R. 1773: Mrs. CAPPS.

H.R. 1995: Mr. FORBES and Mr. MEEKS of New York.

H.R. 2094: Mr. BORSKI and Mr. PASCRELL.

H.R. 2345: Mr. PORTER.

H.R. 2397: Mr. ENSIGN, Mr. BISHOP, Mr. DEUTSCH, Mr. ORTIZ, and Mr. CRAMER.

H.R. 2409: Ms. WOOLSEY.

H.R. 2450: Mr. ENGLISH of Pennsylvania and Mr. NEAL of Massachusetts.

H.R. 2612: Mr. CAMPBELL.

H.R. 2914: Mr. ALLEN.

H.R. 2955: Mr. WEXLER, Mr. SPENCE, and Mr. MALONEY of Connecticut.

H.R. 2990: Mr. STRICKLAND and Mr. BRADY of Texas.

H.R. 3014: Mr. PACKARD.

H.R. 3048: Mr. ACKERMAN and Mr. PETRI.

H.R. 3081: Mrs. CAPPS, Mr. KENNEDY of Rhode Island, and Ms. KILPATRICK.

H.R. 3148: Ms. CHRISTIAN-GREEN.

H.R. 3181: Mr. BORSKI.

H.R. 3217: Mr. WAXMAN.

H.R. 3376: Mr. COOK.

H.R. 3396: Mr. HINCHEY, Mr. FOX of Pennsylvania, Mr. BARTON of Texas, Mr. HALL of Texas, Mr. BEREUTER, and Mr. COSTELLO.

H.R. 3610: Mr. MCINTYRE.

H.R. 3690: Mr. GOODLATTE.

H.R. 3702: Ms. LOFGREN and Ms. DANNER.

H.R. 3790: Mr. HYDE, Mr. GILMAN, Mr. KING of New York, Mr. WICKER, Mr. SERRANO, Mr. CLAY, Ms. MCCARTHY of Missouri, Ms. DANNER, and Mr. SESSIONS.

H.R. 3831: Mr. YATES.

H.R. 3865: Mr. SHADEGG, Mr. LEACH, Mr. EHLERS, Mr. BUYER, Mr. THUNE, Mr. SHUSTER, Mr. HILLEARY, Mr. SKEEN, Mr. TRAFICANT, Mr. GANSKE, Mrs. CUBIN, Mr. BURR of North Carolina, Mr. KINGSTON, Mr. FORBES, Mr. LATOURETTE, Mr. BILIRAKIS, Mr. ROGAN, Mr. HUTCHINSON, Mr. SAXTON, Mr. GREENWOOD, Mr. SAM JOHNSON, Mr. SMITH of Texas, Mr. GEKAS, Mr. BACHUS, Mr. FAWELL, Mrs. BONO, Mr. COX of California, Mr. ROYCE, Mr. SMITH of New Jersey, Mr. SOLOMON, Mr. FOX of Pennsylvania, and Mrs. FOWLER.

H.R. 3974: Mrs. THURMAN.

H.R. 3991: Mr. HEFLEY.

H.R. 4007: Ms. MCKINNEY and Mr. DAVIS of Illinois.

H.R. 4008: Ms. STABENOW and Mr. STUPAK.

H.R. 4013. HAYWORTH.

H.R. 4018 Ms. SLAUGHTER, Ms. HOOLEY of Oregon, Mr. TORRES, Ms. CARSON, Mrs. CAPPS, Mr. RANGEL, and Mr. MEEHAN.

H.R. 4031: Mr. HILLIARD.

H.R. 4034: Mr. MCNULTY.

H.R. 4069: Mr. SMITH of Michigan.

H.R. 4071: Mr. HAMILTON.

H.R. 4092: Mr. DICKS, Mr. ALLEN, and Mr. BAESLER.

H.R. 4151: Mr. SAM JOHNSON.

H.R. 4152: Mr. LAMPSON.

H.R. 4209: Mr. MANZULLO.

H.R. 4213: Mr. RAMSTAD, Mr. HOSTETTLER, Mr. BLAGOJEVICH, and Mr. RYUN.

H.R. 4219: Mr. GOODE.

H.R. 4224: Mr. GREEN.

H.R. 4232: Mr. MANZULLO and Mr. BONILLA.

H.R. 4233: Mr. MEEHAN, Mr. MILLER of California, Mr. CONYERS, Mr. MCGOVERN, Mr. UNDERWOOD, Mr. ANDREWS, Mr. BLUMENAUER, and Mr. BARRETT of Wisconsin.

H.R. 4235: Mrs. MINK of Hawaii and Mr. FORBES.

H.R. 4238: Mr. NEAL of Massachusetts and Mrs. THURMAN.

H.R. 4242: Mr. GOODE.

H.R. 4258: Mr. CHABOT.

H.R. 4265: Mr. BEREUTER.

H.R. 4266: Ms. JACKSON-LEE of Texas, Mr. ENGLISH of Pennsylvania, Mr. BROWN of California, and Mrs. LOWEY.

H.R. 4281: Mr. SAM JOHNSON.

H.R. 4283: Mr. KENNEDY of Massachusetts, Mr. SAWYER, Mr. COYNE, and Mr. DOOLEY of California.

H.R. 4293: Mr. FOSSELLA, Mrs. LOWEY, Mr. LAFALCE, Mr. GUTIERREZ, Ms. LEE, Mr. HINCHEY, and Mr. CALVERT.

H.R. 4339: Mr. BARRETT of Nebraska.

H.R. 4344: Mr. THOMPSON, Mr. MORAN of Virginia, Mr. MALONEY of Connecticut, Mr. PALLONE, Mr. DOOLEY of California, Mrs. ROUKEMA, and Mr. TAYLOR of North Carolina.

H.R. 4346: Mr. RANGEL, Mrs. JOHNSON of Connecticut, Mr. CAMP, Mr. ENGLISH of Pennsylvania, Mr. FOX of Pennsylvania, Mr. FORBES, Mr. CALVERT, Mr. KING of New York, Mr. TRAFICANT, and Mr. UNDERWOOD.

H.R. 4358: Mr. LAFALCE.

H.R. 4362: Ms. DANNER and Ms. WOOLSEY.

H.R. 4363: Mr. SCHUMER.

H.R. 4370: Mr. FROST, Mr. LARGENT, and Mr. HINOJOSA.

H.J. Res. 66: Mr. BENTSEN.

H. Con. Res. 203: Mr. DAVIS of Florida.

H. Con. Res. 229: Mr. HAYWORTH and Mr. SNOWBARGER.

H. Con. Res. 264: Mr. SNYDER.

H. Con. Res. 274: Mr. BLILEY, Mrs. KENNELLY of Connecticut, Mr. HILLIARD, Mr. WAXMAN, Mr. TORRES, Mr. RANGEL, Mr. DEUTSCH, Mr. STEARNS, and Mr. GREEN.

H. Con. Res. 299: Mr. MANZULLO.

H. Res. 37: Mr. BARR of Georgia, Mr. UPTON, Ms. MCCARTHY of Missouri, and Mr. PAYNE.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the clerk's desk and referred as follows:

71. The SPEAKER presented a petition of Mr. Gregory D. Watson of Austin, Texas, relative to expressing support for an amendment to the United States Constitution limiting to 12 the aggregate number of years which a person may serve as a member of the United States House of Representatives and limiting to 12 the aggregate number of years which a person may serve as a member of the United States Senate—and further providing that membership in the United States Senate be gained only by election and never via appointment; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3892

OFFERED BY: MR. RIGGS

AMENDMENT NO. 1: Page 5, line 17, strike "subpart," and insert "subpart (except for section 7124(a)(2)),".

Page 6, after line 2, insert the following:

"(c) AUTHORIZATION OF APPROPRIATIONS FOR SUPPLEMENTAL ALLOTMENTS.—For the purpose of carrying out section 7124(a)(2), there are authorized to be appropriated such sums as may be necessary for fiscal year 1999 and each of the 4 succeeding fiscal years.

Page 8, line 10, after "grant" insert "(excluding any amount allotted to the State under section 7124(a)(2))".

Page 13, after line 18, insert the following:

"(E) Developing tutoring programs for English language learners that provide early intervention and intensive instruction in order to improve academic achievement, to increase graduation rates among English language learners, and to prepare students for transition as soon as possible into classrooms where instruction is not tailored for English language learners or immigrant children and youth.

Page 13, line 19, strike "(E)" and insert "(F)".

Page 17, line 17, strike "and"

Page 17, line 19, strike the period at the end and insert "; and".

Page 17, after line 19, insert the following:

"(C) the number and percentage of students in the programs and activities mastering the English language by the end of each school year.

Page 19, after line 2, insert the following:

"(4) EVALUATION MEASURES.—In prescribing the form of an evaluation provided by an entity under paragraph (1), a State shall approve evaluation measures for use under paragraph (3) that are designed to assess—

"(A) oral language proficiency in kindergarten;

"(B) oral language proficiency, including speaking and listening skills, in first grade; and

"(C) both oral language proficiency, including speaking and listening skills, and reading and writing proficiency in grades two and higher.

Page 19, strike lines 4 through 15 and insert the following:

"(a) IN GENERAL.—

"(1) BASIC ALLOTMENTS.—Except as provided in subsections (b), (c), and (d), from the sum available for the purpose of making grants to States under this chapter for any fiscal year (excluding amounts made available under section 7111(c)), the Secretary shall allot to each State (excluding the Commonwealth of Puerto Rico and the outlying areas) that, in accordance with section 7122, submits to the Secretary an application for the year an amount which bears the same ratio to such sum as the total number of children and youth who are English language learners and immigrant children and youth and who reside in the State bears to the total number of such children and youth residing in all such States.

"(2) SUPPLEMENTAL ALLOTMENTS FOR CERTAIN STATES WITH LARGE POPULATIONS OF AFFECTED CHILDREN AND YOUTH.—

"(A) IN GENERAL.—In addition to any amount allotted to a State under paragraph (1), from the sum made available for any fiscal year under section 7111(c), the Secretary shall allot to each State described in paragraph (1) that is a qualified State an amount which bears the same ratio to such sum as the number described in subparagraph (C)(i) with respect to the State bears to the total of such numbers with respect to all such qualified States.

"(B) REQUIRED EXPENDITURES.—The Secretary may make a grant to a State under section 7121(a) consisting, in part, of an allotment determined under subparagraph (A) only if the State agrees—

"(i) to expend 100 percent of the amount of such allotment for the purpose of making subgrants to local educational agencies to provide assistance to children and youth who are English language learners and immigrant children and youth in accordance with section 7123; and

"(ii) that, in making subgrants under clause (i), the State shall award funds only to those applicants that are local educational agencies with the highest ratios of—

"(I) the total number of children and youth who are English language learners and immigrant children and youth residing in the geographic area served by the agency; to

"(II) the total number of children and youth residing in such area.

"(C) QUALIFIED STATE DEFINED.—For purposes of this paragraph, the term 'qualified State' means a State (excluding the Commonwealth of Puerto Rico and the outlying areas) with respect to which the ratio (expressed as a percentage) of—

"(i) the total number of children and youth enrolled in public and private elementary and secondary schools in the State who are English language learners or immigrant children and youth; to

"(ii) the total number of children and youth enrolled in such schools in the State; equals or exceeds 10 percent (based on the most recent school enrollment data available to, and reported to the Secretary by, the State).

Page 19, line 19, strike "1.5" and insert ".025".

Page 20, after line 13, insert the following:

"(d) MINIMUM ALLOTMENT.—

"(1) IN GENERAL.—Notwithstanding subsections (a) through (c), the Secretary shall not allot to any State—

"(A) for fiscal years 1999 and 2000, an amount that is less than 100 percent of the baseline amount for the State;

"(B) for fiscal year 2001, an amount that is less than 95 percent of the baseline amount for the State;

"(C) for fiscal year 2002, an amount that is less than 90 percent of the baseline amount for the State; and

"(D) for fiscal year 2003, an amount that is less than 85 percent of the baseline amount for the State.

"(2) BASELINE AMOUNT DEFINED.—For purposes of this subsection, the term 'baseline amount', when used with respect to a State, means the total amount received under parts A and C of this title for fiscal year 1998 by the State, the State educational agency, and all local educational agencies of the State.

"(3) RATABLE REDUCTION.—If the amount available for allotment under this section for any fiscal year is insufficient to permit the Secretary to comply with paragraph (1), the Secretary shall ratably reduce the allotments to all States for such year.

Page 20, line 14, strike "'(d)" and insert "'(e)".

Page 20, line 15, strike "(a)" and insert "(a)(1)".

Page 20, line 24, strike "'(e)" and insert "'(f)".

H.R. 3892

OFFERED BY: MR. RIGGS

AMENDMENT NO. 2: Page 16, line 16, strike "and".

Page 17, line 3, strike "students." and insert "students; and".

Page 17, after line 3, insert the following:

"(F) the eligible entity is not in violation of any State law, including State constitutional law, regarding the education of English language learners.

H.R. 3892

OFFERED BY: MR. BONILLA

AMENDMENT NO. 3: Page 30, line 10, strike "(a)(3)." and insert "(a)(3).'.".

Beginning on page 30, strike line 11 through page 31, line 8.

H.R. 3892

OFFERED BY: MR. HAYWORTH

AMENDMENT NO. 4: Page 30, after line 10, insert the following (and redesignate any subsequent sections accordingly):

"SEC. 7406. RULE OF CONSTRUCTION.

"Nothing in this Act shall be construed to limit the preservation or use of Native American languages as defined in the Native American Languages Act or Alaska Native languages.".

H.R. 3892

OFFERED BY: MRS. MINK OF HAWAII

AMENDMENT NO. 5: Page 24, line 21, strike "or".

Page 25, line 2, strike "program." and insert "program; or".

Page 25, after line 2, insert the following:

"(D) a State educational agency, in the case of a State educational agency that also serves as a local educational agency.

H.R. 3892

OFFERED BY: MR. SMITH OF MICHIGAN

AMENDMENT NO. 6: Page 13, after line 18, insert the following:

"(E) Providing family literacy services to English language learners and immigrant children and youth and their families to improve their English language skills and assist parents in helping their children to improve their academic performance.

Page 13, line 19, strike "(E)" and insert "(F)".

Page 25, after line 21, insert the following (and redesignate any subsequent paragraphs accordingly):

"(4) FAMILY LITERACY SERVICES.—The term 'family literacy services' means services provided to participants on a voluntary basis that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family (such as eliminating or reducing welfare dependency) and that integrate all of the following activities:

"(A) Interactive literacy activities between parents and their children.

"(B) Equipping parents to partner with their children in learning.

"(C) Parent literacy training, including training that contributes to economic self-sufficiency.

"(D) Appropriate instruction for children of parents receiving parent literacy services."

H.R. 4274

OFFERED BY: MR. ENGLISH OF PENNSYLVANIA

AMENDMENT NO. 3: Page 95, after line 17, insert the following new section:

SEC. 517. There are appropriated for carrying out the Low-Income Home Energy Assistance Act of 1981 $1,000,000,000, to be derived by hereby reducing by 2.817 percent each of the amounts appropriated by this Act that are not required by law to be appropriated.

H.R. 4276

OFFERED BY: MR. BLUMENAUER

AMENDMENT NO. 46: Page 96, line 6, after "studies" insert the following: "and of the amount so appropriated, the Commission shall expend such sums as may be necessary to implement a truth in billing rulemaking, pursuant to its authority under section 205 of the Communications Act of 1934 (47 U.S.C. 205), that will require any telecommunications carrier that includes on any of the bills sent to its customers a charge described in the next sentence shall (1) specify in the bill imposing such charge any reduction in charges or fees allocable to all classes of customers (including customers of residential basic service, customers of other residential services, small business customers, and other business customers) by reason of any regulatory action of the Federal Government; and (2) submit to the Federal Communications Commission the reports required to be submitted by the carrier to the Securities and Exchange Commission under sections 13(a) and 15(d) of the Securities and Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)). Clauses (1) and (2) of the preceding sentence shall apply in the case of the following charges: (A) any specific charge included after June 30, 1997, if the imposition of the charge is attributed to a regulatory action of the Federal Government; and (B) any specific charge included before that date if the description of the charge is changed after that date to attribute the imposition of the charge to a regulatory action of the Federal Government".

H.R. 4276

OFFERED BY: MS. BROWN OF FLORIDA

AMENDMENT NO. 47: Page 63, after line 2, insert the following new section:

SEC. 211. It is the sense of Congress that the Secretary of Commerce, in carrying out the census for the year 2000, should consult with, and seek the assistance of, the Secretary of Veterans Affairs in finding ways to facilitate the enumeration of homeless veterans and their families, particularly through the use of Vet Centers operated under section 1712A of title 38, United States Code.

H.R. 4276

OFFERED BY: MS. JACKSON-LEE OF TEXAS

AMENDMENT NO. 48: Page 11, line 14, insert "(increased by $500,000)" after "$6,699,000".

Page 2, line 7, insert "(decreased by $500,000)" after "$79,448,000".

H.R. 4276

OFFERED BY: MR. KUCINICH

AMENDMENT NO. 49: At the end of the bill, insert after the last section (preceding the short title) the following:

TITLE IX—ADDITIONAL GENERAL PROVISIONS

SEC. 901. None of the funds made available in this Act may be used for the filing of a complaint, or any motion seeking declaratory or injunctive relief pursuant thereto, in any legal action brought under section 102(b)(2) of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3312(b)(2)) or section 102(b)(2) of the Uruguay Round Agreements Act (19 U.S.C. 3512(b)(2)).

H.R. 4276

OFFERED BY: MR. MCINTOSH

AMENDMENT NO. 50: At the end of the bill (immediately before the short title), insert the following new section:

SEC. . None of the funds appropriated or otherwise made available by this Act may be used for any activity of the Standing Consultative Commission to implement the Memorandum of Understanding Relating to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems of May 26, 1972, entered into in New York on September 26, 1997, by the United States, Russia, Kazakhstan, Belarus, and Ukraine.