HOUSE OF REPRESENTATIVES—*Thursday, October 8, 1998*

The House met at 10 a.m.

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

O God, our help in ages past, our hope for years to come, we pray that You would give to us and all people the gifts of the spirit of knowledge and understanding, of gratitude and praise, of wisdom and tolerance, of justice and mercy, and of peace and goodwill. It is our petition that we would open our hearts to Your love and our souls to Your grace so that we honor You by our words and deeds and serve the people of this Nation with dignity. As You have created a whole world by Your hand, O gracious God, so recreate us in the spirit of reconciliation and unity that together as a nation we will be the people You would have us be. This is our earnest prayer. Amen.

THE JOURNAL

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

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

Mr. SOLOMON. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

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

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 325, nays 72, answered "present" 9, not voting 28, as follows:

[Roll No. 495]

YEAS—325

Abercrombie
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berman
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Coyne
Cramer
Crapo
Cubin
Cummings
Danner
Davis (IL)
Davis (VA)
Deal
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fawell
Foley
Forbes
Ford
Fossella
Fowler
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastert
Hastings (WA)
Hayworth
Hilleary
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Hoyer
Hunter
Hutchinson
Inglis
Istook
Jackson (IL)
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
Lofgren
Lowey
Lucas
Luther
Maloney (NY)
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Meehan
Mica
Millender-McDonald
Miller (FL)
Minge
Mink
Moakley
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Ortiz
Owens
Oxley
Packard
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Quinn
Radanovich
Rahall
Rangel
Redmond
Regula
Riley
Rivers
Rodriguez
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Salmon
Sánchez
Sanders
Sandlin
Sawyer
Saxton
Schumer
Sensenbrenner
Serrano
Sessions
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stokes
Stump
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Wexler
Weygand
White
Whitfield
Wilson
Wise
Wolf
Woolsey
Yates
Young (AK)
Young (FL)

NAYS—72

Ackerman
Aderholt
Becerra
Berry
Bonior
Borski
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Clay
Clyburn
Costello
DeFazio
English
Ensign
Fattah
Fazio
Filner
Fox
Frank (MA)
Furse
Gephardt
Gibbons
Green
Gutierrez
Gutknecht
Hansen
Hastings (FL)
Hefley
Hill
Hilliard
Hinchey
Hulshof
Jackson-Lee (TX)
Kennedy (RI)
Kucinich
LaFalce
Lee
Lewis (GA)
LoBiondo
Manzullo
McGovern
McNulty
Meeks (NY)
Menendez
Moran (KS)
Oberstar
Olver
Pallone
Pickett
Poshard
Ramstad
Rogan
Sabo
Schaffer, Bob
Scott
Skelton
Smith (MI)
Stark
Stenholm
Stupak
Taylor (MS)
Thompson
Towns
Velázquez
Vento
Visclosky
Waters
Weller
Wicker
Wynn

ANSWERED "PRESENT"—9

Carson
Cunningham
Manton
Martinez
Metcalf
Petri
Reyes
Sanford
Shadegg

NOT VOTING—28

Cannon
Conyers
Crane
Davis (FL)
Dixon
Engel
Hefner
Herger
Hinojosa
Houghton
Hyde
Jefferson
Kasich
Maloney (CT)
McCrery
McDade
Meek (FL)
Miller (CA)
Mollohan
Obey
Pryce (OH)
Riggs
Scarborough
Schaefer, Dan
Skeen
Slaughter
Smith, Adam
Strickland

□ 1020

So the Journal was approved.

The result of the vote was announced as Clerk announced as above recorded.

PERSONAL EXPLANATION

Mr. HINOJOSA. Mr. Speaker, during rollcall vote No. 495 on the Journal I was unavoidably detained. Had I been present, I would have voted "yes."

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. LAHOOD). Will the gentleman from New York (Mr. SOLOMON) come forward and lead the House in the Pledge of Allegiance.

Mr. SOLOMON led the Pledge of Allegiance as follows:

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

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

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 678. An act to require the Secretary of the Treasury to mint coins in commemoration of Thomas Alva Edison and the 125th anniversary of Edison's invention of the light bulb, and for other purposes.

H.R. 1659. An act to provide for the expeditious completion of the acquisition of private mineral interests within the Mount St. Helens National Volcanic Monument mandated by the 1982 Act that established the Monument, and for other purposes.

H.R. 2000. An act to amend the Alaska Native Claims Settlement Act to make certain clarifications to the land bank protection provisions, and for other purposes.

H.R. 2411. An act to provide for a land exchange involving the Cape Cod National Seashore and to extend the authority for the Cape Cod National Seashore Advisory Commission.

H.R. 2795. An act to extend certain contracts between the Bureau of Reclamation and irrigation water contractors in Wyoming and Nebraska that receive water from Glendo Reservoir.

H.R. 4079. An act to authorize the construction of temperature control devices at Folsom Dam in California.

H.R. 4081. An act to extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in the State of Arkansas.

H.R. 4166. An act to amend the Idaho Admission Act regarding the sale or lease of school land.

H.R. 4655. An act to establish a program to support a transition to democracy in Iraq.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3528. An act to amend title 28, United States Code, with respect to the use of alternative dispute resolution processes in United States district courts, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3874) "An Act to amend the National School Lunch Act and the Child Nutrition Act of 1966 to provide children with increased access to food and nutrition assistance, to simplify program operations and improve program management, to extend certain authorities contained in those Acts through fiscal year 2003, and for other purposes."

The message also announced that the Senate has passed bills of the following titles in which concurrence of the House is requested:

S. 736. An act to convey certain real property within the Carlsbad Project in New Mexico to the Carlsbad Irrigation District.

S. 744. An act to authorize the construction of the Fall River Water Users District Rural Water System and authorize financial assistance to the Fall River Water Users District, a non-profit corporation, in the planning and construction of the water supply system, and for other purposes.

S. 1175. An act to reauthorize the Delaware Water Gap National Recreation Area Citizen Advisory Commission for 10 additional years.

S. 1637. An act to expedite State review of criminal records of applicants for bail enforcement officer employment, and for other purposes.

S. 1641. An act to direct the Secretary of the Interior to study alternatives for establishing a national historic trail to commemorate and interpret the history of women's rights in the United States.

S. 2041. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design, planning, and construction of the Willow Lake Natural Treatment System Project for the reclamation and reuse of water, and for other purposes.

S. 2086. An act to revise the boundaries of the George Washington Birthplace National Monument.

S. 2117. An act to authorize the construction of the Perkins County Rural Water System and authorize financial assistance to the Perkins County Rural Water System, Inc., a nonprofit corporation, in the planning and construction of the water supply system, and for other purposes.

S. 2140. An act to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to authorize the Secretary of the Interior to participate in the design, planning, and construction of the Denver Water Reuse project.

S. 2142. An act to authorize the Secretary of the Interior to convey the facilities of the Pine River Project, to allow jurisdictional transfer of lands between the Department of Agriculture, Forest Service, and the Department of the Interior, Bureau of Reclamation, and the Bureau of Indian Affairs, and for other purposes.

S. 2235. An act to amend part Q of the Omnibus Crime Control and Safe Streets Act of 1968 to encourage the use of school resource officers.

S. 2239. An act to revise the boundary of Fort Matanzas National Monument, and for other purposes.

S. 2240. An act to establish the Adams National Historical Park in the Commonwealth of Massachusetts, and for other purposes.

S. 2241. An act to provide for the acquisition of lands formerly occupied by the Franklin D. Roosevelt family at Hyde Park, New York, and for other purposes.

S. 2246. An act to amend the Act which established the Frederick Law Olmsted National Historic Site, in the Commonwealth of Massachusetts, by modifying the boundary, and for other purposes.

S. 2247. An act to permit the payment of medical expenses incurred by the United States Park Police in the performance of duty to be made directly by the National Park Service, and for other purposes.

S. 2248. An act to allow for waiver and indemnification in mutual law enforcement agreements between the National Park Service and a State or political subdivision, when required by State law, and for other purposes.

S. 2257. An act to reauthorize the National Historic Preservation Act.

S. 2284. An act to establish the Minuteman Missile National Historic Site in the State of South Dakota, and for other purposes.

S. 2285. An act to establish a commission, in honor of the 150th Anniversary of the Seneca Falls Convention, to further protect sites of importance in the historic efforts to secure equal rights for women.

S. 2309. An act to authorize the Secretary of the Interior to enter into an agreement for the construction and operation of the Gateway Visitor Center at Independence National Historical Park.

S. 2468. An act to designate the Biscayne National Park Visitor Center as the Dante Fascell Visitor Center.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of House Resolution 577, the Chair announces that he has designated this time for the taking of the official photo of the House of Representatives in session. The House will be in a brief recess while the Chamber is being prepared for the photo. The Members will please remain in place when the photographs are taken. Members will please face the camera. The process will take approximately 15 minutes. About 5 minutes after that, the House will proceed with the business of the House.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until approximately 10:50 a.m.

Accordingly (at 10 o'clock and 23 minutes a.m.), the House stood in recess until approximately 10:55 a.m.)

□ 1055

REQUEST TO EXTEND DEBATE ON IMPEACHMENT INQUIRY RESOLUTION

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that the debate on House Resolution 581 regarding proceeding with an impeachment inquiry be expanded to the time of 8 hours.

The SPEAKER. The Chair is constrained not to recognize the gentleman for that purpose at this time.

AUTHORIZING THE COMMITTEE ON THE JUDICIARY TO INVESTIGATE WHETHER SUFFICIENT GROUNDS EXIST FOR THE IMPEACHMENT OF WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES

Mr. HYDE. Mr. Speaker, by direction of the Committee on the Judiciary, I call up H. Res. 581, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 581

Resolved, That the Committee on the Judiciary, acting as a whole or by any subcommittee thereof appointed by the chairman for the purposes hereof and in accordance with the rules of the committee, is authorized and directed to investigate fully and

completely whether sufficient grounds exist for the House of Representatives to exercise its constitutional power to impeach William Jefferson Clinton, President of the United States of America. The committee shall report to the House of Representatives such resolutions, articles of impeachment, or other recommendations as it deems proper.

SEC. 2. (a) For the purpose of making such investigation, the committee is authorized to require—

(1) by subpoena or otherwise—

(A) the attendance and testimony of any person (including at a taking of a deposition by counsel for the committee); and

(B) the production of such things; and

(2) by interrogatory, the furnishing of such information;

as it deems necessary to such investigation.

(b) Such authority of the committee may be exercised—

(1) by the chairman and the ranking minority member acting jointly, or, if either declines to act, by the other acting alone, except that in the event either so declines, either shall have the right to refer to the committee for decision the question whether such authority shall be so exercised and the committee shall be convened promptly to render that decision; or

(2) by the committee acting as a whole or by subcommittee.

Subpoenas and interrogatories so authorized may be issued over the signature of the chairman, or ranking minority member, or any member designated by either of them, and may be served by any person designated by the chairman, or ranking minority member, or any member designated by either of them. The chairman, or ranking minority member, or any member designated by either of them (or, with respect to any deposition, answer to interrogatory, or affidavit, any person authorized by law to administer oaths) may administer oaths to any witness. For the purposes of this section, "things" includes, without limitation, books, records, correspondence, logs, journals, memorandums, papers, documents, writings, drawings, graphs, charts, photographs, reproductions, recordings, tapes, transcripts, printouts, data compilations from which information can be obtained (translated if necessary, through detection devices into reasonably usable form), tangible objects, and other things of any kind.

The SPEAKER. The resolution, since reported from the Committee on the Judiciary, constitutes a question of privilege and may be called up at this time.

Mr. HYDE. Mr. Speaker, while the normal procedure grants 1 hour of debate on a privileged resolution, I propose doubling that time.

Therefore, I ask unanimous consent that I be recognized for 2 hours for the debate on H. Res. 581, 1 hour of which I intend to yield to the gentleman from Illinois (Mr. CONYERS) for the purposes of debate only. And anybody on my side who was constrained to object, I hope they will withhold their objection so we can have the 2 hours of debate.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

Mr. CONYERS. Mr. Speaker, reserving the right to object, I appreciate the unanimous consent that is being put forward, and ask my friend, the distinguished gentleman from Illinois (Mr. HYDE), chairman of the Committee on the Judiciary, if he would add 2 hours to that request, please.

I understand the exigencies of the moment, but I have enormous pressure being put upon the ranking member for Members to merely have a chance to get in a brief expression on this historic occasion, and I ask that the gentleman give that his most generous consideration.

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

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

Mr. HYDE. Mr. Speaker, I thank the gentleman for yielding. I can only say that we have had extensive discussions and I am fearful that there would be several objectors to that. So, I am constrained to offer the extra hour only and not go beyond that.

I would suggest a special order tonight where everybody can speak as long and as loudly as they want.

□ 1100

Mr. CONYERS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request gentleman from Illinois?

There was no objection.

The SPEAKER. The gentleman from Illinois (Mr. HYDE) is recognized for 2 hours.

Mr. HYDE. Mr. Speaker, for purposes of debate only, I yield 1 hour to the distinguished minority ranking member on the Committee on the Judiciary, the gentleman from Michigan (Mr. CONYERS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

PARLIAMENTARY INQUIRY

Mr. EDWARDS. Mr. Speaker, considering the historical importance of this vote today and the precedent we will set for decades to come, would it be within the rules of the House for me at this time to ask unanimous consent that each Member of this House, who feels in his or her conscience that he or she would want to speak for 2 minutes on this issue, be allowed that opportunity as they try to represent the 560,000 people in their district?

The SPEAKER. The gentleman is not recognized for that purpose, and the House has already established by unanimous consent the 2-hour time limit.

PARLIAMENTARY INQUIRY

Mr. DINGELL. Mr. Speaker, reserving the right to object.

The SPEAKER. There is no request to be objected to at this time, but the Chair would be glad to recognize the gentleman from Michigan (Mr. DINGELL) for a parliamentary inquiry.

Mr. DINGELL. Then I will make this a parliamentary inquiry, Mr. Speaker.

Why is it we are not being afforded more time to debate this? This is one of the most important questions——

The SPEAKER. That is not a parliamentary inquiry, but that might be raised during debate, if the gentleman gets time.

PARLIAMENTARY INQUIRY

Mr. ACKERMAN. Mr. Speaker, parliamentary inquiry. I would like to inquire if a unanimous consent request is in order.

The SPEAKER. That would not be in order at this time unless the gentleman from Illinois yielded for that purpose.

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

The SPEAKER. The gentleman from Illinois (Mr. HYDE) controls the time.

Mr. ACKERMAN. Will the gentleman yield for a unanimous consent request?

Mr. HYDE. Mr. Speaker, I must insist on regular order or we will not get through with this, so I cannot yield for a unanimous consent request.

GENERAL LEAVE

Mr. HYDE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Resolution 581, the resolution now under consideration.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

Mr. ACKERMAN. Mr. Speaker, reserving the right to object, we are just asking for fairness.

The SPEAKER. Does the gentleman from New York (Mr. ACKERMAN) object?

Mr. ACKERMAN. In that case, Mr. Speaker, I object.

The SPEAKER. Objection is heard.

The Chair recognizes the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, general leave was objected to?

The SPEAKER. General leave was objected to. The gentleman from Illinois (Mr. HYDE) controls the time and has yielded to himself.

Mr. HYDE. Mr. Speaker, I ask unanimous consent to revise and extend my remarks.

Mr. Speaker, today we will vote on an historic resolution to begin an inquiry into whether the President has committed impeachable offenses. All of us are pulled in many directions by our political parties, by philosophy and friendships; we are pulled by many competing forces, but mostly we are moved by our consciences. We must listen to that still small voice that whispers in our ear, duty, duty, duty.

Some years ago Douglas MacArthur, in a famous speech at West Point, asserted the ideal of our military forces as duty, honor and country. We do not have to be a soldier in a far-off land to feel the force of those words. They are our ideal here today as well.

We have another ideal here, to attain justice through the rule of law. Justice is always and everywhere under assault, and our duty is to vindicate the rule of law as the surest protector of that fragile justice.

And so here, today, having received the referral in 17 cartons of supportive material from the Independent Counsel, the question asks itself: Shall we look further or shall we look away?

I respectfully suggest that we must look further by voting for this resolution and thus commencing an inquiry into whether or not the President has committed impeachable acts. We do not make any judgments, we do not make any charges, we simply begin a search for truth.

My colleagues will hear from our opponents that, yes, we need to look further, but do it our way. Their way imposes artificial time limits, limits our inquiry to the Lewinsky matter, and requires us to establish standards for impeachment that have never been established before, certainly not in the Nixon impeachment proceedings, which we are trying to follow to the letter.

We have followed the Rodino format. We will move with all deliberate speed. Many raise concerns about that proposition. Let me speak directly to those concerns. Some suggest the process to date has been partisan, yet every member of the Committee on the Judiciary voted for an inquiry in some form. We differ over the procedural details, not the fundamental question of whether we should go forward.

Many on the other side of the aisle worry that this inquiry will become an excuse for an open-ended attack on this administration. I understand that worry. During times when Republicans controlled the executive branch and I was in the minority, I lived where they are living now.

With that personal experience, I pledge to my colleagues the fairest and most expeditious search for the truth that I can muster. I do not expect that I will agree with my Democratic friends at each step along the way, but I know that to date we have agreed on many things. In fact, we have agreed on many more things than is generally known.

I hope at the end of this long day we will agree on the result. I am determined we will continue to look every day for common ground and to agree where we can. When we must disagree, we will do everything we can to minimize those disagreements. At all times, civility must be the watch word for Members on both sides of the aisle. Too much hangs in the balance for us not to rise above partisan politics.

I will use all my strength to ensure that this inquiry does not become a fishing expedition. Rather, I am determined that it will be a fair and expeditious search for truth. We have plenty enough to do now, we do not need to search for new material.

However, I cannot say that we will never address other subjects, nor would it be responsible to do so. I do not know what the future holds. If substantial and credible evidence of other impeachable offenses comes to us, as the Independent Counsel hinted or suggested in a letter we received only yesterday, the Constitution will demand that we do our duty. Like each of my colleagues, I took an oath to answer that call. I intend to do so, and I hope my colleagues will join with me if that day comes. I do not think we want to settle for less than the whole truth.

Some are concerned about timing. Believe me, nobody wants to end this any sooner than I do. But the Constitution demands that we take the amount of time necessary to do the right thing in the right way. A rush to judgment does not serve anybody's interest, certainly not the public's interest. As I have said publicly, my fervent hope and prayer is we can end this process by the end of the year. That is my new year's resolution. However, to agree to an artificial deadline would be irresponsible. It would only invite delay and discourage cooperation.

For those who worry about the timing, I urge them to do everything possible to encourage cooperation. No one likes to have their behavior questioned. The best way to end the questions is to answer them in a timely and truthful manner. Thorough and thoughtful cooperation will do more than anything to put this matter behind us.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. SOLOMON.)

Mr. SOLOMON. Mr. Speaker, I certainly thank the gentleman for yielding me this time, and I just rise in support of the resolution and to commend the Committee on the Judiciary.

Mr. Speaker, I rise in support of this resolution to authorize and direct the Committee on the Judiciary to investigate whether sufficient grounds exist to impeach the President of the United States.

I commend the Judiciary Committee for following the intent of the Rules Committee resolution, H. Res. 525, which passed the House overwhelmingly on September 11. That resolution instructed the Committee to carefully review and release the material in the independent Counsel's report, expunging that material in the Independent Counsel's report, expunging that material which is not relevant or may interfere with ongoing investigations.

I would say to the Committee—you have judiciously carried out the instructions given to you by the House, and I commend you for it.

The public release of the material in that report, with appropriate redactions, was necessary to give Members of the House the ability to cast informed votes here on the floor today. Members of the House and the public, unfortunately, must have a dialogue about the contents of this report.

I believe that in approving the release of this material by such a large margin, the House relied on the traditional notion that an informed citizenry is critical to the success of our republic.

In supporting this resolution before the House today, let me say to the Members that regardless of your personal feelings about the President, whether political supporters or not, you have a constitutional obligation to set aside those feelings and cast your vote solely on the basis of whether you believe the evidence submitted to this House is sufficient grounds to undertake an impeachment inquiry.

Prior to today, I have withheld judgment and made no statements to the media regarding the substantive grounds for impeachment. However, I have reviewed the evidence in the report and I find it thorough, well-documented, and exhaustive in its corroborating detail.

After reviewing all of this evidence, I believe we have an overwhelming constitutional duty to vote to proceed with an inquiry.

I for one will continue to reserve judgment on whether articles of impeachment should be brought until after the Judiciary Committee has completed its investigation and sends a further recommendation to the House.

Mr. Speaker, today we should not determine whether to impeach the man who holds the Executive Office of the President. Rather, we should ratify the Judiciary Committee's recommendation that there is enough evidence to formally ask that question.

In doing so, we affirm the grim charge handed down by the framers of the Constitution, to guard against degradation of the office by the man who happens to hold it.

During the debate on whether to include the impeachment clause in the Constitution at the convention, Gouverneur Morris, a delegate from Pennsylvania, offered an amendment to strike the clause.

At the conclusion of the debate, he changed his mind and supported the impeachment clause and argued, "Our executive is not like a Magistrate having a life interest, much less like one having an hereditary interest in his office."

With the unique idea of this constitutional clause as a foundation for our deliberation, our action here today affirms that we are not like the rest of the world.

I urge support for the resolution.

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

Mr. CONYERS. Mr. Speaker, I yield myself 10 seconds.

I really want to say to the chairman of the Committee on the Judiciary, the gentleman from Illinois (Mr. HENRY HYDE), that I respect the fulsomeness and fairness of his statement. I know that he is a person of his word, and I hope that these processes within our committee and the Congress will follow along the lines that he has outlined so admirably.

Mr. Speaker, I yield 4½ minutes to the gentleman from Virginia (Mr. RICK BOUCHER), the principal architect of the alternative proposal to the motion on the floor that will be embodied in a motion to recommit.

Mr. BOUCHER. Mr. Speaker, I want to thank the gentleman from Michigan for yielding this time to me and commend him for the leadership that he has exerted as we have worked on this side in order to offer a fair and a balanced alternative to the resolution of inquiry.

At the conclusion of this debate, I will offer a motion to recommit the resolution offered by the gentleman from Illinois to the Committee on the Judiciary with the instruction that the committee immediately report back that resolution to the House with instructions that it contain our Democratic alternative.

While we would have preferred that Democrats have a normal opportunity to present our resolution as an amendment, the procedure that is being used by the House today does not make a Democratic amendment in regular course in order. The motion to recommit with instructions does, however, give us an opportunity to have the House adopt the Democratic plan.

The Democratic amendment is a resolution for a full and complete review by the Committee on the Judiciary of the material that has been presented to the House by the office of Independent Counsel. The Republican resolution also provides for that full and complete review. The difference between the Democratic and the Republican approaches is only over the scope of the review, only over the time that the review will take, and only over our insistence that the Committee on the Judiciary, in conducting its process, pay deference and become aware of the historical constitutional standard for impeachment that has evolved to us over the centuries and was recognized most recently by the Committee on the Judiciary in 1974 and then recognized by the full House of Representatives.

The public interest requires a fair and deliberate inquiry in this matter. Our resolution provides for that fair and deliberate inquiry. But the public interest also requires an appropriate boundary on the scope of the inquiry. It should not become an invitation for a free-ranging fishing expedition, subjecting to a formal impeachment inquiry matters that are not before the Congress today. The potential for such a venture should be strictly limited by the resolution adopted today by the House, and our Democratic proposal contains those appropriate limits. It would subject to the inquiry the material presented to us by the office of Independent Counsel, which is the only material before the House today.

The public interest also requires that the matter be brought to conclusion at the earliest possible time; that is, consistent with a thorough and complete review. The country has already undergone substantial trauma. If the committee carries this work beyond the time that is reasonably needed to conduct its complete and thorough review, that injury to the Nation will only deepen. We should be thorough, but we should also be prompt.

Mr. Speaker, given that the facts of this matter are generally well-known, given that there are only a handful of witnesses who have relevant information that can be addressed in this inquiry, and given the further fact that all of those witnesses have already been the subject of extensive review by the Grand Jury, and their testimony is available, this inquiry can, in fact, be prompt. The committee's work should not extend into next year. A careful and a thorough review can be accomplished between now and the end of this year, and our Democratic resolution provides that appropriate limitation on time.

The resolution requires that the committee hold hearings on the constitutional standard for impeachment, which was clearly stated in the conclusion of the committee's report in the Watergate years of 1974. Our substitute then directs that the committee compare the facts that are stated in the referral of the Independent Counsel to that historical constitutional standard and, if any facts rise to the level of impeachable conduct, that material would then be subjected to the thorough inquiry and review process contained within our resolution.

Under the resolution that we are putting forth, the committee will begin its work on the 12th day of October, that is next Monday, and will conclude all proceedings, including the consideration of recommendations, during the month of December.

□ 1115

There would then be ample time for the House of Representatives to consider those recommendations and conclude its work by the end of this year.

The procedure we are recommending is fair, it is thorough, it is prompt. It is a recommendation for an inquiry. It would assure an appropriate scope. It would give deference to the historical constitutional standard for impeachment, and it would assure that this matter is put behind us so the Nation can proceed with its very important business by the end of this year.

Mr. HYDE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Wisconsin (Mr. SENSENBRENNER), a member of the committee.

Mr. SENSENBRENNER. Mr. Speaker, I rise in support of the resolution of inquiry.

At Monday's meeting of the Committee on the Judiciary, Investigative Counsel David Shippers informed the committee that the material received to date shows that the President may have committed 15 felonies. These alleged felonies were in the course of the President's successfully defeating Paula Jones' civil rights lawsuit, claims the Supreme Court in a 9–0 decision said that she had the right to pursue. The President denies all these allegations. Obviously someone is telling the truth and someone is lying.

The Committee on the Judiciary must be given the power to decide this issue. What is at stake here is the rule of law. Even the President of the United States has no right to break the law. If the House votes down this inquiry, in effect, it will say that even if President Clinton committed as many as 15 felonies, nothing will happen. The result will be a return to the imperial presidency of the Nixon era where the White House felt that the laws did not apply to them, since they never would be punished. That would be a national tragedy of immense consequences.

Vote for the resolution. Let the Committee on the Judiciary try to find the truth.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the able gentleman from New York (Mr. SCHUMER), a senior member of our Committee on the Judiciary.

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

Mr. Speaker, this is a serious and solemn day. After a careful reading of the Starr report and other materials submitted by the Office of Independent Counsel as well as a study of the origins and history of the impeachment clause of the Constitution, I have come to the conclusion that, given the evidence before us, while the President deserves significant punishment, there is no basis for impeachment of the President and it is time to move on and solve the problems facing the American people, like health care, education and protecting seniors' retirement.

To me, Mr. Speaker, it is clear that the President lied when he testified before the grand jury not to cover a crime but to cover embarrassing personal behavior. While it is true that in ordinary circumstances and in most instances an ordinary person would not be punished for lying about an extramarital affair, the President has to be held to a higher standard and must be held accountable. But high crimes and misdemeanors, as defined in the Constitution and as amplified by the Federalist Papers and Justice Story, have always been intended to apply to public actions relating to or affecting the operation of the government, not to personal or private conduct.

That said, the punishment for lying about an improper sexual relationship should fit the crime. Censure or rebuke is the appropriate punishment. Impeachment is not. It is time to move forward, not have the Congress and American people endure the specter of what could be a year-long focus on a tawdry but not impeachable affair. Today the world economy is in crisis and cries out for American leadership, without which worldwide turmoil is a grave possibility. The American people cry out for us to solve the problems facing them. This investigation, now in its fifth year, has run its course. It is time to move on.

Mr. HYDE. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Pennsylvania (Mr. MCHALE).

Mr. MCHALE. Mr. Speaker, Franklin Roosevelt once said that "the presidency is preeminently a place of moral leadership."

I want my strong criticism of President Clinton to be placed in context. I voted for President Clinton in 1992 and 1996. I believed him to be the "Man from Hope" as he was depicted in his 1992 campaign video. I have voted for more than three-fourths of the President's legislative agenda and I would do so again. My blunt criticism of the President has nothing to do with policy. Moreover, the President has always treated me with courtesy and respect and he has been more than responsive to the concerns of my constituents.

Unfortunately, the President's misconduct has now made immaterial my past support or agreement with him on issues. Last January 17, the President of the United States attempted to cover up a sordid and irresponsible relationship by repeated deceit under oath in a Federal civil rights suit. Contrary to his later public statement, his answers were not "legally accurate," they were intentionally and blatantly false. He allowed his lawyer to make arguments to the court based on an affidavit that the President knew to be false. The President later deceived the American people and belatedly admitted the truth only when confronted some 7 months later by a mountain of irrefutable evidence. I am convinced that the President would otherwise have allowed his false testimony to stand in perpetuity.

What is at stake is really the rule of law. When the President took an oath to tell the truth, he was no different at that point from any other citizen, both as a matter of morality and as a matter of legal obligation. We cannot excuse that kind of misconduct because we happen to belong to the same party as the President or agree with him on issues or feel tragically that the removal of the President from office would be enormously painful for the United States of America. The question is whether or not we will say to all of our citizens, including the President of the United States, when you take an oath, you must keep it.

Having deliberately provided false testimony under oath, the President in my judgment forfeited his right to office. It was with a deep sense of sadness that I called for his resignation. By his own misconduct, the President displayed his character and he defined it badly. His actions were not "inappropriate." They were predatory, reckless, breathtakingly arrogant for a man already a defendant in a sexual harassment suit, whether or not that suit was politically motivated.

And if in disgust or dismay we were to sweep aside the President's immoral and illegal conduct, what dangerous precedent would we set for the abuse of power by some future President of the United States?

We cannot define the President's character. But we must define the Nation's. I urge an affirmative vote on the resolution.

Mr. CONYERS. Mr. Speaker, I yield 2½ minutes to the gentleman from New York (Mr. NADLER), who coauthored the alternative proposal that we shall shortly offer this morning.

Mr. NADLER. Mr. Speaker, the issue in the potential impeachment is whether to overturn the results of a national election, the free expression of the popular will of the American people. It is an enormous responsibility, and an extraordinary power. It is not one that should be exercised lightly. It is certainly not one which should be exercised in a manner in which or would be perceived to be unfair or partisan.

The work of this House during the Nixon impeachment investigation commanded the respect and support of the American people. A broad consensus that President Nixon had to go was developed precisely because the process was seen to be fair and deliberate. If our conduct in this matter does not earn the confidence of the American people, then any action we take, especially if we seek to overturn the result of a free election, will be viewed with great suspicion and could divide a nation for years to come.

We do not need another "Who lost China?" debate. We do not need a decade of candidates running for office accusing each other of railroading a democratically elected President out of office, or participating in a thinly failed coup d'etat.

The issue has the potential to be the most divisive issue in American public life since the Vietnam War. The process by which we arrive at our decision must be seen to be both nonpartisan and fair. The legitimacy of American political institutions must not be called into question.

I do not believe personally that all the allegations in the Starr report, if proven true, describe impeachable offenses. We need to remember that the framers of the Constitution did not intend impeachment as a punishment for a wrongdoing but as a protection of constitutional liberties and of the structure of the government that they were establishing against a President who might seek to become a tyrant.

The President's acts, if proven true, may be crimes, calling for prosecution or other punishment, but not impeachment. So I do not believe we need a formal impeachment inquiry. But if we are to have an inquiry, it must be fair. So far it has been anything but fair. The President was not given the Starr report before it was made public; a violation of all the precedents. No debate on the committee occurred on the merits whatsoever. We spent a month on deciding what should be released and what should be kept in private, and then we heard the report of the two counsels and then we discussed procedure but not a minute of debate on the merits on the evidence, on the standard of impeachment, on anything.

The supreme insult to the American people, an hour of debate on the House floor on whether to start, for the third time in the American history, a formal impeachment proceeding. We debated two resolutions to name post offices yesterday for an hour and a half. An hour debate on this momentous decision is an insult to the American people and another sign that this is not going to be fair.

The democratic amendment is a fair device for a fair process. It provides for a limitation in scope in time, and I urge its adoption.

POINT OF ORDER

Mr. OBEY. Mr. Speaker, I make a point of order.

The SPEAKER. The gentleman will state his point of order.

Mr. OBEY. Mr. Speaker, this is a fairly important issue. It seems to me that if Members are going to vote on it the least they could do is be here in the chamber when it is debated, and I would hope that the leadership of both parties would be sending out messages to the Members that whatever they are doing, they ought to drop it and get their tails here.

Mr. HYDE. Mr. Speaker, I yield 2½ minutes to the distinguished gentleman from Florida (Mr. CANADY), a member of the committee.

Mr. CANADY of Florida. Mr. Speaker, I rise today to support the impeachment inquiry resolution of the Committee on the Judiciary, a resolution which ensures that we expeditiously deal with the serious charges against the President in a process that is fair, thoughtful and deliberative.

In this resolution, we followed the pattern and procedures established in the Nixon impeachment inquiry. This model served the House well in the Nixon case. It has stood the test of time and there is no reason that we should abandon this model now.

The House should reject the unprecedented Democratic alternative with its unwise, arbitrary and unrealistic limitations and restrictions on the ability of the Committee on the Judiciary to do its job. We must recognize that the Democratic alternative sets up a process that has never, not once, been followed in the more than 200-year history of impeachment under our constitution. It is totally without precedent.

Some have claimed that the charges against the President do not amount to high crimes and misdemeanors but the very report cited by the President's lawyers, which was prepared by the impeachment inquiry staff in the Nixon case, recognizes that conduct of the

President which, and I quote, "undermines the integrity of office" is impeachable. The unavoidable consequence of perjury and obstruction of justice by a President would be to erode respect for the office of the President. Such acts inevitably subvert the respect for the law, which is essential to the well-being of our constitutional system.

If perjury and obstruction of justice do not undermine the integrity of office, what offenses would? Not long after the Constitution was adopted, one of the framers wrote, if it were to be asked what is the most sacred duty and the greatest source of security in a republic, the answer would be, an inviolable respect for the Constitution and laws. Those, therefore, who set examples which undermine or subvert the authority of the laws lead us from freedom to slavery. They incapacitate us for a government of laws.

Today, as Members of this House, it is our solemn responsibility under the Constitution to move forward with this inquiry and to set an example that strengthens the authority of the laws and preserves the liberty with which we have been blessed as Americans.

Mr. CONYERS. Mr. Speaker, I yield 1½ minutes to the gentleman from Florida (Mr. WEXLER), a valuable member of the Committee on the Judiciary.

Mr. WEXLER. Mr. Speaker, God help this Nation if today we become a Congress of endless investigation, accomplices to this unAmerican inquisition that would destroy the presidency over an extramarital affair.

The global economy is crumbling and we are talking about Monica Lewinsky.

Saddam Hussein hides weapons and we are talking about Monica Lewinsky.

□ 1130

Genocide wracks Kosovo, and we are talking about Monica Lewinsky.

Children crammed into packed classrooms, and we are talking about Monica Lewinsky.

Families cannot pay their medical bills, and we are talking about Monica Lewinsky.

God help this Nation if we trivialize the Constitution of the United States and reject the conviction of our Founding Fathers that impeachment is about no less than the subversion of the government. The President betrayed his wife; he did not betray the country. God help this Nation if we fail to recognize the difference.

Mr. HYDE. Mr. Speaker, I yield 2 minutes the distinguished gentleman from Arkansas (Mr. HUTCHINSON).

Mr. HUTCHINSON. Mr. Speaker, today we are considering a resolution of inquiry into the conduct of the President of the United States. It is not about a person, but it is about the rule of law. Each of us took a simple oath to uphold the Constitution of the United States. The Constitution provides a path to follow in these circumstances. The path may not be well worn, but it is well marked, and we will be wise to follow it rather than to concoct our own ideas on how to proceed.

The gentleman from New York concluded that the President has lied under oath, that he should be punished, but he should not be impeached. The gentleman is way ahead in his conclusion of where this process should be and where I am. I would say that this process is not about punishment. The purpose of this process is to examine the public trust, and, if it is breached, to repair it.

We have been referred serious charges of perjury, obstruction of justice and abuse of power. The President and his lawyers have denied each of these charges, as is his right to do. Our response should be that we need to examine these facts to determine the truth and to weigh the evidence, and it is our highest duty today to vote for this inquiry so that, if the result is there are no impeachable offenses, we can move on, but if there is more to be done, we can be sure that the rule of law will not be suspended or ignored by this Congress.

The Watergate model was chosen because that was what was demanded by my friends from across the aisle. This resolution does not direct the committee to go into any additional areas, but it does give the committee the authority to carry out its responsibility and to bring this matter to a conclusion without further delay.

It is my firm commitment, as an Arkansan, as an American and as someone who has tried to work with my colleagues from both side of the aisle, to be fair in every way in the search for truth. Did the President participate in a scheme to obstruct justice? Did the President commit perjury? Do these allegations, if proven, constitute impeachable offenses? We can answer these questions in a fair and bipartisan manner, and that is my commitment.

People say this is not Watergate. That is true. Every case is different. But the rule of law and our obligation to it does not change. They do not change because of position, personalities or power. The rule of law and justice depends upon this truth.

I ask my colleagues to support the resolution.

Mr. CONYERS. Mr. Speaker, I yield 1½ minutes to the gentleman from Wisconsin (Mr. BARRETT).

Mr. BARRETT of Wisconsin. Mr. Speaker, many of the President's actions were wrong. In fact, they were indefensible. But our role today is not to attack him. Our role today is to make sure that this process is defensible.

And this is not a defensible process. This Chamber spent a day, a little more than a day, debating renaming an airport, and we are spending 2 hours on deciding the future of this Presidency. That is unfair.

There should be an inquiry; we should move on. But it has to be fair, and what we are seeing today is not fair, it is not focused.

We have a report from Kenneth Starr. We should focus our inquiry on the report and any subsequent matters Ken Starr brings us.

We should have a target date of completion. We should aim to finish this by December 31. And if we cannot get it done, we can ask for an extension, and that can happen.

But the American people want this to be a fair process, and they are not stupid, and they recognize that this is not a fair process. The President may be punished, the President should be held accountable for his actions, but we have a duty, each and every person in this Chamber has a duty, to do that in a fair way.

And I think each of us has to examine our conscience and ask whether we want to have a wide-ranging fishing expedition or whether we want to focus it on the report that has been brought to us and any subsequent matters the special prosecutor brings to us. If we do that, I think we can do that on a bipartisan basis, and I think that will be fair, and that is what the American people want.

Mr. HYDE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California (Mr. DREIER).

Mr. DREIER. Mr. Speaker, this is obviously a very difficult time for every Member of this House.

I think it was said first by the gentleman from Illinois (Mr. HYDE): Duty, duty, duty. The gentleman from Wisconsin (Mr. BARRETT) just talked about our duty. But I think, over and above our duty, I think it is important for us to recognize the words of the gentleman from Pennsylvania (Mr. MCHALE) who talked about the importance of the rule of law. That really is why we are here.

Over the past several weeks and months a number of us have dusted off our copies of the Federalist Papers, John Jay, Alexander Hamilton, James Madison—James Madison being the author, the father of the Constitution. Towards the end of the 51st Federalist, James Madison puts it perfectly as we look at the challenge that we face today. He said:

> Justice is the end of government. It is the end of civil society. It ever has been and ever will be pursued until it be obtained or until liberty be lost in the pursuit.

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that on the motion to recommit we be granted 5 minutes on each side for the purpose of comments and for the purpose of debate.

The SPEAKER. Has the gentleman from Illinois yielded to the gentleman from Michigan for the purpose of that request?

Mr. HYDE. Yes, Mr. Speaker. I think 5 minutes on each side on the motion to recommit is justifiable, and I support the gentleman in his request.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. CONYERS. Mr. Speaker, I yield 1½ minutes to the gentleman from New Jersey (Mr. ROTHMAN), an able member of the Committee on the Judiciary.

Mr. ROTHMAN. Mr. Speaker, after 4½ years investigation of nearly every aspect of President Clinton's public and private life, Independent Counsel Ken Starr presented the House with 11 allegations of impeachment, all relating only to the President's misconduct with Monica Lewinsky. The Democrats say that these are serious allegations and that we should resolve these 11 charges by the end of this year and let the chips fall where they may. The Republicans say that they will not be limited to the 4½ year investigation by Mr. Starr. They feel that Mr. Starr was too light on President Clinton, and so they want an impeachment inquiry not only limited to Mr. Starr's charges regarding Miss Lewinski, but any other charges anyone can come up with on any subject at any time and with no time limit. And they want the American people to pay for it.

Mr. Speaker, I believe the Republican bill is unfair, it is unfair to the President, it is unfair to our country, and it is not in our national interest. We already know that what the President did was wrong, It was morally wrong, and now we need to decide what is an appropriate punishment for his offenses.

But let us reject the open-ended Republican inquiry. Let us instead follow the democratic model and resolve the 11 charges that Mr. Starr actually brought to us and do so before the end of the year so that we can get together as a Nation and address the serious and important other issues that face us here at home and around the world.

Mr. HYDE. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. CHABOT), a member of the committee.

Mr. CHABOT. Mr. Speaker, I rise in support of the resolution.

Our responsibility today is to determine if the evidence we have examined thus far warrants further investigation by the Committee on the Judiciary. We do not sit in judgment today. We are not here to convict or punish or sentence today. We are here to seek the truth.

To fulfill our constitutional duty we must determine if the evidence presented to date strongly suggests wrongdoing by the President and if the alleged wrongdoing likely rises to the level of an impeachable offense; that is, a high crime or misdemeanor. I would submit that strong evidence exists that the President may have committed perjury and the historic record demonstrates that perjury can be an impeachable offense.

Based on the facts and on the law, this House has a constitutional duty to proceed to a formal inquiry.

Mr. Speaker, I think I speak for most of my colleagues when I say that this is not a matter to be taken lightly. Rarely in one's political life is one forced to confront such an awesome and historic responsibility. It is my sincere hope that we can work together as the Founding Fathers envisioned, in a bipartisan fashion, to complete this task as expeditiously as possible and to do what is in the best interests of the country.

I would urge my colleagues on both sides of the aisle to rise above the partisan fires that too often burn in our Nation's capital. Consider the facts at hand and fulfill our constitutional responsibilities by moving forward with a fair and thorough investigation of this important matter.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. LOFGREN), a member of the Committee on the Judiciary who has worked tirelessly on crafting a middle course for the Members of the House of Representatives.

Ms. LOFGREN. Mr. Speaker, many of us have labored very hard to craft a plan that would allow us to deal with the referral of the independent counsel in a way that is focused, in a way that is fair, in a way that is prompt and efficient, and, most of all, in a way that puts our Constitution first. I am very distressed to say that I do not see that that is going to happen today in this chamber.

Mr. Speaker, I fear what Alexander Hamilton warned against in Federalist Paper Number 65, that "there will always be the greatest danger that the decision will be regulated more by the comparative strength of parties than by the real demonstrations of innocence or guilt." That prophecy, that fear, is about to be realized. I believe that the majority has used its raw voting power to create a proposal that could result in a wide-ranging and lengthy impeachment inquiry. The Committee on the Judiciary may become the standing committee on impeachments. And I further fear that the rules in the Constitution may never be applied to the referral that has been sent to us. Even worse, we may end up—as happened Monday—with the majority counsel creating entirely new standards for high crimes and misdemeanors, which will have a very serious distorting effect on our constitutional system of government.

□ 1145

When we are lost, the best thing for us to do is to look to our Constitution as a beacon of light and a guideline to get us through trying times. Historically, impeachment was to be used when the misconduct of the executive was so severe that it threatened the very constitutional system of government itself. Ben Franklin described it as the alternative to assassination. It is that standard that needs to be applied in this case.

The question is not whether the President's misconduct was bad. We all know that the President's misconduct was bad. The question is, are we going to punish America instead of him for his misconduct? Are we going to trash our Constitution because of his misconduct? Are we going to make sure that this investigation goes on interminably while we ignore economic crises, or the needs of our students for education?

I fear that we are letting down our country. Twenty-four years ago, as an idealistic student, I watched this body rise to the occasion. Twenty-four years ago, as an idealistic student, I worked on the staff of a member of the Judiciary Committee, and I saw the committee, and I saw this Congress do a very hard thing: come together, become nonpartisan, and do a tough job for America.

I am very concerned that, instead of rising to this occasion today, we are falling down and lowering ourselves and America with it. I urge the adoption of the Boucher amendment.

Mr. HYDE. Mr. Speaker, I am pleased to yield 1 minute to the distinguished gentlewoman from Florida (Ms. ROS-LEHTINEN).

Ms. ROS-LEHTINEN. Mr. Speaker, our laws promise a remedy against sexual harassment. But if we say that lying about sex in court is acceptable or even expected, then we have made our sexual harassment laws nothing more than a false promise, a fraud upon our society, upon our legal system, and upon women.

Lying under oath and obstruction of justice are ancient crimes of great weight because they shield other offenses, blocking the light of truth in human affairs. There they are a dagger in the heart of our legal system and our democracy. They cannot and must not be tolerated.

The office of the presidency is due great respect, but the President is a citizen with the same duty to follow the laws as all other citizens. The world marvels that our President is not above the law, and my vote today helps assure that this rule continues.

With a commitment to the principles of the rule of law, which makes this country the beacon of hope for political refugees like myself throughout the world, I cast my vote in favor of the resolution to undertake an impeachment inquiry of the conduct of the President of the United States.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. DELAHUNT), my friend and a senior prosecutor.

Mr. DELAHUNT. Mr. Speaker, I am aware of the fact that there is limited time for this debate. I think that is, indeed, unfortunate, because I was going on to talk about how we have abdicated our constitutional duties to an unelected prosecutor, how we have released thousands of pages that none of us in good conscience can say that we have read.

We violated the sanctity of the Grand Jury so that we can arrive here today to launch an inquiry without an independent, adequate review of the allegations by this body, which is our constitutional mandate. Ken Starr is not the agent of the United States Congress. It is our responsibility.

I was going to go on and speak about the proposal put forth by the gentleman from Virginia (Mr. BOUCHER), one that would have addressed and would address all of the allegations raised in the Starr referral in a fair way and in an expeditious way without dragging this Nation through hearings that will be interminable in nature.

What it really means for this country, is all the President's, any President's, enemies have to do to commence an impeachment process is to name an independent counsel so that we can here just simply rubber stamp that independent counsel's conclusions.

I was going to speak about the letter that was referred to by the universally respected chairman of the committee and a gentleman whom I hold in high esteem, the gentleman from Illinois (Mr. HYDE), the letter where Mr. Starr is saying that he may make further referrals and keep this inquiry going on indefinitely. That is not a process, Mr. Speaker; it is a blank check. That is what I was going to talk about.

But out of deference to others that want to speak, I will conclude by saying, one hour to begin only the third impeachment inquiry in U.S. history is a travesty and a disgrace to this institution. I think that says it all, and besides, I am probably out of time.

Mr. HYDE. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Florida (Mr. MCCOLLUM), a distinguished member of the committee.

Mr. MCCOLLUM. Mr. Speaker, the question for us today is not whether or not the President committed impeachable offenses or whether or not we are here to impeach, the question is, do the allegations that have been presented to us by Kenneth Starr and his report merit further consideration?

Some would have us believe today that, even if all of those allegations were proven to be true, that the answer is no. They are wrong. The issue before us when we consider this matter is not Monica Lewinsky. The issue is not sex. The issue is not whether the President committed adultery or betrayed his wife.

The issue is did the President of the United States commit the felony crime of perjury by lying under oath in a deposition in a sexual harassment case. The issue is did the President of the United States commit the felony crime of perjury by lying under oath to a Grand Jury. The issue is did the President of the United States commit a felony crime of obstructing justice or the felony crime of witness tampering. If he did, are these high crimes and misdemeanors that deserve impeachment?

I would suggest that these are extraordinarily serious; that if the President of the United States is to be judged not to have committed a high crime and misdemeanor if the facts are proven, and we do not know that, that these things are true and he committed these crimes, but if he is judged not to have committed a high crime and misdemeanor for committing these other crimes of perjury, we will have determined that, indeed, he is no longer the legal officer at the highest panicle of this country.

Because to leave him sitting there is to undermine the very judicial system we have. It is to convey the message that perjury is okay, certainly at least perjury in certain matters and under certain circumstances. It is not okay. It is a very serious crime. Obstructing justice is. Witness tampering is.

One hundred fifteen people are serving in Federal prisons today who may be watching these proceedings today, serving in prison for perjury. Two judges have been impeached since I have been in Congress for nothing more than perjury, committing perjury as we call it.

What do we say in the future to all of those people who take the oath of office who say "I swear to tell the truth, the whole truth, and nothing but the truth?" What do we say to all of those people who swear to tell the truth, nothing but the truth, but the whole truth when they are witnesses in cases throughout this country, civil and criminal? What do we say to all of the people who we may judge in the future who may be judges or otherwise who come before us who commit perjury? Is it okay?

If we leave this President alone if he committed these crimes, then we have undermined our Constitution, and we have undermined our system of justice. This is serious. We need to investigate these allegations.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from California (Mr. FAZIO), the departing chair of our caucus.

Mr. FAZIO of California. Mr. Speaker, today's proceeding is of such great historical importance that it should be approached with a deep and abiding respect for the Congress, the Constitution, and the Presidency.

We had the opportunity to develop a fair and responsible process that would protect, not only the dignity of the office of the Presidency, but create a precedent worth following. But I believe the Republican majority has squandered that, and, by doing so, has set in motion a process that is too much about partisanship and not enough about statesmanship.

The Republican proposal offers no limits on how long this partisan inquiry will go on nor on how long independent counsel Ken Starr can drag up issues that he has had 4 years to bring to this House. Sadly, there has been no willingness to limit the duration or scope of this resolution.

The Republican proposal moves ahead with an impeachment inquiry before the Committee on the Judiciary has even conducted a review of the facts and determined whether those facts constitute substantial and credible evidence. It lowers the threshold for which a President can be harassed and persecuted to the point of distraction from his constitutional duties.

From now on, any Congress dissatisfied with the policies of a particular administration or the personal behavior of any President could simply conduct an ongoing, costly, and distracting inquiry designed to dilute the authority of the Presidency.

After this election, when rational behavior returns, and cooler heads can prevail, I urge us to forge a way to rise above the nasty politics that have clouded this body.

I will not be here with those of you who return to this next Congress. I leave after 20 years with my self-respect intact. I have reached across the lines within my own party and, when necessary, across the aisle to the other party to make this House work and to get things done for this country.

I fought partisan battles. I have stood my ground on issues that matter to my district. The American people expect us to do that. But they also expect us to, each of us, to rise above the base political instincts that drive such a wedge through this institution.

In the months ahead, we must find a way, my friends, to do what is right for America to find a way to return this House to the people through a respect for law, for fairness, and due process. In the end, we must do a lot better than we will do today.

Mr. HYDE. Mr. Speaker, I am very pleased to yield 2½ minutes to the gentleman from Georgia (Mr. BARR), a distinguished member of the committee.

Mr. Speaker, will the gentleman yield to me very briefly?

Mr. BARR of Georgia. I am happy to yield to the gentleman from Illinois (Mr. HYDE), the distinguished chairman of the Committee on the Judiciary.

Mr. HYDE. Mr. Speaker, I just want the record to be clear. My good friend the gentleman from Massachusetts

(Mr. DELAHUNT) talked about 60,000 pages that were released that were not reviewed or looked at.

I want him to know, and I want everyone listening to know that every single page of anything that was released was reviewed, and things that were not released were reviewed by our staff.

I also would like to point out that total time spent looking at these records by the Democrats, members of the Committee on the Judiciary on the Democrat side, were 21.81 hours. Six of them never came over to see the material. On the Republican side, 114.59 hours, and every Member came over to look at the material.

Mr. CONYERS. Mr. Speaker, will the gentleman yield to me?

Mr. HYDE. Mr. Speaker, I will give the gentleman from Georgia additional time.

Mr. BARR of Georgia. I yield to the gentleman from Michigan (Mr. CONYERS), the distinguished ranking member.

Mr. CONYERS. Mr. Speaker, I thank the gentleman from Illinois (Mr. HYDE). That really contributes to the comity of this body, and I am sure it is an interesting statistic that everybody ought to know about.

Mr. BARR of Georgia. Mr. Speaker, reclaiming my time, I yield to the gentleman from Illinois (Mr. HYDE), the distinguished chairman of the committee.

Mr. HYDE. Mr. Speaker, I just want to say to my friend that when the gentleman from Massachusetts (Mr. DELAHUNT) says this has been done careless or in a slipshod manner not reviewing these things, it is important to know we took our job seriously. They were there to be reviewed. If my colleagues did not choose to do it, that is their option.

Mr. CONYERS. Thank you, Mr. HYDE.

Mr. HYDE. You are welcome, Mr. CONYERS.

Mr. BARR of Georgia. Mr. Speaker, might I inquire of the gentleman from Illinois (Mr. HYDE), the distinguished chairman of the committee, if I have, in fact, 2 minutes remaining?

Mr. HYDE. Mr. Speaker, the gentleman has every reason to inquire, and I would like to give the gentleman from Georgia (Mr. BARR) a total of 3 minutes for his generosity.

Mr. BARR of Georgia. Mr. Speaker, as the United States Attorney appointed by President Reagan, when a case was presented to me, I started at the beginning. I would look and see what the law says, and I would look and see what the history of that law said.

Here we have similarly to look at the Constitution. It is pretty clear. What makes it even clearer, though, Mr. Speaker, is if we look at the sources for Article II Section 4, which is the impeachment power, we find, for example, Mr. Speaker, that, according to the Federalist writings 211 years ago, that an impeachable offense is, quote, "Any abuse of the great trust reposed in the President."

□ 1200

Moreover, they tell us, as Federalist 65 did, written by that great constitutional scholar Alexander Hamilton, an impeachable offense is a "violation of public trust."

I did not stop there, Mr. Speaker. I looked at further constitutional scholars. I find that 24 years ago, no less a constitutional scholar than William Jefferson Clinton, defined an impeachable offense as, "willful, reckless behavior in office."

I did not stop there. I looked at a report coauthored by Hillary Rodham, part of the impeachment team in the Watergate years, and I find that at page 26 of their report, she and others of her colleagues define an impeachable offense as "wrongs that undermine the integrity of office."

Where are we now, Mr. Speaker? The step we are taking today is one I first urged nearly a year ago. All we are doing today is taking the constitutionally equivalent step of impaneling a grand jury to inquire into whether or not the evidence shall sustain that offenses have, in fact, occurred.

The passage of H.R. 581 will mark the dawn of a new era in American government. We are sending the American people a clear message, that truth is more important than partisanship, and that the Constitution cannot be sacrificed on the altar of political expediency; that no longer will we turn a blind eye to clear evidence of obstruction of justice, perjury and abuse of power. We will be sending a message to this and all future Presidents that if, in fact, the evidence establishes that you or any future President have committed perjury, obstruction of justice, subversion of our judicial system, that we will be saying, no, sir, Mr. President, these things you cannot do.

It is our job as legislators to diagnose threats to our democracy and eliminate them. By the time the damage to our system is so great that everyone can see it, the wounds will be too deep to heal. We have already waited too long to address this issue. We must move forward quickly, courageously, fairly, and most importantly, constitutionally, along the one and the one and only path charted for us in the Constitution, the impeachment process.

We must do this, Mr. Speaker, so that tomorrow morning as we in this Chamber, as teachers all across America, lead their students in the pledge of allegiance, we can look America in the eye and say, yes, at least for today the Constitution is alive and well.

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

I think it is very important for the record and for the American people to know that yes, the staff worked hard; the staff, the majority staff and the minority staff, to review 60,000 and some odd pages. But let me suggest that no Member in this House, no member in this committee in good conscience can stand here in this well today and state that he or she adequately reviewed that testimony before its release.

And this is a responsibility mandated by the Constitution to Members, not to staff, and that is what this is about today. This is not about defending the President, this is about defending the Constitution of the United States.

Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Speaker, the decision of the Republicans to limit the debate on this very important resolution to decide whether this body will move with an inquiry to impeach is a continuation of the partisan, unfair, inconsiderate actions that have dictated the management of this impeachment crisis since independent counsel Ken Starr dumped his referral in the laps of this Congress and in the laps of the public. This continuous, shameless and reckless disregard for the Constitution, basic civil rights and the citizens of this country cannot be tolerated.

This is a sad and painful time for all of us. The least we can do is handle this matter with dignity and fairness for everyone involved. Four and one-half years, $40 million. Unnecessary. Subpoenas of uninvolved individuals, and Mr. Starr's close relationships with groups and individuals, with demonstrated hatred for the President, taints the independent counsel's investigation.

This Congress does not need a protracted, open-ended witch-hunt of intimidation, embarrassment and harassment. The tawdry and trashy thousands of pages of hearsay, accusations, gossip, and stupid telephone chatter does not meet the standard of high crimes and misdemeanors.

The President's actions in this matter are disappointing and unacceptable, but not impeachable. Mr. Schippers, the general counsel for the Republicans, extended the allegations in search of something, anything that may meet the constitutional standards, and even the extended and added allegations do not comport with the Constitution.

It is time to move on. Reprimand the President, condemn him, but let us move on. These grossly unfair procedures will only tear this Congress and this Nation apart. I ask my colleagues to vote down this open-ended and unfair resolution. It does not deserve the support of this House.

Mr. Speaker, the Members of the Congressional Black Caucus have constantly warned this body about the

dangers of a prosecutor run amok. They have warned this body about the abuse of the power of the majority. We ask our colleagues to listen to us as we remind our colleagues of the history of our people who have struggled against injustice and unfairness. Let us not march backwards; let us be wise enough to move forward and spend our precious time working on the issues of education, health care, senior citizens, children, and in the final analysis, Mr. Speaker, justice, and opportunity for all Americans.

Mr. HYDE. Mr. Speaker, I would like to inquire as to the time remaining on both sides.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. HYDE) has 33½ minutes; the gentleman from Massachusetts (Mr. DELAHUNT) as 34½ minutes.

Mr. HYDE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from South Carolina (Mr. INGLIS), a valued member of the committee.

Mr. INGLIS of South Carolina. Mr. Speaker, we are now engaged in a constitutional process that is about the search for truth. I believe that we should do that in a fair and expeditious way, completely disregarding polls, completely disregarding the pendency of an election on November 3, and answering the question that our colleague from California just asked about whether it is appropriate just to move along.

Of course, we do want to move along to important issues facing the country. We do want to restore freedom in health care, we do want to secure the future of Medicare and Social Security, and we do want to continue the progress toward balancing the budget. All of those things we want to do.

But I would ask my colleagues to consider this. Really, this is the crucial business of the country. This is the crucial business.

As we go into the next century, the question is, does the truth even matter. Now, some would say, let us move along, it does not matter, just move along. But if we move along, what we are leaving aside is serious allegations of serious crimes.

Just this week one of my staffers was on her way over here with a staff member of one of our colleagues, the gentleman from Louisiana (Mr. COOKSEY). An accident occurred, occurred on a bicycle, struck this young lady, not my staffer, but the other staffer. She was hurt. Now, she has two duties as a citizen. One is to testify, to be a witness, to come forward; and the second is to testify truthfully when called on, if necessary, in court.

Now, what shall we say to her if we are going to just move along and say that the potential of the crime of perjury just does not matter, then what of that small case in a court here in D.C.? We say to that case, well, it is not necessary to tell the truth in court, and it is not necessary to testify, I suppose. But we must say, if we are going to preserve the rule of law in this Nation, that it does matter, and that when that young staffer is called on to testify, if she must, she must testify, and then she must tell the truth.

This is the essential work of this Congress and of this Nation.

Mr. DELAHUNT. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from North Carolina (Mr. WATT), and a distinguished member of the Committee on the Judiciary.

Mr. WATT of North Carolina. Mr. Speaker, as members of the Committee on the Judiciary, we have had the opportunity to indicate our willingness to engage in a process that is fair, measuring the President's conduct against a constitutional standard, not a bicycle standard; focused on what the independent counsel has referred or might refer to us; and timely, one that sets an objective to conclude this matter and put it behind us.

We have also had the opportunity to listen to our colleagues on the Committee on the Judiciary who want to engage in an unfair and open-ended, partisan political fishing expedition, dealing with bicycles rather than constitutional standards, some of whom have already gone on television and already declared their conclusion in this matter before a trial even begins.

We have had our opportunity.

Mr. Speaker, I would like to yield the balance of my time to a nonmember of the Committee on the Judiciary, my good colleague from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, I am deeply disappointed that the Republican leadership has placed an incredibly unfair gag rule on a constitutional debate of historic proportions. If this gag rule is the first test of the Republicans' fairness in this inquiry, they have failed that test.

The most important issue today, Mr. Speaker, before us is not the November 3 elections, or even the fate of President Clinton. The most important issue before us is the historical precedent we set in beginning the process of undoing an election for the most important office of our land. The right to vote is the foundation of our entire democracy. To override the votes of millions of Americans in a Presidential election is an extraordinary action. It is a radical action, and, in effect, it is allowing the votes of 535 citizens to override the votes of tens of millions of citizens.

In its rush to begin an impeachment inquiry just days before a crucial election, this Congress will have lowered the threshold for future Presidential impeachment inquiries in such a way that compromises the independence of the Presidency as a coequal branch of government.

The truth is the Committee on the Judiciary has not even had 1 day, not even 1 hour of hearings on our Founding Fathers' original intent about the threshold for impeachment. I find it ironic that the very Republicans who have preached all year long that we should impeach Federal judges for not abiding by our Founding Fathers' constitutional intentions have now decided we can start an historic constitutional process without even 1 hour of hearings. How ironic that those same Republicans will today force us to vote on a truly historic constitutional issue without even 1 hour, 1 day of hearings on our Founding Fathers' intent about high crimes and misdemeanors.

To begin a formal impeachment inquiry after only a cursory review of the Independent Counsel's report, in light of a standard that has not been defined, within the context of a pending congressional election weeks away, at the very least undermines the credibility of this House on this important issue, and at the very worst has set an historical precedent that we can easily begin the process of undoing the freely exercised votes of millions of Americans.

To even begin this radical process without the greatest of deliberation, regardless of one's final vote, is in itself, in my opinion, an attack upon the very core of our democracy.

□ 1215

Mr. HYDE. Mr. Speaker, I am very pleased to yield 2 minutes to the distinguished gentleman from Tennessee (Mr. BRYANT), a member of our committee.

Mr. BRYANT. Mr. Speaker, I want to remind our colleagues that we are not voting on impeachment today. We are here today simply to uphold our constitutional obligation to look further into the allegations of wrongdoing against this president, and not to look away.

We seem to all agree that the President's conduct was wrong, and we seem to now agree that we must continue this process toward finding the truth. But this is not about keeping political score. It is not about allowing the President to dictate the terms of this process. We are here protecting our Constitution, which we have a duty to uphold. So let us complete our task fairly and expeditiously.

I must respectfully disagree with my good friend and colleague, the gentleman from Virginia (Mr. BOUCHER) and his alternative to this. Now is not the time to set arbitrary time limits, because, as we have learned before, that encourages stonewalling. We can actually get this done quicker, as the chairman said, without time limits. Now is not the time to consider possibly piecemealing allegations. Let us get all this done, get all this behind us, and move forward.

As part and parcel of that, our responsibility to the American people is

to be fair throughout this process. It is an elementary principle of this fairness that the President should not be allowed to limit or direct or influence the process that Congress uses to investigate these allegations.

At the end of the day, our Constitution will still stand as a pillar of our Nation. It will and it should, fittingly, outlast any person, whomever it might be, who has the great privilege of serving in the office of the presidency.

Mr. DELAHUNT. Mr. Speaker, I yield 10 seconds to the gentleman from New York (Mr. ACKERMAN).

MOTION OFFERED BY MR. ACKERMAN

Mr. ACKERMAN. Mr. Speaker, I move that when the House adjourn, we do so to Salem, a quaint village in the Commonwealth of Massachusetts, whose history beckons us thence.

The SPEAKER. That is not a proper motion, the Chair would say to the gentleman from New York.

Mr. DELAHUNT. Mr. Speaker, I yield 2 minutes to my friend and colleague, the gentleman from Massachusetts (Mr. MEEHAN), whose district I do not think includes the town of Salem.

Mr. MEEHAN. Mr. Speaker, this debate is as important for what it is not about as for what it is about. It is not about whether to conduct an inquiry. Both the Democratic and Republican resolutions would initiate an inquiry. It is not about who has been more faithful to the Watergate precedent. Neither side is pure on that subject.

What this debate is about is whether the Committee on the Judiciary will take up Whitewater, Travelgate, and Filegate, without a shred of paper from the Independent Counsel on this subject. It is about whether the committee will commence a fullscale impeachment hearing without asking itself, as a threshold matter, whether even Ken Starr's best case compels impeachment.

If Members can somehow convince themselves that after 4½ years and nearly $50 million in taxpayers' money, that Ken Starr has been less than aggressive in pursuing Whitewater, Travelgate, and Filegate, then Members should vote for the Republican resolution which authorizes the Committee on the Judiciary to take them up even without a referral from Kenneth Starr.

If Members believe that the committee should avoid the question of whether even Ken Starr's best case compels impeachment, and, instead, plunge blindly into a month-long evidentiary fiasco, then they should vote for the Republican resolution.

How is it in our Nation's best interest to initiate an impeachment inquiry which willfully blinds itself to the numerous constitutional scholars that say that even Ken Starr's best case does not compel impeachment? At this time of global political and economic turmoil, it is in our Nation's interest to deal with the Lewinsky matter fairly and expeditiously. Only the Democratic alternative would do that.

So please, let us put the national interest above partisanship. I ask Members to vote their conscience, vote for the Democratic alternative, and against the Republican resolution.

Mr. HYDE. Mr. Speaker, I am pleased to yield 1½ minutes to the distinguished gentleman from Ohio (Mr. DENNIS KUCINICH).

Mr. KUCINICH. Mr. Speaker, I rise today not on behalf of Democrats or Republicans, but as an American who is deeply concerned that our country bring closure to the charges against the President. A vote for an inquiry is not the same as a vote for impeachment. This vote is neither a vote to impeach nor a license to conduct a partisan witchhunt.

In fact, some have called for impeachment without a hearing. Some have called for resignation without a hearing. Some have called for exoneration without a hearing. I believe there will be no resolution without an open hearing. There will be no accountability without an open hearing. There will be no closure for this country, for this Congress, or for our president, without an open hearing.

The Nation is divided. The House is divided. A House divided against itself will not stand, so if inquire we must, let us do it fairly, and in the words of Lincoln, with malice towards none, with charity towards all, because there will be an inquiry. The American people expect it to proceed fairly, expeditiously, and then they expect it to end. The people want us to get this over with, and they will be watching.

Let the President make his case. Give him a chance to clear his name and get back to his job. Bring everything out in the open. Bring forward the accusers and subject them to the light of day, settle this, and then move forward to do the business of the people, the business for which the people elected us: to further economic growth, to protect social security, to improve health care, and to meet all the other pressing needs of the American people.

Mr. CONYERS. Mr. Speaker, it is my pleasure to yield 1 minute to the gentleman from Maine (Mr. ALLEN).

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

Mr. Speaker, this is a solemn moment, but as theater, it is overdone. It is overdone because this vote is not about whether or not we should have an impeachment inquiry. Both resolutions call for such an inquiry, so we will have one. This vote is about what kind of impeachment inquiry we will conduct. That question is important.

The majority wants an open-ended impeachment inquiry with no limits on its scope or duration. Under their plan, the Committee on the Judiciary can investigate anything and everything it wants for 6 months, a year, or even longer. I believe their plan will inflame partisanship, and if prolonged, weaken the institution of the presidency and this country.

This is not Watergate. That committee conducted a factual inquiry. We have piles of facts from the special prosecutor. Our task is to find an appropriate consequence for behavior we know is wrong. Our alternative will provide for thorough consideration of the Starr alternative, of the Starr referral, by December 31, 1998. What is wrong with that?

I urge my colleagues to oppose an inquiry resolution that does not say when it will end or what it will cover, and instead, support the focused, fair, and expeditious Democratic alternative.

Mr. HYDE. Mr. Speaker, I am pleased to yield 2 minutes to the distinguished gentleman from Missouri (Mr. KENNY HULSHOF).

Mr. HULSHOF. Mr. Speaker, last night I addressed this body and urged my colleagues to please avoid partisan wrangling. Today I implore the Members of this body to recognize the historical gravity of the moment. Today is not the day to condemn the process or the prosecutor. Today is not the day for talking points or pointing fingers.

Mr. Speaker, in this debate, let us pledge not our loyalty to our party, let us pledge allegiance to our country. Let us not be partisans. Instead, let us be patriots.

I, too, am concerned about the open-ended nature of the investigation. I believe each one of us would fervently wish this cup would pass us by, but I have faith in the integrity and ability of the gentleman from Illinois (Mr. HYDE), and when he says this process will be handled fairly and expeditiously, I think his word deserves great weight in this body.

So the question I have for the Members is simply this: Is it possible, is it possible, that there is credible evidence that exists that would constitute grounds for an impeachment? If Members' answer is a solemn yes, then vote in favor of the resolution.

But I submit, even if Members' answer is an equivocal "I do not know," then I think that the judgment of the doubt, the benefit of the doubt, must go in favor of the resolution.

Mr. Speaker, last January I was privileged to enter this Chamber for the first time, my family proudly beaming from the House gallery as I rose in unison with the Members of this body to take an oath. I pledged my sacred honor to the Constitution of the United States. That is what this vote is about.

In my humble and considered opinion, that oath requires from me a vote of aye on the resolution.

Mr. CONYERS. Mr. Speaker, it is my pleasure to yield 2 minutes to the able gentleman from New York (Mr. CHARLES RANGEL).

Mr. RANGEL. Mr. Speaker, I had the privilege of serving on the Watergate Committee on the Judiciary. One difference then, as opposed to now, is that we worked together as Republicans and Democrats to search for the facts and to report to the House of Representatives for them to make a determination.

Now, we do not have any question of trying to impeach the President of the United States or protecting the integrity of the Congress or the Constitution. The Republicans do not want to impeach, and would not touch it with a 10-foot political pole. They know at the end of this year that this Congress is over, and they even want to carry this over for the next 2 years, to attempt to hound this president, who has been elected twice, out of office.

The reason for it is because it is the only thing they have to take to the American people before this election. What else are they going to take? Their legislative record? The fact that they have renamed National Airport after Ronald Reagan, that they have deep-sixed the tax code to the year 2002?

On the question of social security, what have they done? Tried to rape the reserve. What have they done as it relates to minimum wage and providing jobs? What have they done for education? What have they done for the health of the people in this Nation?

They are not just going to get elected by hounding the President of the United States, because as they judge the President of the United States, the voters will be judging them on November 3.

Mr. HYDE. Mr. Speaker, I am very pleased to yield 1 minute to the distinguished gentleman from California (Mr. CHRIS COX).

Mr. COX of California. Mr. Speaker, I thank the chairman for yielding time to me.

Mr. Speaker, a member of the minority stated during the debate that the decision to limit the debate to 2 hours on this resolution is partisan. In allocating 2 hours for debate on a resolution authorizing an inquiry of impeachment, the Congress is adhering to precedent, the precedents established by the House of Representatives when it was under Democratic control. It is in fact doubling the amount of time that was spent in debate on the identical resolution in February, 1974.

Likewise, the wording of the resolution adheres directly to precedent. The minority argues today that an impeachment inquiry should be narrowly limited to the evidence we already know, but on February 6, 1974, when the Democrats were in the majority, Committee on the Judiciary Chairman Rodino stated: "To be locked into . . . a date (for completion of the inquiry) would be totally irresponsible and unwise." The inquiry, he said, must be "thorough, so that we can make a fair and responsible judgment."

The resolution does, as it must, follow precedent. We, in undertaking this solemn constitutional duty, must follow precedent. A vote for the resolution is a vote for a fair, full, and complete inquiry today, just as in 1974.

□ 1230

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Mr. Speaker, today I will cast the most important vote of my whole time here in the United States Congress. And if we are not going to listen to each other, then I would like us to listen to the eminent scholar, Lawrence Tribe, on what we are doing today.

He said that, "Today this Congress is twisting impeachment into something else, instead of keeping it within its historical boundaries, and our Nation and its form of government are imperiled as a result." He went on to say that, "Today we are losing sight of the constitutional wreckage that this vote will cause as we lay down historical precedent that a President of the United States can be impeached for something other than official misconduct as President of the United States."

Mr. HYDE. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky (Mr. BUNNING).

Mr. BUNNING. Mr. Speaker, I rise in support of the resolution.

Except for declaring war, impeachment is the most serious and sobering issue that the House can consider. The question before us today demands that we act out of statesmanship and not raw, political partisanship. Our history and our Constitution demand the best for us.

I have read the referral to the House from the Independent Counsel, Ken Starr, and I believe there is enough evidence to warrant further inquiry by the Judiciary Committee.

The Judiciary Committee's review of the evidence accumulated by the Independent Counsel indicates that there exists substantial and credible evidence of fifteen separate events directly involving the President that constitute grounds to proceed with an impeachment inquiry. The charges are troubling—perjury, obstruction of justice, witness tampering, and abuse of power. They are not simply about extra-marital affairs, or making misleading statements. Instead, the allegations touch more profoundly upon claims of criminal conduct.

I do not know if all of the allegations in the Starr report are true and factual. But, the charges are serious and some of the claims made against the President are compelling. However, the report represents only one side of the story, and the President deserves the right to exonerate himself before the Judiciary Committee, the full House and the American people.

Our Constitution and historical precedent set out a procedure to follow in proceedings such as this, and I believe we must strictly follow the letter of the law. Impeachment is a grave matter, and at this crucial moment in our history we must not rush to judgment.

The inquiry by the Judiciary Committee must be orderly, and judicious. But, it must also be expeditious. While I do not think that an arbitrary deadline should be imposed on the panel, for the good of the country I believe it is incumbent upon the Committee to work with all deliberate speed in order to conclude this matter as soon and as fairly as possible. Chairman Hyde's goal of the Committee concluding its work by the end of the year is fair and reasonable.

By the same token, I also believe that the President has a duty to work with, and not against, the Judiciary Committee to speedily resolve this matter. The sooner we can conclude these proceedings, the better it will be for the country. Now is not the time for further foot-dragging and delay by anyone.

I believe the President was right yesterday when he said members of the House should cast "a vote of principle and conscience" on authorizing the impeachment inquiry. I agree. Of all the votes cast in this Congress, this should be one of integrity and honor.

Mr. HYDE. Mr. Speaker, I yield 2½ minutes to the gentleman from Texas (Mr. DELAY), the distinguished whip.

Mr. DELAY. Mr. Speaker, I thank the gentleman from Illinois (Chairman HYDE) for yielding me this time.

Mr. Speaker, I do not want to be here today. I wish I could just ignore all of this and make it go away. But I have a responsibility to answer a question today and that question is: How will history judge our actions that we take today?

I believe that this Nation sits at a crossroad. One direction points to the high road of the rule of law. Sometimes hard, sometimes unpleasant. This path relies on truth, justice, and the rigorous application of the principle that no man is above the law.

Now, the other road is the path of least resistance. This is where we start making exceptions to our laws based on poll numbers and spin control. This is when we pitch the law completely overboard when the mood fits us; when we ignore the facts in order to cover up the truth.

Shall we follow the rule of law and do our constitutional duty no matter how unpleasant, or shall we follow the path of least resistance, close our eyes to the potential law breaking, forgive and forget, move on, and tear an unfixable hole in our legal system?

No man is above the law and no man is below the law. That is the principle that we all hold dear in this country. The President has many responsibilities and many privileges. His chief responsibility is to uphold the laws of this land. He does not have the privilege to break the law.

The American system of government is built on the proposition that the President of the United States can be removed if he violates his oath of office. This resolution simply starts that

process of inquiry. Did the President break the law? And if he did, does that lawbreaking constitute an impeachable offense?

Closing our eyes to allegations of wrongdoing by voting "no," or by limiting scope or time, constitutes a breach of our responsibilities as Members of this House. So let history judge us as having done our duty to uphold that sacred rule of law.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the able gentleman from Pennsylvania (Mr. KANJORSKI).

Mr. KANJORSKI. Mr. Speaker, I rise in opposition to any impeachment inquiry.

Mr. Speaker, I rise today with a heavy heart. Today, for only the third time in our nation's history, the House will consider whether to initiate an impeachment inquiry against the President. I take my sworn constitutional duty and responsibility in this matter very seriously.

Over the last four weeks, I have reviewed the Starr report and other material submitted by his office. I have also listened to legal experts, constitutional scholars, and my constituents about the referral. I have further studied the origins and history of our Constitution's impeachment clause. After considerable deliberation, I have determined that there is no convincing reason to vote for an impeachment inquiry into the matters referred by the independent counsel based on the evidence that we have before us at this time.

Clearly, President Clinton behaved badly. He was wrong to engage in an inappropriate relationship with a young woman. He was wring to mislead the American people in his public statements, and he was wrong to provide misleading answers in judicial proceedings. For that wrong behavior the President should be reprimanded, but he should not be removed from office.

Our Constitution demands a higher standard for the Congress to undertake the extraordinary action of removing a duly-elected President. This Congress has not sufficiently considered what constitutes an impeachable offense. Before we irreparably damage our nation's delicate system of checks and balances among our three branches of government, it is imperative that we establish that standard in a fair, nonpartisan matter. The resolution we are considering today is not about whether the man who holds the highest elected office in the country engaged in an improper relationship and then tried to conceal it. Rather, this resolution is about the standard under which the Congress has the right to overturn the will of the people who elected the President of the United States.

IMPEACHMENT DEFINITION

Both the text of the Constitution and the comments of its authors place the bar for impeachment quite high, and mandate that Congress use the impeachment process to address only the gravest of wrongs. Specifically, Article II of the Constitution states that the President may be removed from office on impeachment for, and conviction of "treason, bribery or other high crimes and misdemeanors."

Because this phrase is often truncated and used out of context, it is necessary to carefully examine the writings and debates of the Constitution's authors. Fortunately, evidence of the phrase's meaning and development is extensive. One individual who can provide especially helpful guidance about the meaning of the term is George Mason, the man who proposed the language adopted by the Constitutional Convention. Mr. Mason noted that "Impeachment should be reserved for treason, bribery, and high crimes and misdemeanors where the President's actions are great and dangerous offenses or attempts to subvert the Constitution and the most extensive injustice."

Read in their entirety the writings of the Constitution's authors firmly imply that the bar for impeachment is extremely high, and that Congress should use it to address only those Presidential actions that threaten the stability of our democracy. Moreover, the debate over the Constitution indicates that the Founders clearly intended that "other high crimes and misdemeanors" had to be crimes and actions against the state on the same level of magnitude as treason and bribery.

We can also look to precedent when seeking to understand the definition of impeachment and whether the actions of a President in his private life rise to the level of "high crimes and misdemeanors." In 1974, the House Judiciary Committee considered substantial evidence that Richard Nixon committed tax fraud during his presidency. Although the evidence overwhelmingly indicated that President Nixon had committed such fraud, the panel concluded by a bipartisan vote of 26 to 12 that personal misconduct is not an impeachable offense. Further, the Supreme Court has ruled that other remedies exist for addressing Presidential wrongdoing, including civil lawsuits and criminal prosecutions.

Finally, it is important to note that the Founders included impeachment as a constitutional remedy because they worried about Presidential tyranny and gross abuse of power. They did not intend impeachment or the threat of its use to serve as a device for denouncing the President's private actions. Instead, they left punishment for improper private Presidential conduct to public opinion, the political process, and judicial proceedings. I support the Framers' wise counsel on impeachment. The consideration of whether to overturn a decision of the electorate should only be undertaken in extreme situations. In short, Presidents ought not to be impeached for private conduct, however reprehensible.

POOR PRECEDENT

Beyond failing to meet the standard of impeachment envisioned by our Founders and strengthened by past practice, an impeachment inquiry into the matters recently referred by the independent counsel would create dangerous and undesirable precedents for the country in at last three significant ways. First, if this politically-inspired effort ultimately succeeds, it will tip the delicate system of checks and balances in favor of Congress. The result would be a parliamentary system whereby the party in power in Congress could impeach a President and a Vice President of another party for virtually any reason. Our Founders created a government with three separate, but equal branches of government. We should remember this fact today and not upset the balance of power they so sensibly established.

Second, as noted above, the House should vote to pursue an impeachment inquiry only if it has credible evidence of action constituting fundamental injuries to the governmental process. Assuming the facts presented by the independent counsel thus far to be true, the President's conduct does not rise to the level the Founders deemed impeachable because it was not "a serious abuse of power or a serious abuse of official duties." Furthermore, Congress has in more than 200 years never removed a President from office even though several Presidents have committed far more serious abuses. One must consequently ask whether this is where we want to set the bar for impeaching this and future Presidents. From my perspective it is not.

Finally, based on the facts of this referral, an impeachment inquiry would impose an extraordinary invasion of privacy. An impeachment inquiry on what is fundamentally a private matter will likely deter worthy contenders in both parties from running for political office—particularly the presiency—because they fear protracted, government-sponsored investigations into their past, current, and possibly future actions. Moreover, it could also provoke a move to impeach future Presidents every time that Congress thinks they may have made false statements.

THE SOLUTION

Like most Americans, I am personally disappointed with the President's acknowledged inappropriate personal behavior. Clearly, the President engaged in an improper relationship about which he did not want anyone to know. The President, as a result, was not forthcoming with the truth regarding this relationship, not only with the independent counsel and Congress, but also with his family and the American people. Ultimately, after months of personal turmoil the President admitted the affair, and suffered great humiliation and much public embarrassment, probably more than any other individual in our nation who has made similar mistakes.

The President's conduct was wrong and worthy of rebuke. Even if such personal behavior is not impeachable, as representatives of the people we must tell the President that his actions are not acceptable. We should, therefore, immediately consider some sort of censure against the President. Censure is a serious act that will certainly damage his standing in the public and lower his rank in history.

CONCLUSION

At the end of my prepared remarks, I will attach four excellent articles that further elaborate on the points I have made today. They include an analysis by noted constitutional scholar Cass Sunstein, thoughts by Robert F. Drinan and Wayne Owens who served as Democratic Members on the House Watergate panel, and a commentary by former Republican President Gerald R. Ford. The former President argues that instead of impeachment, the House should publicly censure the current President's behavior. I have also attached several recent statements about the Starr referral from some of the individuals integrally involved in Watergate all of whom conclude that this is vastly different form and less serious than Watergate.

Mr. Speaker, from my perspective Congress must swiftly resolve the matters referred by

the independent counsel. We need to admonish the President for his inappropriate personal behavior and quickly move forward and address the nation's real priorities. We also need to ensure that we rebuke the President, and not punish the nation. The American people should not have to suffer through what could be an unlimited Congressional inquiry into a tawdry, but hardly impeachable extramarital affair. This Congress should begin the process of healing the nation's wounds. We should also begin to forgive. For these reasons, I will oppose this impeachment inquiry.

[From the Washington Post, Oct. 4, 1998]

"IMPEACHMENT? THE FRAMERS WOULDN'T BUY IT"

(By Cass Sunstein)

We all now know that, under the Constitution, the president can be impeached for "Treason, Bribery, or other high Crimes and Misdemeanors." But what did the framers intend us to understand with these words? Evidence of the phrase's evolution is extensive—and it strongly suggests that, if we could solicit the views of the Constitution's authors, the current allegations against President Clinton would not be impeachable offenses.

When the framers met in Philadelphia during the stifling summer of 1787, they were seeking not only to design a new form of government, but to outline the responsibilities of the president who would head the new nation. They shared a commitment to disciplining public officials through a system of checks and balances. But they disagreed about the precise extent of presidential power and, in particular, about how, if at all, the president might be removed from office. If we judge by James Madison's characteristically detailed accounts of the debates, this question troubled and divided the members of the Constitutional Convention.

The initial draft of the Constitution took the form of resolutions presented before the 30-odd members on June 13. One read that the president could be impeached for "malpractice, or neglect of duty," and, on July 20, this provision provoked extensive debate. The notes of Madison, who was representing Virginia, show that three distinct positions dominated the day's discussion. One extreme view, represented by Roger Sherman of Connecticut, was that "the National Legislature should have the power to remove the Executive at pleasure." Charles Pinckney of South Carolina, Rufus King of Massachusetts and Gouvernor Morris of Pennsylvania opposed, with Pinckney arguing that the president "ought not to be impeachable whilst in office." The third position, which ultimately carried the day, was that the president should be impeachable, but only for a narrow category of abuses of the public trust.

It was George Mason of Virginia who took a lead role in promoting this more moderate course. He argued that it would be necessary to counter the risk that the president might obtain his office by corrupting his electors. "Shall that man be above" justice, he asked, "who can commit the most extensive injustice?" The possibility of the new president becoming a near-monarch led the key votes—above all, Morris—to agree that impeachment might be permitted for (in Morris's words) "corruption & some few other offences." Madison concurred, and Edmund Randolph of Virginia captured the emerging consensus, favoring impeachment on the grounds that the executive "will have great opportunitys of abusing his power; particularly in time of war when the military force, and in some respect the public money, will be in his hands." The clear trend of the discussion was toward allowing a narrow impeachment power by which the president could be removed only for gross abuses of public authority.

To Pinckney's continued protest that the separation of powers should be paramount, Morris argued that "no one would say that we ought to expose ourselves to the danger of seeing the first Magistrate in foreign pay without being able to guard against it by displacing him." At the same time, Morris insisted, "we should take care to provide some mode that will not make him dependent on the Legislature." Thus, led by Morris, the framers moved toward a position that would maintain the separation between president and Congress, but permit the president to be removed in extreme situations.

A fresh draft of the Constitution's impeachment clause, which emerged two weeks later on Aug. 6, permitted the president to be impeached, but only for treason, bribery and corruption (exemplified by the president's securing his office by unlawful means). With little additional debate, this provision was narrowed on Sept. 4 to "treason and bribery." But a short time later, the delegates took up the impeachment clause anew. Mason complained that the provision was too narrow, that "maladministration" should be added, so as to include "attempts to subvert the Constitution" that would not count as treason or bribery.

But Madison, the convention's most careful lawyer, insisted that the term "maladministration" was "so vague" that it would "be equivalent to a tenure during pleasure of the Senate," which is exactly what the framers were attempting to avoid. Hence, Mason withdrew "maladministration" and added the new terms "other high Crimes and Misdemeanors against the State"—later unanimously changed to, according to Madison, "against the United States" to "remove ambiguity." The phrase itself was taken from English law, where it referred to a category of distinctly political offenses against the state.

There is a further wrinkle in the clause's history. On Sept. 10, the entire Constitution was referred to the Committee on Style and Arrangement. When that committee's version appeared two days later, the words "against the United States" had been dropped, probably on the theory that they were redundant, although we have no direct evidence. It would be astonishing if this change were intended to have a substantive effect, for the committee had no authority to change the meaning of any provision, let alone the impeachment clause on which the framers had converged. The Constitution as a whole, including the impeachment provision, was signed by the delegates and offered to the nation on Sept. 17.

These debates support a narrow understanding of "high Crimes and Misdemeanors," founded on the central notions of bribery and treason. The early history tends in the same direction. The Virginia and Delaware constitutions, providing a background for the founders' work, generally allowed impeachment for acts "by which the safety of the State may be endangered." And consider the words of the highly respected (and later Supreme Court Justice) James Iredell, speaking in the North Carolina ratifying convention: "I suppose the only instances, in which the President would be liable to impeachment, would be where he had received a bribe, or had acted from some corrupt motive or other." By way of explanation, Iredell referred to a situation in which "the President has received a bribe . . . from a foreign power, and, under the influence of that bribe, had address enough with the Senate, by artifices and misrepresentations, to seduce their consent to a pernicious treaty."

James Wilson, a convention delegate from Pennsylvania, wrote similarly in his 1791 "Lectures on Law": "In the United States and in Pennsylvania, impeachments are confined to political characters, to political crimes and misdemeanors, and to political punishments." Another early commentator went so far as to say that "the legitimate causes of impeachment * * * can have reference only to public character, and official duty. * * * In general, those offenses, which may be committed equally by a private person, as a public officer, are not the subjects of impeachment."

This history casts new light on the famous 1970 statement of Gerald Ford, then a representative from Michigan, that a high crime and misdemeanor "is whatever a majority of the House of Representatives considers it to be." In a practical sense, of course, Ford was right; no court would review a decision to impeach. But in a constitutional sense, he was quite wrong; the framers were careful to circumscribe the power of the House of Representatives by sharply limiting the category of legitimately impeachable offenses.

The Constitution is not always read to mean what the founders intended it to mean, and Madison's notes hardly answer every question. But under any reasonable theory of constitutional interpretation, the current allegations against Clinton fall far short of the permissible grounds for removing a president from office. Of course, perjury and obstruction of justice could be impeachable offenses if they involved, for example, lies about unlawful manipulation of elections. It might even be possible to count as impeachable "corruption" the extraction of sexual favors in return for public benefits of some kind. But nothing of this kind has been alleged thus far. A decision to impeach President Clinton would not and should not be subject to judicial review. But for those who care about the Constitution's words, and the judgment of its authors, there is a good argument that it would nonetheless be unconstitutional.—Cass Sunstein, who teaches at the University of Chicago School of Law, is the author of "Legal Reasoning and Political Conflict" (Oxford University Press).

[From the New York Times, Oct. 1, 1998]

"AN EASY LINE TO DRAW"

(By Robert F. Drinan and Wayne Owens)

This is not the first time the House Judiciary Committee has been called on to determine whether actions of the President in his private life rise to the level of "high crimes and misdemeanors." In 1974, we were members of the House Judiciary Committee that considered evidence that Richard Nixon committed tax fraud while President. The panel concluded that personal misconduct is not an impeachable offense.

The evidence against President Nixon was convincing. He had claimed a $565,000 deduction on his taxes for the donation of his Vice Presidential papers, but the loophole that allowed the deduction was closed in 1969. The IRS concluded that the documents for the donation had been signed in 1970 and backdated. There was persuasive evidence that Nixon was personally involved in the decision, making him criminally liable for tax fraud.

But the committee decided by a vote of 26 to 12 that he should not be impeached for tax

fraud because it did not involve official conduct or abuse of Presidential powers.

As one of the committee's most partisan Democrats, Jerry Waldie, said, "Though I find the conduct of the President to have been shabby, to have been unacceptable, and to have been disgraceful even, this is not an abuse of power sufficient to warrant impeachment."

This bipartisan conclusion was made easier because the first order of business when the committee convened in 1974 was to discuss what the standards should be for impeachment. Without such standards, the impeachment process could become a partisan free-for-all.

The committee stipulated from the beginning that "because impeachment of a President is a grave step for the nation, it is predicted upon conduct seriously incompatible with either the constitutional form and principles of our government or the proper performance of constitutional duties of the Presidential office."

The current House Judiciary Committee would do well to "follow the precedents set in the Nixon hearings," as the chairman, Henry Hyde, recently pledged to do. If the panel applies the standard that emerged in 1974, it will decide that the charges against Clinton do not fall under the articles of impeachment.—Robert F. Drinan and Wayne Owens are former Democratic Representatives from, respectively, Massachusetts and Utah.

RECENT STATEMENTS COMPARING THE LEWINSKY MATTER TO WATERGATE BY INDIVIDUALS CLOSELY INVOLVED IN WATERGATE

"With Mr. Nixon, of course, you had really serious abuse of high office. He engaged in wiretapping of newsmen and government officials. He ordered break-ins—the staff did—of government institutions, and then there was a cover-up where there was clearly no question when you're paying hush money that you're seeking silence of those involved. So, the width and breadth of Watergate was much different than the single incident we have involved here."—John Dean (CNN, 9/11/98)

"The offenses being investigated are totally different. . . . In the aggregate, Watergate was serious, piece-by-piece subversion of presidential accountability to the Congress and public. Those are very wide differences from Whitewater and Monica Lewinsky."—Elliot Richardson (Associated Press, 9/10/98)

Asked if the Starr Report established grounds for impeachment, Ben-Veniste answered, "No, I don't. And I believe that the report itself is a flagrant and arrogant misuse of the power and the authority of an independent counsel. It had been reported that Mr. Starr was going to follow the example of the Watergate prosecutors in transmitting evidence as a statute permits him to do relating to his view of impeachable offenses. Instead, he has set himself up, not only as investigator and prosecutor, but as judge and jury and has had the arrogance to write articles of impeachment as to make an argument here, a prosecution argument for the removal of the President of the United States. This report has gone so far beyond what he was authorized to do that is has now merged Starr, the prosecutor, and Star the Supermarket tabloid."—Richard Ben-Veniste (Meet the Press, 9/13/98)

"I think we have to remember what the crimes in Watergate were. Watergate was about a vast and pervasive abuse of power by a President who ordered break-ins; who ordered fire bombings; who ordered illegal wiretappings; who ordered a squad of goons to thwart the constitutional electoral process. We've seen nothing like that here."—Carl Bernstein (CNN Saturday Morning News, 9/12/98)

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

"THE PATH BACK TO DIGNITY"

(By Gerald R. Ford)

GRAND RAPIDS, MICH.—Almost exactly 25 years have passed since Richard Nixon nominated me to replace the disgraced Spiro Agnew as Vice President. In the contentious days of autumn 1973, my confirmation was by no means assured. Indeed, a small group of House Democrats, led by Bella Abzug, risked a constitutional crisis in order to pursue their own agenda.

"We can get control and keep control," Ms. Abzug told the Speaker of the House, Carl Albert.

The group hoped, eventually, to replace Nixon himself with Mr. Albert.

The Speaker, true to form, refused to have anything to do with the scheme. And so on Dec. 6, 1973, the House voted 387 to 35 to confirm my nomination on accordance with the 25th Amendment to the Constitution.

When I succeeded to the Presidency, in August 1974, my immediate and overriding priority was to draw off the poison that had seeped into the nation's bloodstream during two years of scandal and sometimes ugly partisanship. Some Americans have yet to forgive me for pardoning my predecessor. In the days leading up to that hugely controversial action, I didn't take a poll for guidance, but I did say more than a few prayers. In the end I listened to only one voice, that of my conscience. I didn't issue the pardon for Nixon's sake, but for the country's.

A generation later, Americans once again confront the specter of impeachment. From the day, last January, when the Monica Lewinsky story first came to light, I have refrained publicly from making any substantive comments. I have done so because I haven't known enough of the facts—and because I know all too well that a President's responsibilities are, at the best of times, onerous. In common with the other former Presidents, I have had to wish to increase those burdens. Moreover, I resolved to say nothing unless my words added constructively to the national discussion.

This much now seems clear: whether or not President Clinton has broken any laws, he has broke faith with those who elected him. A leader of rare gifts, one who set out to change history by convincing the electorate that he and his party wore the mantle of individual responsibility and personal accountability, the President has since been forced to take refuge in legalistic evasions, while his defenders resort to the insulting mantra that "everybody does it."

The best evidence that everybody doesn't do it is the genuine outrage occasioned by the President's conduct and by the efforts of some White House surrogates to minimize its significance or savage his critics.

The question confronting us, then is not whether the President has done wrong, but rather, what is an appropriate form of punishment for his wrongdoing. A simple apology is inadequate, and a fine would trivialize his misconduct by treating it as a mere question of monetary restitution.

At the same time, the President is not the only one who stands before the bar of judgment. It has been said that Washington is a town of marble and mud. Often in these past few months it has seemed that we were all in danger of sinking into the mire.

Twenty-five years after leaving it, I still consider myself a man of the House. I never forget that my elevation to the Presidency came about through Congressional as well as constitutional mandate. My years in the White House were devoted to restoring public confidence in institutions of popular governance. Now as then, I care more about preserving respect for those institutions than I do about the fate of any individual temporarily entrusted with office.

This is why I think the time has come to pause and consider the long-term consequences of removing this President from office based on the evidence at hand. The President's hairsplitting legalisms, objectionable as they may be, are but the foretaste of a protracted and increasingly divisive debate over those deliberately imprecise words "high crimes and misdemeanors." The Framers, after all, dealt in eternal truths, not glossy deceit.

Moving with dispatch, the House Judiciary Committee should be able to conclude a preliminary inquiry into possible grounds for impeachment before the end of the year. Once that process is completed, and barring unexpected new revelations, the full House might then consider the following resolution to the crisis.

Each year it is customary for a President to journey down Pennsylvania Avenue and appear before a joint session of Congress to deliver his State of the Union address. One of the binding rituals of our democracy, it takes on added grandeur from its surroundings—there, in that chamber where so much of the American story has been written, and where the ghosts of Woodrow Wilson, Franklin Roosevelt and Dwight Eisenhower call succeeding generations to account.

Imagine a very different kind of Presidential appearance in the closing days of this year, not at the rostrum familiar to viewers from moments of triumph, but in the well of the House. Imagine a President receiving not an ovation from the people's representatives, but a harshly worded rebuke as rendered by members of both parties. I emphasize: this would be a rebuke, not a rebuttal by the President.

On the contrary, by his appearance the President would accept full responsibility for his actions, as well as for his subsequent efforts to delay or impede the investigation of them. No spinning, no semantics, no evasiveness or blaming others for his plight.

Let all this be done without partisan exploitation or mean-spiritedness. Let it be dignified, honest and, above all, cleansing. The result, I believe, would be the first moment of majesty in an otherwise squalid year.

Anyone who confuses this scenario with a slap on the wrist, or a censure written in disappearing ink, underestimates the historic impact of such a pronouncement. Nor should anyone forget the power of television to foster indelible images in the national memory—not unlike what happened on the solemn August noontime in 1974 when I stood in the East Room and declared our long national nightmare to be over.

At 85, I have no general personal or political agenda, nor do I have any interest in "rescuing" Bill Clinton. But I do care, passionately, about rescuing the country I love from further turmoil or uncertainty.

More than a way out of the current mess, most Americans want a way up to something better. In the midst of a far graver national crisis, Lincoln observed, "The occasion is piled high with difficulty, and we must rise

with the occasion." We should remember those words in the days ahead. Better yet, we should be guided by them.—Gerald R. Ford, the 38th President of the United States, was a Republican member of the House of Representatives from 1949 to 1973.

Mr. CONYERS. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Houston, Texas (Ms. SHEILA JACKSON-LEE), an able member of our Committee on the Judiciary who was working until midnight on the floor.

Ms. JACKSON-LEE. Mr. Speaker, I thank the distinguished gentleman from Michigan (Mr. CONYERS) for yielding me this time, and I thank my democratic colleagues for the convictions they have shared with America today and for helping them understand this most somber challenge and the high constitutional that we may have.

To my colleagues on the other side of the aisle, truth matters, but the Constitution also matters. The President's behavior was reprehensible, outrageous, and disappointing. But as George Mason indicated, impeachable offenses are those dangerous and great offenses against the Constitution. They constitute a subversion of the Constitution.

Members gathered in 1974 and refused to impeach Richard Nixon on the personal charge of tax evasion. It must be that we understand what these constitutional standards are for impeachment high crimes and misdemeanors—would that be private sexual acts—it appears not.

Mr. Speaker, I wish in my Republican friends' attempt to explain to the American people that they stand by the Constitution that they would have implored their own counsel, Mr. Shippers, and, of course, Mr. Starr, not to hide the truth, for the presentations made by both men did not forthrightly acknowledge that Monica Lewinsky said, "No one ever asked me to lie and I was never promised a job for my silence." I am concerned about this uneven presenting of the facts.

Democrats do not want a cover-up. We simply want to have an inquiry that is fair, that is expeditious, and is not open-ended and is not a fishing expedition.

What is perjury? Perjury is lying; however perjury must be proven. Several defenses if raised would disprove lying—such truth, or whether the proponent thought he or she was telling the truth, and materiality. My friends on the other side of the aisle are rushing to judgment. But I am reminded of the words of Congresswoman Barbara Jordan, "It is reason and not passion which must guide our deliberations, guide our debate, and guide our decision." We must proceed deliberately—not eager to accuse without the facts.

Mr. Speaker, I implore my colleagues, to let reason guide us. And then let me say to my constituents and those who face a moral dilemma, I have been in churches in my district, they believe in redemption. And, yes, the President has sinned. But those of you who want to rise and cast the first stone, my question is: Who has not sinned?

And whatever we do today, those of us who have received death threats in our office, attacks against our children because of the hysteria that has been created by this Congress, I simply ask that we give this proceeding a chance to be fair, to act judiciously, and to follow the Constitution.

Lastly, might I say I believe that we will survive this together as a Nation and we will do this if we let constitutional principals guide us for Isaiah 40:31 says, "They that wait upon the Lord shall renew their strength. They shall mount up with wings as eagles and they shall walk and not be faint."

Mr. Speaker, I will stand for the preservation of the Constitution.

It is fate that has put us all here today.

But history will reflect—and tell the story of how we acted today—whether or not the Constitution matters. Truth does matter, but the Constitution dictates that impeachable offenses be grounded in attempts to subvert the Constitution. I am supporting the democratic amendment today that focuses our review, establishes the constitutional standards, and allows us to bring this inquiry to closure by the end of the year.

Truth matters and the Constitution matters. The President is not above the law, however, neither is he beneath the law. We need to act with reason, not fury, harmony not acrimony, with deliberation, not recklessness, with constitutional discharge, and not with opinion, and speculation with justice and fairness and not injustice and unfairness.

Mr. Speaker, in November of 1992 President William Jefferson Clinton was elected President of the United States by focusing on the economy and using the slogan "It's the Economy Stupid." I come here today with mixed feelings. We come here today not to focus on the economy, but the Constitution. It's the Constitution that matters!

Article II, Section IV states that,

> the President . . . shall be removed from Office on Impeachment for, and Conviction of, treason, Bribery, or other High Crimes and Misdemeanors.

It's the Constitution that matters! The Framers of our Constitution set the standard. George Mason, one of the Framers, stated that "high crimes and misdemeanors" refers to Presidential actions that are "great and dangerous offenses" to attempt to subvert the Constitution." The noted legal scholar from Yale University Professor, Charles Black, writes in his Impeachment Handbook that,

> In the English practice from which the Framers borrowed the phrase, "High Crimes and Misdemeanors" . . . was intended to redress public offenses committed by public officials in violation of the public trust and duties. It was designed to be justified for the gravest wrongs—offenses against the Constitution itself.

This is our standard. It is clear that while we have no conduct or allegations showing the President to have committed either treason or bribery, we must focus our attention on two questions. One, what is a "high crime and misdemeanor or an impeachable offense?, and two, did the President of the United States commit any high crimes and misdemeanors or an impeachable offense? Those are the questions, and it is up to the Congress to find the answers.

We are at this point today because the President of the United States had an affair with a White House intern and he didn't want anyone to know about it, and that was wrong. However, what we have heard or seen thus far does not set out a prima facie case for impeachment.

On the floor for consideration today is a Republican "privileged resolution" on the question to launch an impeachment inquiry "to investigate fully and completely whether sufficient grounds exist for the House of Representatives to exercise its constitutional power to impeach the President." There are no limits to their investigation and no establishment of the necessary constitutional standards.

Twenty-five years ago, this committee undertook the constitutional task of considering the impeachment of President Nixon. The process was painstaking, careful, and deliberative, and both the Nation and the world were reassured that America's 200 year-old Constitution worked.

Impeachment is final, nonappealable without further remedy, a complete rejection of the people's will and thereby, I believe it must be done fully beyond a doubt and without rancor or vengeance—complying with every woven thread of the Constitution. Today, by contrast, the world and the American people have been alternatively puzzled, confused, and appalled by the reckless media circus our automatic dumping of documents has produced.

On July 24, 1974, the House Judiciary Committee had a meeting to consider the Impeachment of President Richard Nixon. One of my predecessors of the 18th Congressional District of Texas, the late, great, Barbara Jordan said that,

> My faith in the Constitution is whole, it is complete, it is total. I am not going to sit here and be an idle spectator to the diminution, the subversion, the destruction of the Constitution.

So I, like my predecessor come not to subvert or destroy the Constitution, but to uphold it.

I am fully aware like most of my colleagues, that this privileged resolution only allows for a 10-minute motion to recommit, and not the regular full time allotted to consider a Democratic amendment. In order for this process to be fair and balanced and for the American people to truly hear both sides of this debate the House should waive House Rule IX, and allow the Democratic amendment to be considered, for a certain designated time. The Republicans refused that request.

While the Republican resolution does not have a time certain for the inquiry to end, the Democratic amendment calls for the Judiciary Committee to make a full recommendation to the House concerning Articles of Impeachment by no later than December 31, 1998. This is a compromise. There must be fairness and balance. The Democrats have also yielded on the provision which allows the House to consider other pertinent matters, as long as it is

referred by the Independent Counsel, and not arbitrarily decided by Congress. This impeachment inquiry must be limited in scope and have a time certain. On February 6, 1974, Congressman Hutchinson, then the ranking Republican on the committee spoke on the floor of the House about the Watergate inquiry and said,

The resolution before you carries no cutoff date. Although charges have raged in the media there has yet to be demonstrated any evidence of impeachable conduct. Therefore, if by the end of April no such evidence has been produced, the committee should so report to the House and end its labors.

The American people have spoken and they have said that this has gone on too long. This can not be an endless process. There must be time certain or the House should "end its labors."

So far what we have in Congress is the word of one man, an Independent Counsel who is not duly elected by the people. We have convoluted facts, inconsistent stories and versions, possible illegal tape recordings, but no real hard evidence.

In Act V of Macbeth, William Shakespeare writes,

Life's but a walking shadow, a poor player That struts and frets his hour upon the stage, And then is heard no more; it is a tale Told by an idiot, full of sound and fury, Signifying nothing.

That's what we have so far Mr. Speaker. We have fury, but no facts, and a tale told by a nonelected official that is full of allegations, not yet fact signifying anything. As the Watergate Committee's February 1974 Staff Report explained, "In an impeachment proceeding a President is called to account for abusing powers that only a President possesses." In Watergate, as in all prior impeachments, the allegations concerned official misconduct that threatened to subvert the constitutional order or balance, not private misbehavior. Impeachment is not a personal punishment. In all of American history, no official has been impeached for misbehavior unrelated to his official responsibilities. I make no attempt to excuse the President's behavior, but as we vote on whether to launch a full scale impeachment inquiry, I admonish my colleagues that we must adhere to the constitution and the writings of the Framers. It's the Constitution that matters!

As James Wilson explained in the Pennsylvania ratification convention: "far from being above the laws, [the President] is amenable to them in this private character as [a] citizen, and in his public character by impeachment." The Constitution imposes a grave and serious responsibility on us to protect the fabric of the Constitution. To perform our job requires that we investigate the facts thoroughly before we begin dealing with what our predecessors called "delicate issues of basic constitutional law." We must avoid prejudging the issues or turning this solemn duty into another forum for partisan wrangling. The Republican resolution on the floor today, which may result in the House acting without all the facts, weakens the foundation of the Constitution.

The former Congressman and now a renowned Georgetown Law Professor, Father Drinan, who served on the House Judiciary Committee during the Watergate Impeachment hearings stated that,

There is no such thing as a Democratic or Republican approach to the allegation of impeachment, The House of Representatives is now involved in a proceeding which was described by George Mason [a Founding Father] as the Constitution providing for the regular punishment of the executive when his misconduct should deserve it" but also "for his honorable acquittal when he should be unjustly accused.

It was George Washington, the first President of the United States who said in his Farewell Address on September 17, 1796, "Let me now . . . warn you in the most solemn manner against the baneful effects of the spirit of party."

This should be a nonpartisan debate, and a constitutional debate. We need to act with reason, not fury, harmony not acrimony, with deliberation . . . not recklessness, with constitutional discharge, and not with opinions and speculation, with justice and fairness, and not injustice and unfairness.

I hope my colleagues will allow for full consideration and debate of the Democratic amendment which is focused and fair. I leave you with the words of Martin Luther King, who said, "Injustice anywhere is a threat to justice everywhere . . . whatever affects one directly, affects all indirectly." It's the Constitution that matters Mr. Speaker, and I hope today it will rule.

Mr. HYDE. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. SMITH), a distinguished member of the committee.

Mr. SMITH of Texas. Mr. Speaker, others continue to argue or continue to imply that this inquiry is only about a personal relationship, but that is like saying Watergate was only about picking a lock or that the Boston Tea Party was only about tea.

During a similar investigation of President Nixon 24 years ago, there was little focus on the burglary. The Committee on the Judiciary and the special prosecutor rightly wanted to know, as we should today, whether the President lied to the American people, obstructed justice or abused his office.

While some try to describe this scandal as private, the President's own Attorney General found that there existed credible evidence of criminal wrongdoing.

This is not a decision to go forward with an inquiry into a personal relationship. It is about examining the most public of relationships, between a witness and the courts, between the President and the American people.

It is about respect for the law, respect for the office of the presidency, respect for the American people, respect for the officers of the Court, respect for women and ultimately about self-respect.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. ACKERMAN).

Mr. ACKERMAN. Mr. Speaker, I rise in passionate objection and opposition to the resolution.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Speaker, I thank the gentleman from Michigan (Mr. CONYERS) for yielding.

Mr. Speaker, I rise in opposition to the Hyde resolution, and in doing so point out the inconsistency of the Republican majority. At the start of this Congress, the Republican majority gave you, Mr. Speaker, the highest honor this House can bestow: The speakership. For the freshman Republicans, this was the first vote that they cast in this House. The Republican majority did this after you, Mr. Speaker, were charged with and admitted to lying under oath to the Ethics Committee about the conduct of your political affairs.

How inconsistent then, Mr. Speaker, for this same Republican majority to move to an impeachment inquiry of the President for lying about his personal life. Our Republican majority have said lying under oath is a dagger in the heart of the legal system. We all agree that lying is wrong, but why the double standard?

I urge my colleagues to reject this Republican double standard which exalts the Speaker and moves to impeach the President. I urge my colleagues to vote no on the Hyde resolution.

Mr. HYDE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Utah (Mr. CANNON), a member of the Committee on the Judiciary.

Mr. CANNON. Mr. Speaker, I would like to associate myself with the views expressed by the chairman, the gentleman from Illinois (Mr. HYDE), and also by those expressed by the gentleman from Ohio (Mr. KUCINICH).

I am proud that my Republican colleagues have spent more than 5 times as much time reviewing the Starr referral material than my Democratic colleagues.

This is a solemn occasion and I feel the full weight of the responsibility that we are assuming today.

Some would trivialize this debate by giving it the name of a young intern or by referring to other important matters that face the Nation. They know that this is or they should know that this is inappropriate. Americans want this matter brought to closure. That can only occur if we fully determine the facts, place those facts in the context of the law and weigh the proper response that will preserve the integrity of the office of the presidency and the integrity of our Nation.

Mr. Speaker, as a member of the Committee on the Judiciary, I pledge to work diligently to move this matter forward.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I rise in opposition to the Hyde resolution.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Speaker, I rise in support of the Democratic alternative and in opposition to the open-ended Republican resolution of inquiry.

Mr. Speaker, the question of impeaching a sitting President has only come before the House of Representatives three times in our nation's history. There's a very good reason this has happened so seldom. Our nation's founders deliberately set very high standards for impeachment in order to spare the nation the trauma of such an inherently divisive debate and to maintain a strong and independent Presidency. At a time like this, we all have a responsibility to rise above party politics and short term political considerations. We are not just debating the fate of this President. We are setting precedents that will have a profound and long-lasting effect on our constitutional system of government.

The issue before the House today is whether we will initiate a lengthy and open-ended impeachment inquiry that will paralyze our government and throw this nation into a prolonged constitutional crisis, or whether we will demand a focused and speedy resolution of this matter. After carefully considering the evidence so far produced by Independent Counsel Kenneth Starr, I have concluded that the nation's interests are best served by an impeachment inquiry that is thorough, but focused—comprehensive, but promptly concluded.

This debate is already preventing Congress from addressing important issues facing the nation—including issues like the future of Social Security, health care reform and improving our educational system. There is no profit to the people of the United States in a drawn-out impeachment debate that could go on for another year or more. We have the information we need to conclude this matter by the end of this year. The Republican leadership should work with Democratic leaders to make that happen.

President Clinton's behavior has been outrageous, reckless and morally offensive. He flatly lied to the American people and may have committed perjury in a civil lawsuit. Mr. Starr also alleges that the President obstructed justice and otherwise abused his office.

Reasonable people can differ over whether these charges—if true—constitute the kind of offenses that warrant the national trauma of impeachment. For that reason, if for no other, I believe the Judiciary Committee should consider the evidence brought forward by the Independent Counsel, as well as any new evidence he sees fit to refer to us, and decide without delay whether to forward articles of impeachment to the House. But I strongly disagree with the delay tactics and the blatantly unfair and partisan approach adopted by Republican leaders—a strategy aimed more at improving their party's election prospects than at promoting the national interest.

Impeachment of a President is not a matter for Congress to take lightly or use for narrow partisan purposes. By its very nature, impeachment repudiates the will of the people as expressed in a popular election. it severely undermines the separation of powers, which is at the core of our system of government. And in the long term, it would weaken not only the office of the President, but the nation's strength and prestige in international affairs.

For those reasons and others, I oppose the Republican leadership's drawn-out and open-ended impeachment inquiry proposal and will vote today in favor of the alternative: a prompt and focused impeachment inquiry aimed at resolving this crisis and putting these issues behind us, one way or another.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington (Mr. MCDERMOTT), my dear friend.

Mr. MCDERMOTT. Mr. Speaker, I rise in opposition to the Hyde amendment.

Mr. Speaker, in 1789, the Founding Fathers wrote a Constitution designed to create a stable government. They established a democracy of the people—not a parliamentary democracy—because they did not want a government that would change whenever the executive fell into disfavor with the majority party. The Founding Fathers wanted a government of laws, not people, so they made only one option available to change the chief executive outside of an election by the people—impeachment. Impeachment was prescribed only in unique and extraordinary circumstances.

The impeachment process was vaguely outlined in the Constitution and the established criteria are very few. Article II, Section 4 says that the President, "Shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors." Impeachment does not require criminal acts. In fact, the House Report on the Constitutional Grounds of Presidential Impeachment states, "the emphasis has been on the significant effects of the conduct—undermining the integrity of the office, disregard of constitutional duties and oath of office, arrogation of power, abuse of the governmental process, adverse impact on the system of government." The bar was set high so that impeachment would be neither casual nor easy for fear that we would undermine the stability of the office. Alexander Hamilton summed up the dangers of impeachment by saying, "there will always be the greatest danger that the decision will be regulated more by the comparative strength of parties, than by the real demonstrations of innocence or guilt."

Hamilton's warning seems prophetic today. Aside from its partisan nature, the situation before us is quite unusual. It is the first time an Independent Counsel has presented findings to the Congress for determination of the need for an impeachment process. Secondly, the House of Representatives undermined the process when they ignored the precedents which have been followed in the evaluation and released large volumes of testimony and documents collected in the grand jury process to not only the Congress but to the world at large.

This has allowed the full membership of the House of Representatives and the public to come to conclusions before the process of impeachment has begun. The polls would suggest that the public does not favor removing the President from office but it is less clear what they feel is an adequate sanction.

Today, the members of the House will be confronted with the question of whether or not an impeachment inquiry should begin. I will vote against an inquiry for the following reason:

The evidence presented to the Congress by Mr. Starr does not support the charge of an impeachable offense. When all is said and done, the President made some false statements under oath about a sexual relationship and lied to many people about that relationship. While I in no way condone the President's behavior, I have concluded that it requires no further investigation and does not support impeachment.

The framers of the Constitution did not anticipate litigation against a president in a sexual harassment case or investigation by an independent counsel. The framers limited impeachment to the kinds of improprieties—treason, bribery, and the like—that threatened the nation for the benefit of the individual. We have no such case before us. His actions, while totally unacceptable, do not rise to the level of a high crime or misdemeanor. The President's actions do not threaten our ability to act decisively in the world of politics for the benefit of all Americans, sadly, the House of Representative's actions do.

[From the National Law Journal, Oct. 5, 1998]

TOP PROFS: NOT ENOUGH TO IMPEACH

NLJ 'JURY' OF 12 CON-LAW EXPERTS WEIGHS EVIDENCE

(By Harvey Berkman)

ON A 'JURY' OF 12 constitutional law professors, all but two told The National Law Journal that, from a constitutional standpoint, President Clinton should not be impeached for the things Independent Counsel Kenneth W. Starr claims he did.

Some of the scholars call the question a close one, but most suggest that it is not; they warn that impeaching William Jefferson Clinton for the sin he admits or the crimes he denies would flout the Founding Fathers' intentions.

"On the charges as we now have them, assuming there is no additional report [from Mr. Starr], impeaching the president would probably be unconstitutional," asserts Cass R. Sunstein, co-author of a treatise on constitutional law, who teaches at the University of Chicago Law School.

The first reason for this conclusion is that the one charge indisputably encompassed by the concept of impeachment—abuse of power—stands on the weakest argument and evidence.

"The allegations that invoking privileges and otherwise using the judicial system to shield information . . . is an abuse of power that should lead to impeachment and removal from office is not only frivolous, but also dangerous," says Laurence H. Tribe, of Harvard Law School.

The second reason is that the Starr allegation for which the evidence is disturbingly strong—perjury—stems directly from acts the Founders would have considered personal, not governmental, and so is not the sort of issue they intended to allow Congress to cite to remove a president from office.

NO 'LARGE-SCALE INFIDELITY'

Says Professor Sunstein, "Even collectively, the allegations don't constitute the kind of violation of loyalty to the United States or large-scale infidelity to the Constitution that would justify impeachment, given the Framers' decision that impeachment should follow only from treason, bribery or other like offenses . . . What we have

in the worst case here is a pattern of lying to cover up a sexual relationship, which is very far from what the Framers thought were grounds for getting rid of a president."

Douglas W. Kmiec, who spent four years in the Justice Department's Office of Legal Counsel and now teaches at Notre Dame Law School, agrees: "The fundamental point is the one that Hamilton makes in Federalist 65: Impeachment is really a remedy for the republic; it is not intended as personal punishment for a crime.

"There's no question that William Jefferson Clinton has engaged in enormous personal misconduct and to some degree has exhibited disregard for the public interest in doing so," he says. But does that mean that it is gross neglect—gross in the sense of being measured not by whether we have to remove the children from the room when the president's video is playing, but by whether [alleged terrorist Osama] bin Laden is now not being properly monitored or budget agreements aren't being made?"

Adds Prof. John E. Nowak, of the University of Illinois College of Law, the impeachment clause was intended "to protect political stability in this country, rather than move us toward a parliamentary system whereby the dominant legislative party can decide that the person running the country is a bad person and get rid of him." Mr. Nowak co-authored a constitutional law hornbook and a multivolume treatise with fellow Illinois professor Ronald Rotunda, with whom he does not discuss these matters because Professor Rotunda is an adviser to Mr. Starr.

"It seems hard to believe that anything in the report . . . could constitute grounds for an impeachment on other than purely political grounds." Professor Nowak says. "If false statements by the president to other members of the executive branch are the equivalent of a true misuse of office . . . I would think that the prevailing legislative party at any time in our history when the president was of a different party could have cooked up . . . ways that he had misused the office."

And that, says Prof. A.E. Dick Howard, who has been teaching constitutional law and history for 30 years, would be a step in a direction the Founders never intended to go.

"The Framers started from a separation-of-powers basis and created a presidential system, not a parliamentary system, and they meant for it to be difficult for Congress to remove a president—not impossible, but difficult," says Professor Howard, of the University of Virginia School of Law. "We risk diluting that historical meaning if we permit a liberal reading of the impeachment power—which is to say: If in doubt, you don't impeach."

Many of the scholars point to the White House's acquisition of FBI files on Republicans as an example of something that could warrant the Clintons' early return to Little Rock—but only if it were proved that these files were acquired intentionally and malevolently misused. The reason that would be grounds for impeachment, while his activities surrounding Monica Lewinsky would not, the professors say, is that misuse of FBI files would implicate Mr. Clinton's powers as president. But if Mr. Starr has found any such evidence, he has not sent it to Congress, which he is statutorily bound to do.

One professor who believes there is no doubt that President Clinton's behavior in the Lewinsky matter merits his impeachment is John O. McGinnis, who teaches at Yeshiva University, Benjamin N. Cardozo School of Law. "I don't think we want a parliamentary system, although I would point out that it's not as though we're really going to have a change in power. If Clinton is removed there will be Gore, sort of a policy clone of Clinton. A parliamentary system suggests a change in party power. That fear is somewhat overblown."

Professor McGinnis considers the reasons for impeachment obvious. "I don't think the Constitution cares one whit what sort of incident [the alleged felonies] come from," he says. "The question is, 'Can you have a perjurer and someone who obstructs justice as president?' And it seems to me self-evident that you cannot. The whole structure of our country depends on giving honest testimony under law. That's the glue of the rule of law. You can go back to Plato, who talks about the crucial-ness of oaths in a republic. It's why perjury and obstruction of justice are such dangerous crimes."

This argument has some force, says Professor Kmiec, but the public is hesitant to impeach in this case because of a feeling that "the entire process started illegitimately, that the independent counsel statute is flawed and that the referral in this case was even more flawed, in that it was done somewhat hastily by the attorney general."

Jesse H. Choper, a professor at the University of California at Berkeley School of Law (Boalt Hall) and co-author of a con-law casebook now in its seventh edition, agrees that perjury, committed for any reason, can count as an impeachable offense. "The language says 'high crimes and misdemeanor.' and [perjury] is a felony, so my view is that it comes within the [constitutional] language. But whether we ought to throw a president out of office because he lied under oath in order to cover up an adulterous affair . . . my judgment as a citizen would be that it's not enough."

A JUDGE WOULD BE IMPEACHED

Many of the professors say Mr. Clinton would almost certainly be impeached for precisely what he has done, were he a judge rather than the president. That double standard, they say, is contemplated by the Constitution in a roundabout way. Says Professor Kmeic, "The places where personal misbehavior is raised have entirely been in the context of judicial officers. There is a healthy amount of scholarship that suggests that one of the things true about judicial impeachments (which is not true of executive impeachments) is the additional phraseology saying that judges serve in times of good behavior. The counterargument is that there is only one impeachment clause, applying to executive and judicial alike. But . . . our history is that allegations of profanity and drunkenness, gross personal misbehavior, have come up only in the judicial context."

In addition to history, there is another reason for making it harder to impeach presidents, says Akhil Reed Amar, who teaches constitutional law at Yale Law School and who recently published a book on the Bill of Rights: "When you impeach a judge, you're not undoing a national election . . . The questions to ask is whether [President Clinton's] misconduct is so serious and malignant as to justify undoing a national election, canceling the votes of millions and putting the nation through a severe trauma."

THEY'RE UNCOMFORTABLE

None of these arguments, however, is to suggest that the professors are comfortable with what they believe the president may well be doing: persistently repeating a single, essential lie—that his encounters did not meet the definition of sexual relations at his Paula Jones deposition. Mr. Clinton admits that this definition means he could never have touched any part of her body with the intent to inflame or satiate her desire. It is an assertion that clashes not only with Ms. Lewinsky's recounting of her White House trysts to friends, erstwile friends and the grand jury, but also with human nature.

"That's one of the two things that trouble me most about his testimony—that he continues to insist on the quite implausible proposition [of] 'Look, Ma, no hands,' which is quite inconsistent with Monica Lewinsky's testimony, and that he's doing that in what appears to be quite a calculated way," Professor Tribe laments. "But I take some solace in the fact that [a criminal prosecution of perjury] awaits him when he leaves office."

Professor Amar agrees that "whatever . . . crimes he may have committed, he'll have to answer for it when he leaves office, and that is the punishment that will fit his crime."

Also disturbing to Professor Tribe is the president's apparent comfort with a peculiar concept of what it means to tell the truth, a concept the professor describes as "It may be deceptive, but if you can show it's true under a magnifying glass tilted at a certain angle, you're OK."

But even that distortion, he believes, does not reach the high bar the Founders set for imposing on presidents the political equivalent of capital punishment.

"It would be a disastrous precedent to say that when one's concept of truth makes it harder for people to trust you, that that fuzzy fact is enough to say there has been impeachable conduct," Professor Tribe says. "That would move us very dramatically toward a parliamentary system. Whether someone is trustworthy is very much in the eye of the beholder. The concept of truth revealed in his testimony makes it much harder to have confidence in him, but the impeachment process cannot be equated with a vote of no confidence without moving us much closer to a parliamentary system."

Professor Kmiec does suggest that something stronger than simple "no confidence" might form the possible basis for impeachment. Call it "no confidence at all." "It is possible that one could come to the conclusion that the president's credibility is so destroyed that he'd have difficulty functioning as an effective president," Professor Kmiec says, "But the public doesn't seem to think so, and I don't know that foreign leaders think so," given the standing ovation Mr. Clinton received at the United Nations.

In the end, Professor Howard says that he opposes impeachment under these conditions not only because the past suggests it is inappropriate, but also because of the dangerous precedent it would set. "Starting with the Supreme Court's devastatingly unfortunate and totally misconceived opinion [in Clinton v. Jones, which allowed Ms. Jones's suit to proceed against the president while he was still in office], this whole controversy has played out in a way that makes it possible for every future president to be harassed at every turn by his political enemies," Professor Howard warns. "To draw fine lines and say that any instance of stepping across that line becomes impeachable invites a president's enemies to lay snares at every turn in the path. I'm not sure we want a system that works that way."

The other "jurors" on this panel of constitutional law professors were:

The one essentially abstaining "juror": Michael J. Gerhardt, of the College of William and Mary, Marshall-Wythe School of Law.

Douglas Laycock, of The University of Texas School of Law.

Thomas O. Sargentich, co-director of the program on law and government at American University, Washington College of Law.

Suzanna A. Sherry, professor at the University of Minnesota Law School.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Mr. Speaker, historians note that those who are in the middle of history often do not themselves recognize it. Today should not be about polls. Today should not be about the upcoming November election, and even today should not be about the serious matter of sexual misconduct. But with all due respect to my friends, that is exactly what today is all about.

This is only the third time in the history of this country that we are talking about opening impeachment proceedings against our President, and I am shocked at how many people, including some in this chamber, take this serious matter so lightly, even gleefully. We are witnessing a stampede to justice, my friends, and like so many stampedes, when the trail dust settles, we will leave chaos and we will leave ruin.

This is a time for statesmanship. Each one of us must independently assess the best direction for this House and this country, and I will say it is not an open ended, never ending, witch-hunt without any limits. We need to carefully consider the Starr report. We need to set a guideline and then we need to move forward with the serious, serious business of this country.

Mr. Speaker, the House is about to decide whether to exercise one of the most grave constitutional steps within our power: hearings concerning the impeachment of the President. This is the most serious decision we can make, next to a declaration of war. It is legislative, moral, and civic duty to caution the House to carefully weigh this dangerous, perhaps necessary step.

Like so many of you, my political conscience was formed during the Watergate scandal and I applauded the Supreme Court's ruling in U.S. versus Nixon that the President "is not above the law." The President, whoever he or she may be, is not above the law.

But my political conscience was also informed by reading "Profiles in Courage," where John Kennedy, who well-knew the passions that govern partisan political discourse, discussed the failed attempt to impeach President Andrew Johnson. Johnson was saved from impeachment by the courageous actions of several senators who withstood the deep and intense partisan public hatred of a president attempting to unite a divided country. Most historians would agree that the impeachment of Johnson would have been a constitutional, economic, and political catastrophe. In fact, the partisan bickering, motivated by the hope of political advantage, was a dark, shameful moment in American history which affected the national agenda for decades afterwards; a moment we may soon repeat if we do not learn from our history.

This is the time to ask what actions will best serve our country. Hasty decisions in a mob-mentality will not serve the interests of our constituents. Frankly, I have heard little about the long-term consequences of an impeachment hearing, especially if we ultimately decide not to impeach the President. The Watergate scandal undermined the institutional authority of our political system for a generation. Therefore, we must carefully weight what we do now, because it will have consequences for at least a generation to come. Yes, we have a President who has lied to you and me and the American public. I'm, not happy about that; I am angry and outraged. He deserves our scorn and our condemnation. But we cannot impeach him because of our anger. That would turn our constitutional democracy into a parliamentary system. I am sure my colleagues do not want to subvert the constitution in that way.

What we must determine is this: does his conduct constitute a "high crime" or a "misdemeanor"? There is a reasonable doubt about that, and reasonable people can differ on the answer.

Because ours is a legislative, not judicial, judgment, exercised as part of our legislative function, we must also determine if impeachment is in the best interests of the country.

Historians note that those who are in the middle of history often do not realize it. Today, we are not talking about polls—or even elections—or even the sexual misconduct of our President. After all, this will be only the third time in history we consider impeachment of a sitting President. But that's what this debate is really about. I am shocked at how many people, including some in this Chamber, take this serious matter so lightly, even gleefully. We are witnessing a stampede to judgment. And like many stampedes, when the trail-dust settles we may leave chaos and ruin. This is a time for statesmanship. Each of us must independently assess the best direction for the House and for the country. That is why we should vote for a thoughtful process that will establish whether evidence exists to even open an inquiry before we begin a wide-ranging witch hunt with heavy heart and a keen recognition of history, and with reluctant support for this forum.

The American people, the world community, and future historians will judge us as we judge the President. I this House, at this moment, we must rise above passion and partisanship. We must be wise and equal to the public trust.

I ask my colleagues for a full debate on the resolution to open impeachment proceedings. We need more than one hour for discussion. Because of the gravity of this vote, we owe it to the American people to have a fully informed, careful, responsible discussion.

I also ask for our best judgment. I believe that the process that allows us to have more prudent decision-making is the Democratic alternative. Before we can move forward in recommending articles of impeachment, the Judiciary Committee should determine the standards for defining impeachable offenses. That would be extremely helpful and fair in our evaluation of this issue. With this information, we would be in a better position to discuss impeachment.

And I ask for a narrow scope. Impeachment hearings should examine specific, clearly stated, concrete charges. We need to give the Special Prosecutor's report complete consideration, especially after spending $40 million to gather this information. I was not elected to Congress to waste the taxpayers' time and money in political chicanery. I was not elected to engage in a witch-hunt. The discussion must be on-point, specific to the matter-at-hand, relevant, and substantive.

This is the time for prudent judgment, for far-sighted decision-making, for fairness, and for justice. We cannot let our unharnessed passions nor our political greed sway us from acting in the country's best interests. We stand at a singular moment in history. Our actions will forever change the culture and political environment of our country. If we do not act with complete fairness, impartiality, and good judgment, we will certainly be harshly judged by our constituents, by the world community, and by history for our impatient folly. I ask my colleagues to demand a fair, just, and realistic process by which we examine these serious, dangerous, and historic charges against the President.

Mr. HYDE. Mr. Speaker, may I inquire how much time the gentleman from Michigan (Mr. CONYERS) and I have?

The SPEAKER. The gentleman from Illinois (Mr. HYDE) has 20½ minutes. The gentleman from Michigan (Mr. CONYERS) has 20 minutes.

Mr. HYDE. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri (Mr. BLUNT).

□ 1245

Mr. BLUNT. Mr. Speaker, I rise in support of the resolution and will submit my remarks for the RECORD.

I intend to vote for the Judiciary Committee's recommendation that would begin the inquiry for impeachment. The President of the United States needs the trust and confidence of the American people. When the President does not have credibility, the country is at risk.

Currently only one in five Americans say they have confidence in the President's credibility and truthfulness. The American people deserve a speedy resolution of this crisis-in-confidence. The President deserves the opportunity to restore his credibility by having the opportunity to explain his side of what seems to be perjury and obstruction of justice both in a civil case and before a federal grand jury.

It is my hope that this inquiry will meet the demands of the Constitution and be resolved with all deliberate speed.

Mr. Speaker, I urge my colleagues to do their duty under the Constitution and take this step toward a conclusion of this national challenge.

Mr. HYDE. Mr. Speaker, I yield 1 minute to the gentleman from Iowa (Mr. GANSKE).

Mr. GANSKE. Mr. Speaker, we have not always agreed on certain policies. I can think of a health care issue that we disagreed on. But I certainly do not

think it is fair for the Speaker of the House to be accused of perjury in this debate today.

I think that I have some bipartisan credentials, so I want to say to Members on both sides of the aisle that the Republican resolution follows the same model that was followed in 1974. A time limit was recognized then, and it is recognized now, as a way to obstruct and delay. We must listen to our consciences. And if we do, I think we can all agree with Chairman Peter Rodino in 1974 and the gentleman from Illinois (Mr. HYDE) today, a time limit is not the way to go on this resolution.

Yes, I am tired of hearing about the President's indiscretions, and I have had a hard time explaining this to my 10-year-old son. And it will be a stressful time for us. But when I think about the stressful times that our country has gone through in the American Revolution, the Civil War, the two world wars, the Great Depression, I think it would be a shame for us to shirk our duty.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. TRAFICANT), the only former sheriff in the House.

Mr. TRAFICANT. Mr. Speaker, the prosecutor has asked us to indict the President of the United States on 11 counts. All 11 counts involve an intern. In the video, in 4 hours of questioning, the prosecutor did not ask the President one time about FBI files, about the travel office, about Vincent Foster, or about Whitewater. In 4 hours, basically the prosecutor asked what did the President do with an intern, when did the President know that he did it, and did he lie about it.

I am not minimizing the gravity of this, my colleagues, but this does not rise to the level of Watergate. Now, let us be honest about that.

This prosecutor is required by law to submit all evidence to the House, which is a Grand Jury. I must assume that he has. But I would also say to the leaders of both parties, if he has not, he should be compelled today to deliver every piece of evidence he has on any pending investigation. That is our duty.

I am going to support an inquiry today, but I am not going to support an extended soap opera, my colleagues. And I will say this: What the Congress of the United States, the House, has before us today is an 11-count indictment. We should be able to act on the predicate of that substance by the end of our terms. Kenneth Starr submitted it to the 105th Congress, not to a future Congress.

Mr. HYDE. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. STEVE BUYER), a distinguished member of the committee.

Mr. BUYER. Mr. Speaker, I thank the chairman for yielding me this time. I have listened to part of the debate, and I have to agree with the gentlewoman from Colorado that I am disappointed in the conduct of some of my colleagues here today. How people can be here on this House floor cheering or applauding, as though they have somehow scored political points, is very disappointing to me. I think that part of that noise is about a clamor against the judicial process and their actions define themselves.

Actually, this kind of reminds me of a story about Abe Lincoln that I will share with my colleagues. Let me tell this little story.

Abe Lincoln, in one of his many famous debates, was debating a person known to be very shallow in substance because he did not really have the facts on his side. He always tried to make up for his lack of substance by making a lot of noise. Sure enough, the debate began with his opponent using plenty of noise, increasing the volume of his voice and the emotion in the delivery and the intensity of the tone. Abe began, in reply, with this story:

He said: There was a man and woman that were walking back to town. It was at night, through a dense forest. It was extremely dark, and a storm, with plenty of thunder and lightning, was all around them. The lightning was not enough for them to see, and the thunder caused confusion and made it difficult for them to see. And they got scared, because they were not sure they were going to be able to make it back to town. So they fell upon their knees and they prayed. And they said, God, may we have a little less noise and a little more light.

What we find here at the moment is a lot of noise, but I, for one, will enjoin in the prayer for a little more light. Our job here is to seek the light of the truth, because the truth matters.

And let us not confuse ourselves with what is happening here today. Both parties, Democrats and Republicans, are saying to America: We have a credible and substantive referral from an independent prosecutor, and we must take the next step toward the inquiry of impeachment. There may be a disagreement, there may be a debate about the scope or the limitation on times, but those are details. The facts will sort themselves out. If the facts find that the President should be exonerated, then we should do so because we follow the truth. If it shows otherwise, then we should proceed with the next step.

Mr. CONYERS. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Michigan (Ms. DEBBIE STABENOW).

Ms. STABENOW. Mr. Speaker, today we make a critically important decision affecting the lives of every single one of the people we represent: Men and women, young and old, working hard every day, who care about their families. They want us to deal with the President's irresponsible behavior and lack of truthfulness in a fair and responsible manner, and they want us to do so as quickly as possible so that we can return to the important issues that affect their families.

They also want us to rise above partisan self-interest and do what is best for the country, not Democrats, not Republicans, but as Americans. I am deeply concerned that this Congress will not meet this test today.

We have two proposals in front of us. The issue is not whether or not to proceed, it is how to proceed. One proposal gives us the opportunity to come together in a bipartisan way, vote to begin an inquiry on the issues raised by the Starr report, and bring this inquiry to a conclusion this year. The Republican alternative is an open-ended, unchecked process that could continue throughout the next Congress, with no requirement to limit the issues formally presented by the special prosecutor.

In all good conscience, I cannot support this process. It is not in the best interest of our country. It is not in the best interest of the families I represent to put our country in suspended animation for months and months when we have the ability here to bring this to a conclusion this year. I believe the American people deserve no less.

We must address this crisis fairly and responsibly and get back to the people's business. I implore my Republican colleagues to join us, to join with America in a process we can truly be proud of.

Mr. HYDE. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. GOODLATTE), a valued member of the Committee on the Judiciary.

Mr. GOODLATTE. Mr. Speaker, in a short while this House will vote on whether or not to begin an impeachment inquiry against the President of the United States. A very serious matter. We will have a vote that will, I think, result in a substantial majority of the Members voting to proceed unhindered by artificial time constraints that simply subject the body to political gamesmanship of delay rather than expedition of the process. We will vote to allow ourselves to look at other credible evidence of impeachable offenses from other credible sources, if those come before the body.

We should not engage in a fishing expedition, but we should exercise our constitutional responsibility in a full and open way, the same way we have always exercised that responsibility for every other impeachment inquiry in more than 200 years of American history. And we should do it in the way suggested by our former colleague, Representative Barbara Jordan, who said at another time, "It is reason, not passion, which must guide our deliberations, guide our debate and guide our decision."

The charges against the President include perjury, witness tampering and

obstruction of justice. These are serious charges, charges that cannot be wiped away with a mere wink and a nod, an apology, or someone's interpretation of the latest opinion poll. The standard that we follow, and the standard we teach our children, is that no person is above the law, including the President of the United States.

Amid the intense glare of the moment, we must keep in mind that what the House is considering today is not impeachment or articles of impeachment, nor is it about matters for which the President has apologized. Rather, the House must decide, in light of the documented allegations of serious crimes committed by the President, all of which the President has repeatedly denied, whether we should take the next step in the constitutional process by fully and completely investigating whether the charges are well-founded.

I urge my colleagues to take that step because it is the right thing to do. We must follow the truth wherever it leads.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. LLOYD DOGGETT), a former member of his State's Supreme Court.

Mr. DOGGETT. Mr. Speaker, the real question here today is not whether to begin an inquiry, but whether it will ever end. Whitewater, Travelgate, Filegate. It is really Rabbit Trail Gate that I am concerned about. We do not need Ken Starr squared in this chamber. The only way to force this Congress to get back to the real concerns of American families, like tax reform and Social Security reform, is to bring this matter to a prompt conclusion.

As a former Supreme Court Justice, I will not defend the indefensible, but, by golly, there is a way to punish the lying without punishing the American people, who have clearly had enough of this and then some.

I believe that the standard that we apply should be no higher and no lower than we would apply to ourselves and that we have applied to the Speaker of the House in this very chamber. The Democratic amendment assures that that will happen. Without it, there is no assurance of a bipartisan pursuit of justice, of fairness, and an ultimate answer to the American people on this issue, and then getting back to business on their issues.

Mr. HYDE. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Speaker, if we walk out the door to my right, in the middle on the minority side, and go left, we will come to a large marble staircase. And at the top of that staircase is a large painting, a painting by Howard Chandler Christie entitled, "The Signing. The Constitution of the United States." And in the center of that portrait is Ben Franklin. It is reported that he walked out of the Constitutional Convention and a woman approached him and said, "What kind of government have you given us, Mr. Franklin?" And his response was: "A republic, if you can keep it."

The challenge before us today is: Can we keep it? Because a republic is a Nation that is guided by the rule of law. Not the whims of a dictator or a majority that can trample on the rights of a minority, but the rule of law.

I urge my colleagues to vote in support of this resolution. I, like everyone in this chamber, would like to get this process behind us. The best way to do that is to support this resolution. It is the right thing to do, it is the right way for us to keep the republic, as Franklin asked us to do.

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Mr. CONYERS. Mr. Speaker, a former member of the Committee on the Judiciary the gentleman from California (Mr. BECERRA) is no longer with us on the committee, but we still appreciate his legal insights. I yield 1 minute to the gentleman from California (Mr. BECERRA).

Mr. BECERRA. Mr. Speaker, I thank the gentleman for yielding me this time. The President's conduct in this matter was deeply disappointing to Americans. All of us have traveled down that path. There is no question of that. This House will proceed with an inquiry. That road we have also begun to travel. There is no question of that. But how we travel down that road is still subject to intense questioning. The majority would take us down this road that would offer no end in sight, that omits the rules of the road for its conduct, in essence open-ended, without conclusion.

After more than 4 years, $50 million in taxpayer funds, we should give the American people a clear, defined and transparent process. It is not if we will proceed, it is how we will proceed. Today is the 8th of October. We are now 8 days into the new fiscal year without a budget. Tomorrow, the 9th of October, at midnight, we will have to shut down this government unless this Congress passes a budget. And yet for the American people we offer nothing, no clear, defined, transparent process. They deserve more.

Let us go to our destination and get there with Godspeed. We have work to do for seniors, for children and for working Americans. We must do it in a transparent, balanced and fair way.

Mr. HYDE. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. GEKAS), a very valuable member of the committee.

Mr. GEKAS. Mr. Speaker, the simple gesture of raising one's hand accompanied by an oath to tell the truth, the whole truth and nothing but the truth, this gesture takes place hundreds of times a day in every courthouse in the land. It is preceded by an oath that is taken by the judge to dispense justice, by the jurors to find the truth, by the bailiffs, by the clerk of court, by the sheriff, by the attorneys, the officers of the court. And when a witness mounts the witness stand pledging to tell the truth and nothing but the truth and does not, but commits perjury, then the entire process comes tumbling down.

The very core of the justice system on which we rely for justice for our families, for our churches, on our institutions, for the individual rights of every citizen of our country, all of that depends on that oath that is administered and followed, hopefully, by the witness who takes that stand.

We cannot afford to trivialize the possibility of perjury nor devalue its part in our democracy. That is why we must go forward with this impeachment inquiry to determine whether the statements given under oath amount to perjury, number one, and whether that perjury, no matter what the subject matter is, is an impeachable offense. This is not about sex. This is not about lying about sex. It is, rather, when under oath does one lie about sex.

Mr. CONYERS. Mr. Speaker, very, very few people have argued their cases in the United States Supreme Court. Eleanor Holmes Norton, our delegate from the District of Columbia, has. I yield 1 minute to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. I thank the gentleman for yielding me this time.

Mr. Speaker, we have witnessed astonishing confusion in this House and in the Judiciary Committee concerning the requirements for impeachment. If these very issues were before a court of law, there might be wide disagreement on the facts, but everyone would know what the law is. In an impeachment proceeding, the law is the standard the House sets. We move today, Mr. Speaker, not by any standard, but by the seat of our pants. We are a constitutional democracy, not a parliamentary republic. A vote of no confidence in Great Britain requires no standard, but calls forth a new election. A vote for an impeachment inquiry in the United States requires a high standard, because it could nullify an election.

Mr. Speaker, the President's misconduct may warrant an inquiry, but neither he nor any other American deserves an inquisition.

Mr. HYDE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New York (Mr. FOSSELLA).

Mr. FOSSELLA. Mr. Speaker, I thank the distinguished gentleman for yielding me this time.

Mr. Speaker, it is with a heavy heart that I come before you today to support this resolution. I come not as a Republican, not as a New Yorker, but as a person who loves this great country and all its ideals and principles it represents.

Earlier today one of my colleagues said that this would be the most divisive issue since the Vietnam War. While he may believe that to be true, I take strong exception with that, and I will tell my colleagues why. Men and women were sent overseas like every other war and military conflict since our Nation's birth to defend the rule of law, the notions of personal freedom and individual liberty. And in the case before us today, we are asking a simple question: Did the President of the United States violate any of those rules of law that we cherish and that so many men and women have died for and are willing to die for at every point around the globe?

I do not want to be here today, like so many of my colleagues, but the generations of Americans yet unborn must look back on this day and this matter and this situation and see this as our finest hour, upholding what our Founding Fathers and every generation since has looked for and yearned for, the notion of freedom, the notion of liberty, the notion of the rule of law, and that each American cherish life, liberty and the pursuit of happiness. Reluctantly, I am here; I proudly, though, support this resolution.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentlewoman from Hawaii (Mrs. MINK) who came to this body at the same time as I did, a distinguished lawyer in her own right.

Mrs. MINK of Hawaii. Mr. Speaker, I thank the gentleman for yielding me this time. Mr. Speaker, we have been beseeched today on both sides of the aisle to follow the rule of law, to follow the Constitution. I ask each of you here to understand that the seat of which you occupy in this august Chamber has a constitutional limit which expires on January 3. What right have we to extend this investigation beyond our term of office? That is all that we are saying on this side of the aisle. There must be a limit. This investigation must end by the end of the year.

We also ask you to follow those points that have been raised by the Ken Starr report, extended no further, limited to that. We also say that under the Constitution, we have to know what the rules are, exactly what is the standard of conduct which is impeachable. The Constitution says impeachable requires a definition of high crimes and misdemeanors and talks about treason and bribery.

The Judiciary Committee has not had 1 day of hearings to help this country or this Congress to understand what constitutes an impeachable offense, so how can we vote today on an inquiry which has no standards, no rules of conduct, no time limit?

The President's shameful conduct has brought humiliation to the Presidency, to his family, and to this nation. He has demeaned himself and the office to which he was elected. His conduct cannot be dismissed as a private matter. When he took office he took an oath, as we did, to uphold the law. Probably more important than that oath, is the role the President has as the moral and ethical leader of our country. What will our children think about their President? How will we answer their questions?

In that backdrop this House has now the constitutional duty to judge the facts and to make a determination whether "high crimes and misdemeanors" amounting to treason and bribery have been committed.

Despite assurances by the Republican leadership that they would be fair in setting the rules for this inquiry I have concluded that their interests are primarily partisan.

They have the votes to do whatever they wish. Ultimately the American people will be the judge of whether they were fair.

I, like most of my constituents who have called and written, would prefer that this matter be disposed of quickly. They are disgusted by the incessant media hype regarding the sexual details and just want it to be over and done with. They want to spare their children from having to hear over and over again all the lurid details of the sexual conduct. They want the jokes to cease. The quickest way would be by censure without going through a prolonged inquiry. Under this process we would assume all the narrative facts as described in the Starr report to be true and decree a punishment short of impeachment. It would be a public reprimand. It could also be a fine and forfeiture of pay or pension. Some of these were among the punishments leveled on the Speaker at the beginning of this Congress.

We have had many discussions among minority members and it seemed to me that censure was the right course of action. I regret that it could not be what we are discussing today.

The Republican majority have the votes to carry this forward to an inquiry. They want an open ended inquiry. Most of the public wants no inquiry. The public wants an end to this sordid matter. The public wants us to get back to the business of the nation.

The Democratic minority has suggested that if there must be an inquiry it be limited to the narrative contained in the Starr report and that the inquiry conclude at the end of this 105th Congress. This is a reasonable request. Why should newly elected members of the House be bound by an inquiry which they neither voted for nor participated in? The next Congress, the 106th, if the inquiry goes forward into 1999, has to elect a new Judiciary Committee and for all we know it may have many new members. The limitation to an inquiry by this Congress is both logical and practical and certainly is in keeping with the sentiment felt across this land that they want an end to this emotional debacle.

All that is before this House is the Starr report. This is all that this House and this Judiciary Committee ought to be considering. There is no justification to add other items to this impeachment inquiry. Kenneth Starr has been investigating Whitewater for the past four years at the cost of over $40 million and has filed no report with the House. What could the Judiciary Committee accomplish that Starr has failed to do? Filegate, Travelgate, and Chinagate are all under investigation or have been. There is no need to raise these to the level of impeachment.

If we must be saddled with an inquiry, it must be limited to the report of Kenneth Starr. The Democratic proposal is both fair, and reasonable. It should be accepted.

I shall vote against the Republican version because it leaves open the scope of this inquiry and allows it to go beyond the end of this Congress.

Furthermore, in my view the real debate we should be having in this House is what constitutes a "high crime and misdemeanor" within the meaning of the Constitution. Do the facts of this case, even if all true, warrant an impeachment? Are there judicial precedents? Unless and until we arrive to this determination, the rest of the inquiry is merely to sort out the sordid details, without even understanding whether even if true they amount to an impeachable offense.

Many of my constituents demand that I say whether I am for or against impeachment of this President. That's like asking whether I am ready to drop the guillotine without knowing whether a capital offense deserving death has been committed.

Our system of justice is difficult to understand. For instance OJ Simpson was found "not guilty" of murder because guilt had to be found "beyond a reasonable doubt." Yet in civil court where "the preponderance of evidence" rule is the guide OJ was found liable under the same facts.

Here the Constitution sets the narrow parameters of what an impeachable offense is. We must stick to that determination. First we have to agree what an impeachable offense is. Then we have to decide whether the facts at hand come up to that level of definition.

I am the jury and the judge. Even if there were pending before my court a motion to dismiss this case I would still have to decide what an impeachable offense was and whether the facts reached this definition. If it did not, I would dismiss the case.

It's the rule of law that guides my decision today. We must heed our constitutional duty. What we do will long endure.

Mr. HYDE. Mr. Speaker, I yield 1½ minutes to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Mr. Speaker, we are on the threshold of a very simple decision here, a simple decision to decide whether to look at and investigate the Starr report. Now, both parties in this House agree that we should investigate. The Democrats want to limit the scope and the time. But we want to follow the precedents established by Watergate.

No prior impeachment investigation has ever been limited in the United States or England in the last 600 years because of time and scope. If there is a precedent that you can cite today, please tell us. Why do we have to go forward like this? Because man believes he is above the law. In fact, Louis XIV said, "I am the State." The king expressed the essence of the doctrine of unlimited power.

In 1825, Daniel Webster in his Bunker Hill Monument oration talked about

unlimited power, love of power and "long supported by the excess and abuse of it are yielding in our age to other opinions." What are those opinions? The Constitution.

So, my friends, we are at a threshold. Under our Constitution, the role of the House and our duty to the American people is to act simply as a grand jury in reference to the impeachment charges presented. To paraphrase Thomas More "A Man for All Seasons", when he said:

"The laws of this country are the great barriers that protect the citizens from the winds of evil and tyranny. If we permit one of those laws to fall, who will be able to stand in the winds that follow?"

How eloquent. How truthful. We must do the right thing and move forward with an investigative inquiry of impeachment without restrictions.

Mr. CONYERS. Mr. Speaker, with all apologies to my colleagues on this side of the aisle, without objection from the chairman of the committee, I would like to call on three of my colleagues for 20 seconds each consecutively: I would call on the gentleman from New York (Mr. ENGEL), the gentlewoman from Michigan (Ms. KILPATRICK), and the gentleman from North Carolina (Mr. HEFNER) for that amount of time, if that is permissible.

Mr. Speaker, I yield 20 seconds to the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Mr. Speaker, I think it is ironic that I have 20 seconds. The Republican majority wants to give us no time limit on an impeachment inquiry which will turn into an open-ended fishing expedition, but I have 20 seconds here. They want to severely limit the amount of debate here amongst our colleagues.

The American people are smart. They want this politically motivated witch-hunt to end. It is no coincidence that Mr. Starr brought his report 7 weeks before a national election.

Let us stop the politics. Let us really talk about bipartisanship. Why can we not have adequate time to debate this important thing to the Nation?

Mr. Speaker, I yield back the balance of my time, perhaps a second and a half.

Mr. CONYERS. Mr. Speaker, I yield 20 seconds to the gentlewoman from Michigan (Ms. KILPATRICK).

Ms. KILPATRICK. Mr. Speaker, I thank the ranking member for giving me this full 20 seconds to address the American people.

It is unfair, it is unconstitutional, and it is unfortunate that we are here today. The highest office in this country, not protecting the Constitution, we ought to be ashamed of ourselves.

Mr. CONYERS. Mr. Speaker, I yield 20 seconds to the gentleman from North Carolina (Mr. HEFNER).

Mr. HEFNER. Mr. Speaker, I came here with Chairman HYDE, and we came here 24 years ago. I was hoping that I would get more than 20 seconds on this, the most important vote I have cast since I have been here. But the thing that bothers me in this whole process, and I will be leaving this august body which I love, is the hatred and the venom that this has engendered over the past year. You look at the talking heads on television, in the newscasts. There are people that are absolutely livid.

Mr. CONYERS. Mr. Speaker, I would like to recognize three more persons in the same time frame as before: The gentlewoman from Florida (Mrs. MEEK), the gentleman from Maine (Mr. BALDACCI), and the gentleman from California (Mr. FILNER).

Mr. Speaker, I yield 20 seconds to the gentlewoman from Florida (Mrs. MEEK).

Mrs. MEEK of Florida. Mr. Speaker, I want to thank this Congress. I love you very much. But it is very apparent that from the very beginning you have not wanted William Jefferson Clinton as your President.

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My colleagues have gotten on a path to do it, and they are on their way.

The American people are watching. They know this process is unfair. And wherever something is unfair, there is an old saying that goodness and justice shall prevail.

So I say if my colleagues keep going, their time will come.

Mr. CONYERS. Mr. Speaker, I yield 20 seconds to the gentleman from Maine (Mr. BALDACCI).

Mr. BALDACCI. Mr. Speaker, I rise today to address this situation that the House of Representatives and, indeed, the country face today. I rise in support of the motion by the gentleman from Virginia (Mr. BOUCHER) to substitute the motion by the gentleman from Illinois (Mr. HYDE) and to have an inquiry, but to have a focused inquiry, and one that has an expeditious end to it so that the Congress, which has an obligation to do the people's business, moves forward as quickly as possible and as fairly as possible. And most importantly, Mr. Speaker, I want to ensure that we are actively working to address the priorities of the American people.

Mr. Speaker, I rise today to address the situation that the House of Representatives, and indeed, face today.

Independent Counsel Kenneth Starr has presented the House of Representatives with a referral and supporting documentation containing "substantial and credible information that President Clinton committed acts that may constitute grounds for an impeachment." It is now the duty of the House to determine whether or not to move forward with an impeachment "inquiry," and if so, what the scope of such an inquiry should be.

This is an important matter. What President Clinton did was wrong, and he must be punished appropriately. However, instead of rushing to judgment, I believe we should pause to consider the long-term implications of our actions. I hope that the actions of this House will stand the test of time. I am concerned that they may not.

Today, I will support an inquiry that is limited in scope to the matters contained in the Independent Counsel's referral. (Should Mr. Starr refer additional matters, I would consider expanding the scope of the inquiry to include those matters at that time.) I do not believe that a wide-ranging resolution that will result in a re-examination of unrelated issues is in the best interest of our nation. The American people have rightly demanded that this matter be settled expeditiously, and there is no reason that cannot happen.

The House must define what constitutes an impeachable offense and determine whether or not the facts before us met that definition. The potential impeachment and removal from office of a popularly elected President is a very serious matter. We must carefully consider the President's conduct, and determine whether or not it rises to the level of "high crimes and misdemeanors." As we go forward, I believe that we should explore whether another punishment, such as censure or rebuke, might be more appropriate to these circumstances. Above all, we must conduct our inquiry in a fair and deliberate manner that is worthy of the seriousness of the situation and that will not set precedents that will weaken the Office of the Presidency in the future.

Again, I support moving forward with a focused inquiry. I would encourage every member—Republican and Democrat—to support a focused inquiry that can bring this difficult situation to a close.

But I also want to recognize there are many other important matters facing our nation. Each week as I travel throughout Maine, I consistently hear from people that they are tired of reading about the Starr investigation. They want to talk about Social Security, education, health care and other issues that affect their day to day lives. The Congress has an obligation to do the people's business. I want to move this process forward as quickly and as fairly as possible. Most importantly, I want to ensure that we are actively working to address the priorities of the American people.

Mr. CONYERS. Mr. Speaker, I yield 20 seconds to the gentleman from California (Mr. FILNER.)

Mr. FILNER. Mr. Speaker, it is this Congress that is subverting the constitution by trivializing the impeachment process. Ken Starr has been 4 years and $40 million investigating every part of the President's life, and we are going to embark on an open-ended investigation while the world economy is collapsing, the health care system needs reform, our own finance system is corrupt, and we will be talking for months about who touched who where.

The continued investigation of the President is nothing more than a cover-up for the failure of a do-nothing Congress to address the real issues facing the American people.

I am voting "no" on opening an impeachment inquiry.

Impeachment is the gravest of offenses. In the view of the framers of our Constitution, impeachment is reserved for those who undermine the fundamental political and Constitutional structure of our nation. While President Clinton's behavior was both reckless and indefensible, it is not impeachable. It is this Congress that is subverting the Constitution by trivializing the impeachment process.

Ken Starr has already spent four years and $40 million investigating every aspect of the President's public and private life. It is irresponsible for this Congress to continue an open-ended investigation for who knows how long. The world economy is collapsing, our health care system needs major reform, our whole campaign finance system is corrupt—and we will be talking for months about who touched who where!

This continued investigation of the President is nothing more than a "coverup" for the failure of a do-nothing Congress to address the real issues facing the American people.

We must bring closure to this sorry chapter in our history as quickly as possible—so we as a nation can move on to deal with our domestic and international problems. To that end, I would urge the Congress to immediately censure the President—and begin the process of healing the breach of trust that engulfs us now.

Mr. HYDE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Mr. Speaker, I rise in reluctant, but strong support of the resolution offered by the Chairman of the Committee on the Judiciary.

It is disappointing to see this debate degenerate into a cacophony of cat calls.

Honest people can have honest disagreements. But I take strong exception, Mr. Speaker, to the notion that somehow this is unconstitutional. Quite the contrary. This follows the Constitution.

Incumbent upon every Member of this House today is the most important responsibility short of the responsibility of a declaration of war because we have to begin the process to determine the fitness for office of our Chief Executive.

There is no reason to let this degenerate into cat calls or into the spin cycle. Let us follow the Constitution, let us follow the procedures laid down by those who have gone before, let us not confuse the issue, trying to superimpose ethics rules of this House on the constitutional process. Vote for the inquiry of impeachment.

Mr. CONYERS. With apologies again to my colleagues, Mr. Speaker, I yield 20 seconds each to gentleman from New York (Mr. MEEKS) and the gentleman from Florida (Mr. DEUTSCH).

Mr. Speaker, I yield 20 seconds to the gentleman from New York (Mr. MEEKS).

Mr. MEEKS of New York. Mr. Speaker, this resolution does not allow us to even set standards. When we do not have standards, what we become is a modern-day kangaroo court.

I was arrested myself the other day, and when I was arrested for the immoral practices of the Supreme Court in hiring minority law clerks, I knew that I had a right to a speedy trial. I knew the elements of the crime that were against me. That is not here.

Dr. King once said that a threat to justice anywhere is a threat to justice everywhere.

My fellow Americans, this is not about just justice for President Clinton. This is about justice for all of the American people.

Mr. CONYERS. Mr. Speaker, I yield 20 seconds to the gentleman from Florida (Mr. DEUTSCH).

Mr. DEUTSCH. Mr. Speaker, this is clearly my saddest day as a Member of this body.

As my colleagues know, we have heard a lot of protests so far, and the protest that there is no politics here. Well, know something? People are protesting that protest a little too much. It is not believable.

The reality is that my colleagues on the other side of the aisle, they cannot just impeach Bill Clinton, but the truth is they can impeach a ham sandwich. That is the reality of the situation, and the American people understand it.

Mr. CONYERS. Mr. Speaker, I yield 40 seconds to the gentleman from Massachusetts (Mr. KENNEDY).

Mr. KENNEDY of Massachusetts. Mr. Speaker, there are strong beliefs on this issue on both sides. I believe strongly that many of the Republicans think and believe that this is about perjury and think it is about lying, and I think Democrats think that this is about a sexual affair. And in truth: in some ways both are right.

The question before us is whether or not we believe as a people and as a Congress that these issues rise to a impeachable offense.

President Clinton did wrong. He admitted it, he said he was sorry, he asked for our forgiveness. Let us give him our forgiveness, let him run this country, let us talk about the issues that are important to the people of this country: providing health care and education, making certain that we have a fair country, a just country, a country that looks out for the poor.

That is the challenge before the American people.

That is the challenge before the Congress.

Let us meet that challenge and put this inquiry behind us, behind the American people.

Mr. HYDE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Speaker, today's vote is not about impeachment. Today's vote is about the search for truth. This is a vote that our grandchildren will ask us about many years from now when our constituents have long forgotten us, many years from now when our terms of office have been behind us for many years. They will look up and say:

"Why did you vote the way you did?"

Mr. Speaker, I think most Members are going to rise to this occasion and not vote by the polls, not vote by the parties and certainly not by the personalities, but vote for a higher reason: that question of does truth matter? What is right? What is wrong? Are we a Nation of laws? And do we want to affirm and uphold these laws? Do we see that as our constitutional oath of office?

I believe that when the gavel is sounded, most of us, Democrats and Republicans, will affirm that we do uphold the values, that we will move towards the search for truth, not happily jumping into it, but soberly upholding our constitutional oaths of office.

Mr. CONYERS. Mr. Speaker, I have a series of unanimous consent requests to revise and extend remarks, and I yield such time as they may consume to: the gentlewoman from Connecticut (Ms. DeLauro), the gentlewoman from Missouri (Ms. MCARTHY), the gentlewoman from the Virgin Islands (Ms. CHRISTIAN-GREEN), the gentlewoman from North Carolina (Mrs. CLAYTON), the gentlewoman from California (Ms. LEE), the gentlewoman from California (Ms. ESHOO), the gentlewoman from California (Ms. ROYBAL-ALLARD), the gentlewoman from New York (Ms. VELÁZQUEZ), the gentlewoman from Oregon (Ms. FURSE), the gentlewoman from California (Ms. MILLENDER-MCDONALD), the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON), the gentlewoman from California (Ms. WOOLSEY), the gentlewoman from Florida (Ms. BROWN), the gentleman from New Jersey (Mr. MENENDEZ), and the gentleman from Texas (Mr. BENTSEN).

Ms. DELAURO. Mr. Speaker, I regret that I have been denied the opportunity to join this most important constitutional debate, and I rise to announce my intention to vote against an open-ended inquiry that is bad for our families and bad for this country.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair wishes to announce that the Chair is prepared to recognize normal unanimous consent requests within the normal framework or the Chair will cut off all unanimous consent requests.

Mr. Speaker, I rise in opposition to this resolution, in support of a fair process of inquiry.

Mr. Speaker, I rise today in support of the motion to recommit House Resolution 581 so that the measure may be amended to provide a swift, fair, judicious resolution to the inquiry of whether the referral of the Independent counsel constitutes an impeachable offense by our President.

The debate to day is not about whether to proceed with an impeachment inquiry. It is

about how we should proceed. I support a responsible inquiry that will focus on the 15 findings contained in over 10,000 pages and documents provided to the Congress and the American people. Our inquiry should begin with a determination of what standard constitutes an impeachable offense, and an examination of the sufficiency of the evidence. If more evidence is needed, we can expand the inquiry. We must be sure the findings constitute impeachment.

For too long the attention of the Congress has not been focused on the needs of the American people: reforming our health care system, achieving quality education, making Social Security solvent, and restoring soundness to our global economy which faces the possibility of a serious recession in light of a world economic downturn. For the sake of the country we should complete this inquiry by the end of the year, so that we can get back to the business of the American people.

I approach this vote with a deep respect for the Constitution, the Presidency, and the Congress. It is a serious act to overturn an election. I am profoundly disturbed and disappointed by what the President has done. Impeachment is meant not to punish a President but to protect the Nation and its citizens against the abuse of power. Our actions today are more important than any one individual. This vote speaks to the essence of our democracy and the premises of our Founding Fathers. The inquiry must go forward expeditiously and free from partisanship.

I am committed to exercising sound judgment in the best interest of the citizens of my district and this great Nation.

Ms. CHRISTIAN-GREEN. Mr. Speaker, I rise in strong opposition to the resolution and in support of fairness, the Constitution and America.

That's not rain outside Mr. Speaker, today the Angels are crying.

Today will be a historic day, but what kind of history will we be making?

If the vote goes as it is projected to and the resolution from the Judiciary Committee is passed in its present form, then Mr. Speaker, today the elected representatives of the people will in doing so defy the people, ignore their pleas that enough is enough, and instead vote to proceed with an ignominious impeachment inquiry that is based solely on partisan politics and not in or on our common interest or that of the state.

In doing so, given the nature of the charges which do not come even close to meeting the standards for impeachment, and having refused to limit the scope or the time, or proceed in a fair manner, it is clear Mr. Speaker that the intent is to destroy President Clinton, and the Democratic chances for victory in November. It clearly has nothing to do with protecting the state.

My colleagues, I rise to say to you that what you are proposing to do will probably not destroy Bill Clinton although it may affect the election outcome, but what it will do is destroy the institution of the Presidency for future generations, it will undermine the Constitution that is there to protect the least of us, it will destabilize the economy that so many have benefitted from, it will weaken our military efforts abroad, and it will damage the integrity of this House.

Yes, Mr. Speaker, the Angels are crying today.

Mr. Speaker, all that the members of the Congressional Black Caucus asked for was fairness. That was not agreed to because it would have dictated that there be no inquiry at all. The Democratic caucus, knowing that a motion to proceed with the inquiry would pass, then asked for a legitimate, fair and focused process. This too is today being denied, Mr. Speaker, and in doing so it is the request of the American people that is being denied.

Today history will be made, let us proceed fairly and vote on the dictates of conscience not politics. Otherwise, I assure you, Mr. Speaker we will all regret that this day ever dawned.

Mrs. CLAYTON. Mr. Speaker, I rise in opposition to this very unfair resolution and in support of a fair resolution, the Democrat alternative.

Mr. Speaker, today, as we consider this Impeachment Inquiry Resolution, each must ask the question, what does the Constitution require of us?

Impeachment of a President is really a greater punishment of the people. When we impeach a President, we frustrate the will of the people. That is why we must consider this matter with great care and probe deeply within our own conscience.

That is why we must have standards. In the sixty impeachment proceedings since 1789, no Congress has ever impeached a President. Two Presidents have faced impeachment, Andrew Johnson, 1868, and Richard Nixon in 1974. Johnson was acquitted. Nixon resigned before trial.

The Constitution sets out what constitutes an "Impeachable Offense", as "Treason, Bribery, or other High Crimes and Misdemeanors." We must ask ourselves, do we believe this President has committed "treason," or any offense like treason?

Treason, attempting by overt acts to overthrow the government, or betraying the government into the hands of a foreign power? We must ask ourselves, can it be said that this President committed "bribery," attempting to influence the behavior of a public official?

Neither the Starr Report nor the Shippers Charges, list treason or bribery among the claimed offenses. So, what does "Other high crimes and misdemeanors," mean?

We must not substitute our personal view of an impeachable offense for the Constitution's definition. And, what of the people's business? What of education, health care, small farmers, the global economy, and Social Security? Each must ask, in seeking to do our duty with this matter, have we done our duty for the people? When this day closes, each must ask, have I moved this Nation forward? Have I met my appointed task? Have I carried out my responsibility? Have I done the deeds for which I am obliged?

Ms. LEE. Mr. Speaker, I am in strong opposition to any impeachment inquiry, and hopefully we will move forward though in a fair and speedy process.

Ms. ESHOO. Mr. Speaker, I rise today in opposition to the resolution believing that in the national interest, in the national interest, that we have a brief and concise hearing.

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise today in opposition to this unfair resolution.

Ms. VELÁZQUEZ. Mr. Speaker, I rise in strong opposition to this undemocratic, unconstitutional resolution.

Ms. FURSE. Mr. Speaker, I rise in strong opposition to this unfair Republican resolution and in favor of the fair Democratic alternative.

Ms. MILLENDER-McDONALD. Mr. Speaker, I rise in unequivocal opposition to this unfair practice.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise in opposition to the Hyde resolution and in favor of the Democratic amendment.

Ms. WOOLSEY. Mr. Speaker, I stand in opposition to the Hyde resolution and in support of the Democratic alternative.

As a woman and a Democrat, I am embarrassed by the President's conduct. What he did was wrong.

The very idea of considering impeaching a duly-elected President and removing him from office is one of the most serious and weighty tasks of the U.S. Congress. Since the Independent Counsel's report was delivered to the steps of Capitol Hill, I have thoroughly and carefully reviewed the allegations. But since that day, I have also seen important constitutional questions answered with partisanship, compromise destroyed by politics, and legal discussions replaced by political attacks. The Republican leadership has allowed desire for political gain to distort this investigation, with little regard for the harm done to American families.

The mudslinging and dirt digging has gone too far and lasted too long. It has hurt our country, damaged this Congress, and harmed our families. We should be focusing on education, Social Security, and health care. Our nation cannot endure an inquiry that goes on month after month with no direction and no end in sight. Before we jump in head first, we need an exit strategy.

That is why I will vote against the Republican resolution. With no limits and no guidelines, the Republican resolution gives the majority party carte-blanche to do still more dirt digging, more snooping, and more probing into personal lives and intimate details. Quite simply, the Republican investigation risks careening out-of-control and dragging our kids and our families down with it.

I will vote for the Democratic alternative proposal because it is fair, focused, and finite. While it does allow Congress to expand its investigation should new facts come to light, it first defines an impeachable offense, specifies the scope of the investigation, and establishes a concrete time frame. Without these guidelines and the time limit, we will never be able to get this ordeal behind us.

Ms. BROWN of Florida. Mr. Speaker, I rise against this pre-Halloween witchhunt.

Mr. Speaker, I rise today in strong opposition to this impeachment inquiry resolution. We have lost our senses in this Congress! This proposed inquiry is the result of a well-planned witch hunt. For years the nation has been forced to live with daily news articles

aimed at discrediting the President and the First Lady. The nation is weary and the world is in crisis! We must end this insanity now!

Our Constitution is at stake; our democratic system is at stake. Will the Congress overturn the will of the people in electing our President? The report to the Congress on this matter is not about high crimes or misdemeanors against the United States of America—the only grounds for impeachment.

We do not need to waste more time on this issue. Every year 1 million more people lose health care and our education system is collapsing. This leadership refuses to address the important issues of working people, children, and the nation's oppressed. I urge my colleagues to end this nightmare now!

Mr. MENENDEZ. In view of the partisan, arbitrary and capricious limitation of time, I rise in opposition to the Republican proposal that limits time but does not limit scope.

Mr. BENTSEN. Mr. Speaker, the issue before the House of Representatives today is not whether the President's behavior should be condoned, nor is it whether the House should proceed with an inquiry to determine if this behavior amounts to an impeachable offense. I believe that the President's behavior was wrong and indefensible, and I believe an inquiry is necessary. The question before us today is what form this inquiry should take. Should it be an open-ended process as provided in the underlying motion H. Res. 581 that allows the Judiciary Committee to investigate anything it wants for as long as it wants, as this resolution would authorize, or should the inquiry be limited in scope to the allegations contained in the Independent Counsel's referral and brought to resolution by the end of the year, as the Boucher motion to recommit would do?

Today, I am voting for the motion to recommit because I believe the House should fully and fairly investigate this matter, but also bring it to a conclusion so we can move on and address the critical challenges facing our nation, including the most serious international economic crisis in half a century. If the motion to recommit were adopted, we could immediately begin with an in-depth inquiry into the referral of the Independent Counsel. The nation cannot afford, and the American people do not want, an open-ended, boundless, limitless inquiry as contained in the Hyde resolution that would consume all the time and energy of our nation's leaders. How long will this resolution go on? One year, two years? I fear the Congress will get little, if anything, done if we reject the Boucher motion and adopt the Hyde motion, as underscored by the recent track record of inaction on the budget, the Patients Bill of Rights, recapitalization of the International Monetary Fund, and other critical issues. My constituents tell me that they want this matter resolved quickly and fairly, and that is what I am voting to do today.

The resolution I am voting for today fulfills the House's obligations under the Constitution and the Independent Counsel law. It establishes a process by which the Judiciary Committee would first thoroughly and comprehensively review the constitutional standard for impeachment of the President. If the Committee determined that the Independent Counsel's referral could constitute grounds for impeachment, the Committee would then move to an inquiry stage in which it would fully and completely determine whether to recommend to the House that grounds exist for the House to exercise its constitutional power to impeach the President. If the Committee did not recommend impeachment to the House, this resolution would allow the Judiciary Committee to consider alternative sanctions or to recommend no action at all. It is also important to note that this resolution, while limiting the scope of the current inquiry to the Independent Counsel's referral, recognizes that the House would have to consider—as required under the Independent Counsel statute—any additional referral subsequently forwarded by the Office of the Independent Counsel. In short, this resolution neither forecloses a broader inquiry should one be warranted, not does it presume that one may be needed, as the majority's resolution would do.

That said, I believe it is terribly important, given the circumstances, that Congress should seek to determine whether there is serious injury to the system of Government. But this does not mean that we should have an open ended inquisition. The alternative resolution does not preclude investigating other matters when they are referred. It only means that for now, we should investigate what Judge Starr has referred to the Congress and proceed expeditiously and, above all, fairly.

Mr. Speaker, we should remember that the Framers of the Constitution did not see impeachment as punishment. Impeachment is a vehicle by which to remove a threat to the nation's laws and to restore its political and legal health. We cannot let our collective anger get in the way of our official duties to the nation. If it is our anger that we want to express, we have several options and we can debate those at a later date. But we have a very serious and terribly important duty to uphold and defend the Constitution, not only from foreign enemies, but from our own destructive impulses as well.

Before we proceed with this inquiry, we should determine what, in fact, constitutes an impeachable offense. Determining what are impeachable offenses will help the Congress to expedite this inquiry. Also, if evidence exists that warrants impeachment, we will be able to build the strongest case possible against the President. No President, today or in the future, should be impeached on accusations that amount to death by a thousand cuts. Rather, he should be impeached on the most serious, most tragic misconduct against the state.

The consequences of wringing our collective hands over this issue for the remainder of the Clinton Presidency are enormous and dire. First, the international financial crisis that has ravaged economies in Asia, Russia, and South America is slowly making its way to our borders. This crisis has produced consequences not seen in 65 years, since the Great Depression: deflation, mass unemployment, and currency devaluations. We should be working to fix the problems associated with unregulated capital markets. Second, there are a host of foreign policy challenges that we are not addressing as a result of our attention to this issue—in Kosovo, the Middle East, North Korea, and Iraq.

Above all, whatever action we take must stand the test of time. History will not shine brightly on the 105th Congress if we are wrong about how we proceed. Therefore, Mr. Speaker, I urge my colleagues to support the alternative motion, to authorize an immediate inquiry by the Judiciary Committee into the Starr referral and report back its findings and recommended actions no later than December 31, 1998 so that we may put this sordid chapter of American History behind us and continue to move the nation forward.

□ 1330

Mr. CONYERS. Mr. Speaker, I would like to continue with apologies to recognize my colleagues on this side for 20 seconds each: The son of our friend HAROLD FORD, the gentleman from Tennessee (Mr. FORD, Jr.), the gentleman from Pennsylvania (Mr. FATTAH), the gentleman from Massachusetts (Mr. TIERNEY).

Mr. Speaker, I yield 20 seconds to the gentleman from Tennessee (Mr. FORD).

Mr. FORD. Mr. Speaker, some of my colleague on that side of the aisle do not like our President. Some of my colleagues on this side of the aisle may not like the Speaker. Some of my colleagues on that side of the aisle may not like other colleagues of theirs, and those on this side the same.

But that does not give us the grounds to launch an impeachment inquiry. Let us do the fair thing, I say to the gentleman from Illinois (Mr. HYDE). Let us do the right thing.

We all want an inquiry. We all think it is the fair thing to do. But put some time limits, some scope limits. Do the right thing for America. We did it for the Speaker. Do it for this President

Mr. CONYERS. Mr. Speaker, I yield 20 seconds to the gentleman from Pennsylvania (Mr. FATTAH).

Mr. FATTAH. Mr. Speaker, I think that we all should understand that the American public are not just going to be mere spectators in this masquerade, since we are getting close to Halloween, I guess we want to get there earlier, of a legitimate inquiry.

This Congress has conducted dozens upon dozens of investigations of Bill Clinton and his administration. Not one of them would any objective person say has been fair or nonpartisan, and this will not be. But if we got to impeach this President or force him from office, there will be economic consequences for the American people. Let them in on this big secret that they will not just be spectators if we carry on with this charade.

Mr. CONYERS. Mr. Speaker, I yield 20 seconds to the gentleman from Massachusetts (Mr. TIERNEY).

Mr. TIERNEY. Mr. Speaker, the Committee on the Judiciary was asked on September 11 to review the communication received on September 9 to determine whether sufficient grounds exist to recommend to the House that an impeachment inquiry be commenced. We did not ask to go beyond

what was in that report, but this is what the other party seeks to do.

We asked them to define the standard of what was an impeachable offense and measure against that what was in that report, and they have not done that on the committee. This was to be done before we got here today. We now need a fair process, Mr. Speaker. Let us hope we can get on with that type of process.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. GREEN).

Mr. GREEN. Mr. Speaker, I rise to oppose the open ended investigation and support a limited one.

Mr. Speaker, the overturning of an election in a democracy should not be taken lightly. Our country's history in presidential impeachment inquiries is limited due to the seriousness of overturning an election.

The President's conduct cannot be defended, and I have not done so. Like most Americans, I believed the President last January when he misled and lied to us. I was disappointed with the President's behavior and I will not defend his actions.

The House Judiciary Committee has recommended the beginning of an inquiry into impeachment of the President. This resolution is not limited in scope or time. The Independent Counsel's office has submitted one report based on the Lewinsky allegations while the Judiciary Committee, on a partisan vote, wants an inquiry that is broad-based and not limited in time. We should provide limits to any inquiry that potentially will overturn an election.

One of our founding fathers, George Mason, said that the phrase "high crimes and misdemeanors refers to presidential actions that are great and dangerous offenses, or attempts to subvert the Constitution." Alexander Hamilton, in the Federalist Paper Number 65, wrote that "Impeachable offenses relate chiefly to injuries done immediately to society itself." An impeachment should only be undertaken for serious abuse of official power or a serious breach of official duties. The impeachment process should never be used as a legislative vote of no confidence on the President's conduct or policies.

This week I had the opportunity to listen to many constitutional scholars. Attached is a letter from some of them that provides the basis to oppose an unlimited inquiry.

OCTOBER 2, 1998.

HON. NEWT GINGRICH,
Speaker, U.S. House of Representatives.

DEAR MR. SPEAKER: Did President Clinton commit "high Crimes and Misdemeanors" for which he may properly be impeached? We, the undersigned professors of law, believe that the misconduct alleged in the Independent Counsel's report does not cross that threshold.

We write neither as Democrats nor as Republicans. Some of us believe that the President has acted disgracefully, some that the Independent Counsel has. This letter has nothing to do with any such judgments. Rather, it expresses the one judgment on which we all agree: that the Independent Counsel's report does not make a case for presidential impeachment.

No existing judicial precedents bind Congress's determination of the meaning of "high Crimes and Misdemeanors." But it is clear that Members of Congress would violate their constitutional responsibilities if they sought to impeach and remove the President merely for conduct of which they disapproved.

The President's independence from Congress is fundamental to the American structure of government. It is essential to the separation of powers. It is essential to the President's ability to discharge such constitutional duties as vetoing legislation that he considers contrary to the nation's interests. And it is essential to governance whenever the White House belongs to a party different from that which controls the Capitol. The lower the threshold for impeachment, the weaker the President. If the President could be removed for any conduct of which Congress disapproved, this fundamental element of our democracy—the President's independence from Congress—would be destroyed.

It is not enough, therefore, that Congress strongly disapprove of the President's conduct. Under the Constitution, the President cannot be impeached unless he has committed "Treason, Bribery, or other high Crimes and Misdemeanors."

Some of the charges laid out in the Independent Counsel's report fall so far short of this high standard that they strain good sense: for example, the charge that the President repeatedly declined to testify voluntarily or pressed a debatable privilege claim that was later judicially rejected. These "offenses" are not remotely impeachable. With respect, however, to other allegations, the report requires careful consideration of the kind of misconduct that renders a President constitutionally unfit to remain in office.

Neither history nor legal definitions provide a precise list of high crimes and misdemeanors. Reasonable people have differed in interpreting these words. We believe that the proper interpretation of the Impeachment Clause must begin by recognizing treason and bribery as core or paradigmatic instances, from which the meaning of "other high Crimes and Misdemeanors" is to be extrapolated. The constitutional standard for impeachment would be very different if, instead of treason and bribery, different offenses had been specified. The clause does not read, "Arson, Larceny, or other high Crimes and Misdemeanors," implying that any significant crime might be an impeachable offense. Nor does it read, "misleading the People, Breach of Campaign Promises, or other high Crimes and Misdemeanors," implying that any serious violation of public confidence might be impeachable. Nor does it read, "Adultery, Fornication, or other high Crimes and Misdemeanors," implying that any conduct deemed to reveal serious moral lapses might be an impeachable offense.

When a President commits treason, he exercises his executive powers, or uses information obtained by virtue of his executive powers, deliberately to aid an enemy. When a President is bribed, he exercises or offers to exercise his executive powers in exchange for corrupt gain. Both acts involve the criminal exercise of presidential powers, converting those awful powers into an instrument either of enemy interests or of purely personal gain. We believe that the critical, distinctive feature of treason and bribery is grossly derelict exercise of official power (or, in the case of bribery to obtain or retain office, gross criminality in the pursuit of official power). Nonindictable conduct might rise to this level. For example, a President might be properly impeached if, as a result of drunkenness, he recklessly and repeatedly misused executive authority.

The misconduct of which the President is accused does not involve the derelict exercise of executive powers. Most of this misconduct does not involve the exercise of executive powers at all. If the President committed perjury regarding his sexual conduct, this perjury involved no exercise of presidential power as such. If he concealed evidence, this misdeed too involved no exercise of executive authority. By contrast, if he sought wrongfully to place someone in a job at the Pentagon, or lied to subordinates hoping they would repeat his false statements, these acts could have involved a wrongful use of presidential influence, but we cannot believe that the President's alleged conduct of this nature amounts to the grossly derelict exercise of executive power sufficient for impeachment.

Perjury and obstructing justice can without doubt be impeachable offenses. A President who corruptly used the Federal Bureau of Investigation to obstruct an investigation would have criminally exercised his presidential powers. Moreover, covering up a crime furthers or aids the underlying crime. Thus a President who committed perjury to cover up his subordinates' criminal exercise of executive authority would also have committed an impeachable offense. But if the underlying offense were adultery, calling the President to testify could not create an offense justifying impeachment where there was none before.

It goes without saying that lying under oath is a serious offense. But even if the House of Representatives had the constitutional authority to impeach for any instance of perjury or obstruction of justice, a responsible House would not exercise this awesome power on the facts alleged in this case. The House's power to impeach, like a prosecutor's power to indict, is discretionary. This power must be exercised not for partisan advantage, but only when circumstances genuinely justify the enormous price the nation will pay in governance and stature if its President is put through a long, public, voyeuristic trial. The American people understand this price. They demonstrate the political wisdom that has held the Constitution in place for two centuries when, even after the publication of Mr. Starr's report, with all its extraordinary revelations, they oppose impeachment for the offenses alleged therein.

We do not say that a "private" crime could never be so heinous as to warrant impeachment. Thus Congress might responsibly determine that a President who had committed murder must be in prison, not in office. An individual who by the law of the land cannot be permitted to remain at large, need not be permitted to remain President. But if certain crimes demand immediate removal of a President from office because of their unspeakable heinousness, the offenses alleged against the President in the Independent Counsel's referral are not among them. Short of heinous criminality, impeachment demands convincing evidence of grossly derelict exercise of official authority. In our judgment, Mr. Starr's report contains no such evidence.

Sincerely,

Jed Rubenfeld, Professor of Law, Yale University.

Bruce Ackerman, Sterling Professor of Law and Political Science, Yale University.

Akhil Reed Amar, Southmayd Professor of Law, Yale University.

Susan Bloch, Professor of Law, Georgetown University Law Center.

Paul D. Carrington, Harry R. Chadwick Sr. Professor of Law, Duke University School of Law.

John Hart Ely, Richard A. Hausler Professor of Law, University of Miami School of Law.

Susan Estrich, Robert Kingsley Professor of Law and Political Science, University of Southern California.

John E. Nowak, David C. Baum Professor of Law, University of Illinois College of Law.

Judith Resnik, Arthur L. Liman Professor, Yale Law School.

Christopher Schroeder, Professor of Law, Duke University School of Law.

Suzanne Sherry, Earl R. Larson Professor of Law, University of Minnesota Law School.

Geoffrey R. Stone, Harry Kalven, Jr. Dist. Serv. Professor & Provost, University of Chicago Law School.

Laurence H. Tribe, Tyler Professor of Constitution Law, Harvard University Law School.

Note: Institutional affiliations for purposes of identification only.

I urge a yes vote for a limited and specific inquiry and a no vote on the open-ended, partisan Judiciary Committee inquiry. Our nation is more important than an individual or political party.

The SPEAKER. The gentleman from Michigan (Mr. CONYERS) has 8¼ minutes remaining. The gentleman from Illinois (Mr. HYDE) has 8 minutes remaining.

Mr. CONYERS. Mr. Speaker, I yield 30 seconds to the distinguished gentlewoman from New York (Mrs. LOWEY), then I yield 20 seconds to the gentleman from Tennessee (Mr. CLEMENT), then I yield 20 seconds to the gentleman from Georgia (Mr. LEWIS), our deputy whip of the House, if you please.

Mr. Speaker, I yield 30 seconds to the gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. Mr. Speaker, my colleagues, the people of the United States are wise and fair. They understand that the President's conduct, the President's lies, the President's behavior was wrong and immoral and reprehensible. But they are wise.

I want to appeal to my colleagues as a woman, as a mother, as a grandmother, and as a lawmaker, let us have a formal rebuke of this behavior, but then let us move forward in this House, because I want to make it very clear that we believe it is immoral not to be rebuilding our schools, not to be taking care of our children, not it be focusing on health care, and not to preserve Social Security and Medicare.

Mr. CONYERS. Mr. Speaker, I yield 20 seconds to the gentleman from Tennessee (Mr. CLEMENT).

Mr. CLEMENT. Mr. Speaker, the President of the United States has the toughest job on the face of the earth. We cannot indefinitely keep this open and keep it going into next year. The economy is at stake; we know that. The economy is unraveling now; we know that. How can we neglect it?

We also know there are a lot of regional and ethnic problems in this world. We need to focus on that. We do not need to be preoccupied with Monica or anything else. We need to get on with the business at hand. Let us move forward.

Mr. CONYERS. Mr. Speaker, I yield 20 seconds to the gentleman from Georgia (Mr. LEWIS).

Mr. LEWIS of Georgia. Mr. Speaker, we should be standing here debating the future of Social Security. We should be standing here debating health care. We should be standing here debating education for our children and how we can protect the environment.

Instead, we are participating in a political charade. Republicans want to do what they could not do in an election, defeat Bill Clinton. I have news for my colleagues, the American people are watching. Beware the wrath of the American people, Mr. Speaker, beware.

Mr. HYDE. Mr. Speaker, I am pleased to yield 1½ minutes to the distinguished gentlewoman from California (Mrs. BONO).

Mrs. BONO. Mr. Speaker, I am going to start with a personal story. People constantly ask me where do I get the strength to be a Member of Congress at this difficult time in my life. I have to tell my colleagues that the strength boils down to a day in Lake Tahoe still. I had to kneel down before my two children, Chesare and Chianna, and tell them about the death of their father. While they looked at me, it was through their eyes that they gave me the strength that I needed to go on and do the right thing.

I think it is now the time that we, perhaps, look at all of our children's eyes. Look at their eyes for the strength that we need to go forward and to do the right thing.

This is about the truth, and it is about the Constitution. But the Constitution is based upon truth. I think all of this perhaps is nothing more than the noise of we are being dragged and kicking our way to the truth. That is what it is about is the truth.

I do believe that once we get to the truth, all of this will converge, Democrats, Republicans, the spin in fact, polling data, and reality. It will all converge. When we have that, perhaps this will end up being nothing more than the sound that is made when a leader falls off of his pedestal. Perhaps it will be a lot more than that.

But I say the only way we can get to this quickly is to vote for the Committee on the Judiciary resolution and put this work behind us.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, in the beginning I want to make two things clear. First I do not defend the President's actions in the Lewinsky matter. He says they are wrong, I agree. Second, the matter of the impeachment process must be conducted in a manner which is fair, expeditious, and completely open.

Do these proceedings offered us in the Republican proposal meet these tests? Clearly, No.

In less than one hour Democrats are supposed to be able to discuss questions which rank in Constitutional importance with the declaration of war—the impeachment of a President and setting aside a presidential election, in which the people chose their President is before us.

We function under a gag rule. We are denied opportunity for the people to have this matter properly discussed in their Congress.

In one hour Minority members are to discuss a great Constitutional question, impeachment of a President—unlimited time to be spent on an investigation, unlimited personnel to be deployed, no limits as to money to be spent, no limits on the breadth and sweep of the investigation. All to be done under a gag rule!

At issue here is not whether the House will convene an impeachment proceeding. Before us is whether it will be fair, open and expeditious.

We have the referral of Mr. Starr. In that document he says he has put forward all information then available to justify impeachment.

I note Mr. Starr has spent over four years, forty million dollars, the time of scores and possibly hundreds of Federal law enforcement officers and other government employees and the full authority of the Federal Government.

I also note that another prior Special Prosecutor, Starr's predecessor, spent two years and $20 million, and found no wrong doing.

Mr. Starr, then, finds, after prodigious effort and expenditure of funds, the substance reported in his referral.

There he finds nothing now, except improper sexual activity, on which he reports in extensive, and in nauseating detail.

I insisted that all this be published in full, since it is regrettably the people's business.

If you listen to the people, they are telling you they want the matter brought to a speedy end.

It can be ended speedily, and it should be. It will not take more than until year's end to go thoroughly into the full of Mr. Starr's referral, in whatever detail the Judiciary Committee wishes.

If they find more, or wish to inquire further, the Judiciary Committee can return and with proper request procure such additional authority as they require to carry out their function. No one will gainsay them.

I have supported this inquiry until now. I believe such inquiry should go forward, properly.

I do not however believe we should have an unlimited inquiry, without constraints, and with an unlimited budget.

The Republican resolution authorizes a partisan witch hunt, not a responsible inquiry.

Vote against the partisan Republican resolution, vote for the Minority's resolution for a proper inquiry. It is fair, expeditious and open.

The people are watching.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Speaker, I rise in support of and encourage bipartisan support of both the motion to recommit and final passage.

In spite of the countless words which already have been spoken and written about the vote before us today, I feel compelled to clarify what this vote is and what it is not.

First, this is not a vote about guilt or innocence, primarily of President Clinton or, as some have recommended, of Kenneth Starr. While Members cannot be expected to be void of personal opinion, I believe those who already have made public declarations of guilt or innocence in this case have been both premature and negligent in their constitutional responsibilities.

Second, this is not a vote about punishment or the specific punishment of impeachment. Unfortunately, the media frenzy about this action has confused many citizens who believe the House is voting today for or against impeachment. We are not. At this point, it is entirely unpredictable what the ultimate outcome of this process will be. What is clear is that the Constitutional standard of impeachable offenses is a high and serious one.

Third, this vote is not about the election coming up in less than four weeks. I have been amused by reporters quizzing me in the past week about the degree to which political concerns enter into my votes today. I would like to know how they think any vote has a political advantage in a District, such as mine, which is split right down the middle on each question of impeachment, resignation, censure or discontinued all action. No, my votes today are not about politics and reelection.

What we are voting on is of the highest, most serious nature. We must cast votes which can stand through time, votes which we can defend today, next week, next year, and for the rest of our lives. Every member must not only feel free to vote his or her conscience, as has been mentioned several times today, but they must feel obligated to do so.

For me, that means doing all that I can to create an environment of fairness, justice, and stability for our Country. That is why I am supporting the motions which allow us to move forward toward those goals.

While my constituents have differing opinions about what should happen next in this process, they are united in one desire: to have this unfortunate episode moved out of the present preoccupation and into past history. I believe that as a Nation we will not be able to move on to other pressing issues until we have properly cleared the air, until Constitutional scholars have dissected and debated the Constitutional questions, until Members have been given a chance to evaluate the merits of various responses, and until the public has confidence that fairness and justice has been served.

I am proud of my party for working together to construct a motion which addresses concerns I had about the earlier motion. The scope has been expanded to permit additional referrals from the Independent Counsel, a critical amendment in my opinion. Second, while accepting the reasonable end-of-the-year time goal already suggested by Chairman HYDE, the Democratic motion also acknowledges the limitations of one Congress mandating behavior by a subsequent Congress. Further, the motion expressly states that if the Judiciary Committee is unable to complete its assignment within this time frame, a report requesting an extension of time will be in order. Thus, there is no arbitrary time limit included in this motion.

But knowing that as the minority party this motion is unlikely to prevail today, I am also prepared to vote for the base motion which can pass and allow our Nation to progress to the next necessary step of the process which will allow healing to begin. This resolution provides the Judiciary Committee with a great deal of authority but a great deal of responsibility as well.

I offer my vote in good faith, taking the gentleman from Illinois, Chairman HYDE, at his word. By doing so as a minority Member, I believe that I can serve to help keep this process honest. Having shown my good faith by this vote, I also stand alert to object loudly if the process is then abused with partisan gamesmanship. Such abuse, by either side, has no place in this matter.

I support both of the motions before us today and encourage my colleagues on both sides of the aisle to do likewise.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Speaker, I support the motion to recommit, and I am opposed to the resolution.

Mr. Speaker, today's debate and the decision to move ahead with an inquiry of impeachment is a decision that we must address and which has taken four long weeks to make its way to the House Floor. Personally, I am deeply saddened by the President's conduct, but it is time for us to get on with the task. Looking into the details of the President's personal life is not an issue with which Congress should need to be involved. This is a view that many of our constituents share. We have heard and read too much on this matter. We know what we need to know, perhaps even more than we should know with regards to some details. It is time to move forward as expeditiously as possible so that we can return to the business of our nation and the people's concerns.

While we debate this resolution and move forward with an inquiry, other pressing matters that affect the everyday lives of our constituents go unanswered. Today, at this late date, the federal government is operating without a budget; funding legislation for most government agencies and programs remains in a Congressional gridlock; the President's initiative to improve our children's education by lowering classroom size is ignored; the tobacco settlement is blocked by special interests; and there is no time to address the growing health care crisis, the expulsion of hundreds of thousands of seniors from HMOs, and the HMOs' continued high handed policies that short change consumers and dictate to doctor and patient alike. About the only issues that the House seems to have time for are more investigations of the President and election year posturing for special interest tax breaks and anti-environmental riders. It is time for this House to move forward and address the issues that matter, helping the American people to help themselves.

I support the Democratic alternative to conduct the inquiry. This Democratic alternative limits the scope of the inquiry to the report submitted by Mr. Starr and establishes a workable time frame, requiring Committee action to be completed by the end of December. The Office of Independent Counsel (OIC) issued a report on September 11 with specific allegations. We are compelled to review this report and the supporting documentation to determine their validity. What we must not do is to adapt a resolution of inquiry which will hand over the O.I.C. the ability to superimpose the Starr agenda of continual referrals upon this House essentially subventing the Legislative Branch controlling the work and agenda of Congress to their end, the people's house controlled

This Democratic alternative is a sound and fair framework which sets out an orderly process to assess whether the allegations meet the test of the Constitution first, and then and only then to proceed to determine the validity of such allegations.

Mr. Speaker, the American people are divided about what steps should be taken on this matter. Some have called for the impeachment of the President, others favor censure, while still others believe that the President's personal life should not be the concern of Congress or the OIC. Regardless of their views, however, the American people want this issue resolved and put behind us as quickly as possible. The Democratic alternative best meets that goal by establishing the proper scope and time frame to being this matter to a deliberate and orderly conclusion.

Consideration of any impeachment resolution or inquiry is a serious matter. It is a Constitutional responsibility which I take very seriously. However, acting responsibly should not be equated with an open-ended, unfocused inquiry. The information that supposedly justifies this inquiry has been submitted by the OIC and is already available to the Committee and to the House. Requiring the Judiciary Committee to act by the end of November is a responsible time frame which allows more than enough time to consider the charges and to make a final recommendation. If new information comes to light or more time is required, that request could be accommodated at that point in time.

Any inquiry should be focused solely on the matters already submitted by Independent Counsel Starr. Mr. Starr and his staff had over 4½ years and $44 million to investigate virtually every aspect of the President's life and to track down every rumor in Washington, D.C., Arkansas and who knows where else. The result of that exhaustive investigation is the Independent Counsel's report and the boxes and boxes of information that he has submitted to the House. The extraordinary report, which repeatedly and redundantly outlines the allegations in vivid detail, has been publicly available for a month and spread across the land.

This report should be the sum and substance of our focus. The OIC report is where the matter should end and not be the opening for an impeachment inquiry that rehashes every House investigation and every rumor

spread over the past six years of the President's term. In itself, the OIC report justifies this limitation. If after nearly five years and $45 million, the OIC did not forward the information to the House, it should not now be raised. Nor should Mr. Starr put this nation through endless impeachment inquiries and debate with each new focus or chapter in his investigation, stringing this matter out even further. Starr has had an opportunity to put his best case forward to Congress and the American people this September. The Starr Report, in all its explicit detail, was regrettably made public without Congress even screening the material and without giving the President an opportunity to respond. It is now time for Congress to act and with such action the Starr investigation of the President should come to a close. The American people want and deserve a break from this constant drum beat of investigations and leaks. This Congressional House, the People's Body, should get back to the business which the people sent us to address.

Finally, Mr. Speaker, the claim today of nonpartisan conduct is laudable but actions speak louder than words. This resolution leads this House down a path of partisan inquiry and hearings, no limits on the topics or scope, no time or date to complete. Good intentions and claims of good faith should be backed up with text and within context.

Justice delayed is justice denied and this House has a responsibility to make a decision, but today the rule of law is being abused and twisted to serve as a Republican spring board to persecute not pursue facts and conclude, but rather partisan advantage. Certainly this inquiry need not be conducted this way. Fairness, focus, deliberation and expeditious action ought to be our goal and guide, to get to work and get on with it, not to dribble out and follow every rumor over the next year. The House should demand that the Starr report and allegations put up their best case now or shut down this five year inquisition-like process. The formula we have in this motion is proposition to make no decision, it makes me wonder whether the President's accusers have the courage of their conviction to actually vote for a process that will lead to a result or just procrastinate and duck the issue waiting.

Mr. CONYERS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Connecticut (Mrs. KENNELLY).

Mrs. KENNELLY of Connecticut. Mr. Speaker, I am against the open-ended Hyde resolution.

Today I will vote for the Democratic alternative because it will allow us an orderly and efficient process for evaluating the Starr Report. I will vote against the Republican proposal because it will provide the opposite—a lengthy, time-consuming, open-ended investigation that I do not think is in the best interest of the country.

All of us—Members of this House and the public in general—know, basically, the facts of this situation. We understand what has happened, we may know, frankly, even more than we might wish. We have an obligation to consider the facts and to handle the issue. Dealing with the information already before us and coming to a conclusion by the end of this year seems completely reasonable to me.

Mr. CONYERS. Mr. Speaker, I yield such time as she may consume to gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Mr. Speaker, I rise in opposition to this never-ending impeachment inquiry resolution.

Mr. HYDE. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. GALLEGLY).

Mr. GALLEGLY. Mr. Speaker, I, without pleasure, rise today in support of the resolution.

GENERAL LEAVE

Mr. HYDE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Resolution 581.

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

There was no objection.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. FARR).

(Mr. FARR. of California addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from American Samoa (Mr. FALEOMAVAEGA).

Mr. FALEOMAVAEGA. Mr. Speaker, I rise in opposition to the majority resolution.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. LIPINSKI).

Mr. LIPINSKI. Mr. Speaker, today, I will vote to start the formal inquiry into whether President Clinton should be impeached. The President's relationship with Monica Lewinsky was shameful, humiliating, and immoral, and his lying to the American people was deplorable and reprehensible. His dishonesty created a breach of trust between the President and the American people, which I believe calls into question his ability to be an effective leader.

The President's alleged actions in trying to conceal the Monica Lewinsky affair may constitute an obstruction of justice. In addition, his deposition in the *Paula Jones* case, along with his testimony before the federal grand jury, may be construed as perjury.

There is enough evidence before us now that cannot be ignored. As Americans, we owe it to our constitutional government to move ahead with a full scale investigation that will ultimately be judged by the American people. We may be weary of this entire affair, but we have a responsibility to do our job as the Founding Fathers would have wanted us to. Laws may be broken and to ignore such possible transgressions is a crime against our constitution. This matter should be fully investigated by Congress and the American people.

There is no doubt this is a serious matter and a very difficult decision that should not be based on politics. This rises above partisan politics. This is about doing the right thing for our Republic.

For these reasons, I believe a thorough and complete investigation not limited by time and scope should be entered into by the House of Representatives.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. COSTELLO).

Mr. COSTELLO. Mr. Speaker, the House today undertakes one of the most serious deliberations facing this Congress—whether to proceed with a process to impeach President Clinton. The report issued to this Congress by Independent Counsel Kenneth Starr—and the thousands of pages of additional documents containing related information—have provided Members of Congress with an opportunity to review the actions taken by the President and make an initial judgment.

There is information in the Starr Report that is very disturbing. I am greatly disappointed in the President's behavior and his affair with Monica Lewinsky. He has misled the American people by at first denying the affair and then admitting his transgressions. He has misled his family and the people who work for him by having them defend his denials. He has brought tremendous shame on the Presidency and the White House.

As disappointed as I am with President Clinton, I am also disappointed and disturbed by the conduct of the Independent Counsel, Kenneth Starr. I believe his investigation has produced leaks to the media which under our grand jury secrecy laws are illegal. I believe his investigators have intimidated witnesses and used questionable tactics to obtain information. Finally, his report is replete with salacious and unnecessary information that have disgusted the American people. I believe much of his investigation has been aimed only at embarrassing and weakening the President.

The question facing this Congress is whether the President's affairs with Monica Lewinsky merits his impeachment. The Independent Counsel has spent almost five years and $50 million investigating the President. He has included what he believes to be the most serious allegations in his report; I have read this report: I have read the rebuttal of the White House and I have examined other relevant information sent to Congress by Kenneth Starr.

I have come to the judgment that the House should proceed with an impeachment inquiry but within a specific, limited amount of time. The Judiciary Committee has before it the product of the Independent Counsel. The Members of the Committee can finish their work and come to a judgment by the end of this year. If it means the Members of the House have to come back after Election Day to vote on a resolution of impeachment, then that is our duty.

I intend to vote for such a motion today on the House floor, and against the Hyde Resolution offered by the Republican Majority. The Republicans have crafted a resolution which

includes no time limits, no boundaries, no scope. If their resolution is passed, we are looking at months and perhaps years of further investigation. In their partisan attempt to embarrass the President and make this an election issue, they have refused to allow an alternative to their resolution and permit only two hours of debate. It is an insult to our democratic process. Mr. Speaker, this investigation will become more partisan and political as time goes on.

There is much at stake as we consider this inquiry. We are facing a global fiscal crisis, a potential conflict in Central Europe involving Serbia and Albania, and continued problems here at home. The world is anticipating the leadership only America can provide. Are we prepared to squander the political prowess and leadership of the United States of America to further investigate the President's extramarital affair? Will millions of American continue to live in poverty and without health insurance as Congress wastes millions on more Lewinsky hearings?

Mr. Speaker, it is time to bring this investigation to a close. The American people want us to weigh the evidence presented in the Starr Report, allow the Judiciary Committee to go ahead and make a judgment by the end of the year, and recommend a decision to the full House. The House should then vote and get this matter behind us, so we can turn as a nation to address those other issues which are calling out for our focused leadership. That is why I intend to vote to reject the open-ended Republican resolution, and for the motion to set specific time limits and scope so we as a nation can bring this matter to an end.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin (Mr. KIND).

Mr. KIND. Mr. Speaker, I rise today in support of the resolution offered by Mr. HYDE to begin an inquiry into allegations against the President of the United States. This decision does not come easily, but I believe that it is in the best interest of our nation. It is time to bring closure to this painful time in our history by conducting an open, fair and bipartisan inquiry to determine the facts in this case. Passage of the resolution will put in place a process to resolve this matter and allow Congress to move on and deal with the more pressing issues of the Country.

I am not entirely pleased with the resolution we have before us. I would like to see some time limits placed on the hearing so this matter does not drag out for an extended period of time. That is why I also support the Democratic amendment which places reasonable time limits on the process while allowing for an extension of the inquiry if new information is presented or it becomes clear that more time is needed to conduct a thorough hearing. There comes a time, however, when we must rely on the promises of members who are leading this effort. Chairman HYDE has promised that he will make every effort to finish this inquiry before the end of this year. Chairman HYDE is a man of great integrity and I am placing my trust in him and his commitment to conduct this inquiry in a fair, non-partisan and quick manner.

With passage of this resolution, we are embarking upon a very important Constitutional exercise that has seldom been used before. This is one of the greatest Constitutional responsibilities that members of Congress face. We must determine whether the conduct of the President rises to the level to justify removal from office and the paralyzation of our country for an extended period of time.

As a former prosecutor, I've placed my faith and trust in the law and the due process of law. We have a process in our Constitution which allow the Judiciary Committee to conduct an inquiry about allegations which may rise to an impeachable offense. I am willing to give the majority party, at this time, the benefit of the doubt that they can conduct this inquiry in a fair, quick and non-partisan manner. I believe that if we are going to have any credible closure to this investigation, it has to happen in a bipartisan manner.

My hope is based on the fact that when we begin this extremely important Constitutional responsibility, all members will make decisions based on what they feel are in the best interests of this country and for future generations rather than short term partisan gain. That is what the American people expect us to do.

The American people will decide the fate of this President, and, ultimately, they will be the judge and jury of the process we are about to embark upon. The authors of the Constitution placed the power of impeachment in the House of Representatives because it is the "people's House". Members of Congress must have the support of the public before we take action to overturn a national election.

I support this resolution with the confidence that Chairman HYDE will keep to his promise of conducting a fair, non-partisan and quick inquiry. Not only is the integrity and credibility of the Presidency at stake, but so is the integrity and credibility of the U.S. Congress. In the final analysis, our children and grandchildren will know, years from now, whether we did our Constitution and this great nation proud.

Mr. CONYERS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New York (Ms. SLAUGHTER).

Ms. SLAUGHTER. Mr. Speaker, I object that all Members of the House were not given enough time to speak.

CALL OF THE HOUSE

Mr. HYDE. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 496]

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
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
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
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
Franks (NJ)
Frelinghuysen
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
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
Kilpatrick
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)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
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
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
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
Sánchez

Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
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
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

□ 1357

The SPEAKER. On this rollcall, 423 Members have recorded their presence by electronic devise, a quorum.

Under the rule, further proceedings under the call are dispensed with.

□ 1400

AUTHORIZING THE COMMITTEE ON THE JUDICIARY TO INVESTIGATE WHETHER SUFFICIENT GROUNDS EXIST FOR THE IMPEACHMENT OF WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES

The SPEAKER. The Chair recognizes the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Speaker, I yield myself 1½ minutes.

Mr. Speaker, to my Republican friends, sincerely, Gerald Ford has said that we must take the path back to dignity. I want that to weigh on the Members' hearts for this next hour, because more is at stake than the President's fate.

"Moving with dispatch," Gerald Ford said, "the House Judiciary Committee should be able to conclude a preliminary inquiry into possible grounds for impeachment before the end of the year."

I think that we can do it. Our resolution calls for it. I have talked incessantly in private meetings with the gentleman from Illinois (Chairman HYDE) toward this end, and I hope that all of us will commit ourselves to that goal.

Mr. Speaker, I just want Members to know that in my view, the American people have a deep sense of right and wrong, of fairness and privacy. I believe that the Kenneth W. Starr investigation may have offended those sensibilities. Who are we in the Congress? What is it that we stand for?

Do we want to have prosecutors with unlimited powers, accountable to no one, who will spend a million dollars investigating a person's sex life, is that the precedent we are setting, who then haul them before grand juries, every person that they have known of the opposite sex, every person that they had contact with, and then record and release videos to the public of the grand jury questioning the most private aspects of one's personal life?

Please, I beg the Members not to denigrate this very important process in Article II, Section 4.

Mr. Speaker, I yield 2½ minutes to the gentleman from Massachusetts (Mr. BARNEY FRANK), a senior member of the Committee on the Judiciary.

Mr. FRANK of Massachusetts. Mr. Speaker, someone inaccurately, well-intended but inaccurately, said the Democrats were agreeing there should be an inquiry. No, let me define what we say. We accept the fact that the statutorily designated Independent Counsel sent us a referral, and we are obligated to look at it.

But what our resolution says is, let us first look at what he has alleged, and assuming that it is true, decide whether or not those things are impeachable. There is a very real question. If we look at the dismissal of the charge that Richard Nixon did not pay his income tax because it was a personal matter, that would suggest some of these are not impeachable.

If we get to the question of lying, in fact, both the Speaker and I have been reprimanded by this House for lying before official proceedings. That has not kept either of us from continuing to do our duty to our best possible. We will have to look at whether or not these are impeachable issues. But the question is, do we look at those, or do we look at a whole lot of other things.

I think my Republican colleagues fear that there is not enough in those accusations to meet the impeachment standard. That is why they refuse and refuse and refuse to limit it, to get into not just a fishing expedition, but the deep sea fishing expedition of Whitewater and the other matters.

Scope affects time. It is because they are holding out the hope that something will turn up after 4 years about Whitewater and the FBI files and the travel office and all of these other accusations that have to date proven to be dry holes for those trying to get Bill Clinton, they want to not limit the time because they need to keep it open.

Here is what that means in terms of time. Under our resolution, which calls for a December 31 deadline, we would begin work right away, on our time. This Congress is about to adjourn, and on our time, which would otherwise be not dealing with the public's business, we are ready to get into it.

Under their resolution, let me make it very clear to the Members, they have no real plans to do anything during October. We have read about that. They are not going to start until after the election. They are not going to start until 2 months after we got Kenneth Starr's report, because they think it will not play out well in the election, so vote for their resolution, and Members will find that the American people's time will be taken up again next year.

We are ready to do it now on our time and get it out of the way. They are asking us to give them a mandate to stretch it out, wait until after the election, and let it dominate next year, to our detriment, just as it has so far.

Mr. HYDE. Mr. Speaker, I am pleased to yield 2½ minutes to the distinguished gentleman from California (Mr. ROGAN), a member of the committee.

Mr. ROGAN. Mr. Speaker, first, in entering this debate, I consider it a great personal privilege to be allowed to follow two men for whom I have such profound respect, the gentleman from Michigan (Mr. CONYERS) and the gentleman from Massachusetts (Mr. FRANK).

I want to say, as a Republican, that as we begin this procedure, I start with the presumption that the President is deemed innocent of any allegation of wrongdoing unless and until the contrary is shown. Every reasonable inference that can be given to the President must be given to the President.

It is unfortunate that some of today's rhetoric would suggest that this resolution seeks nothing more than to have a carte blanche opportunity for Congress to inquire into the President's personal lifestyle. Nothing could be further from the truth. However, it is our purpose, it is our legal obligation, to review any president's potentially constitutional misconduct within the framework of the Constitution and the rule of law.

When serious and credible allegations have been raised against any president, the Constitution obliges us to determine whether such conduct violated that President's obligation to faithfully execute the law. We must make this determination, or else forever sacrifice our heritage that no person is above the law.

This Congress must decide whether we as a Nation will turn a blind eye to allegations respecting both the subversion of the courts and the search for truth. Mr. Speaker, I fear for my country when conduct such as perjury and obstruction of justice is no longer viewed with opprobrium, but instead is viewed as a sign of legal finesse or personal sophistication.

This House has an obligation to embrace the words of one of our predecessors, Abraham Lincoln, who called on every American lover of liberty not to violate the rule of law nor show toleration for those who do.

Mr. Speaker, there is a difference between knowing the truth and doing the truth. We have an obligation to both,

and we have that obligation, despite whatever personal or political discomfort it might bring. For as Justice Holmes once said, "If justice requires the truth to be known, the difficulty in knowing it is no excuse to try."

Let our body be faithful to this search, and in doing so, we will be faithful both to our Founders and to our heirs.

Mr. CONYERS. Mr. Speaker, I am proud to yield the balance of our time to the gentleman from Michigan (Mr. DAVE BONIOR) to close debate on our side.

The SPEAKER. The gentleman from Michigan (Mr. BONIOR) is recognized for 3 and three-quarters minutes.

Mr. BONIOR. Mr. Speaker, we gather today to make a serious decision. What the President did is wrong. He should be held accountable. Today we have an obligation to proceed in a manner that is fair, that upholds our constitutional duties, and allows us to get this matter over with so we can get on with the business of the American people.

Unfortunately, the Republican proposal meets none of these standards. It is unfair, it is unlimited, and it prolongs this process indefinitely. Under the Republican plan, Congress will spend the next 2 years mired in hearings, tangled in testimony, and grinding its gears in partisan stalemate. Today is just another example of that partisanship, that unbridled partisanship.

There are 435 Members that serve in this body, more on the floor today than I have seen in a long time, representing each about a half a million people. What has happened in this proceeding today? Two hours of debate, 2 hours, with Members having to go and beg for 20 seconds to talk to their constituency about one of the most important votes they will ever have to cast.

As the Speaker just said a few minutes ago, this is one of the most important debates that we will have. Why are hundreds of Members of this body being denied the opportunity to express themselves? This is a charade of justice. The American people, through this truncated debate, are being railroaded. Today's proceedings are a hit and run.

The Republican leadership's long-term strategy is very, very clear: Drag this thing out week after week, month after month, and yes, year after year, not for the good of the country, but for their own partisan advantage. The Democratic amendment guarantees that any inquiry will be fair, that it will be limited, and that we will complete our work by the end of the year.

Mr. Speaker, the American people already have had all the sordid details they need, more than they ever wanted. Do we really want 2 more years of Monica Lewinsky, 2 more years of Linda Tripp, 2 more years of parents having to mute their TV sets so they can watch the 6 o'clock news? We in this Chamber have the power to stop this daily mudslide into the Nation's living rooms.

If the Republicans spend 2 years dragging this investigation out, when will they deal with education? If they spend 2 years dragging this investigation out, when will they deal with HMO reform? If they spend 2 years dragging this investigation out, when will they strengthen social security?

I urge my colleagues, let us put a limit, a limit on this investigation. Let us end it this year, this year. Let us get back to working for our children and our families and for our communities.

Mr. HYDE. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. LEWIS).

Mr. LEWIS of California. Mr. Speaker, I rise in support of the resolution.

Mr. DELAHUNT. Mr. Speaker, let me first express my affection and respect for my chairman, the Gentleman from Illinois, If Mr. HYDE says he hopes to complete this inquiry by the end of the year, I know he will do all he can to make good on that promise.

But if we adopt this resolution, the chairman's good intentions will not be enough to prevent this inquiry from consuming not only the remainder of this year but most of next year as well.

Nine days ago, I joined with Mr. BERMAN, Mr. GRAHAM and Mr. HUTCHINSON in a bipartisan letter asking Chairman HYDE and our ranking member, Mr. CONYERS, to contact the Independent Counsel—before we begin an inquiry—to ask him whether he plans to send us any additional referrals.

They wrote to Judge Start on October 2, and I wish to inform the House that last night we received his reply. He said, and I quote, "I can confirm at this time that matters continue to be under active investigation and review by this Office. Consequently, I cannot foreclose the possibility of providing the House of Representatives with additional [referrals]."

There you have it, Mr. Speaker. Despite the fact that both Mr. HYDE and Mr. CONYERS had urged the Independent Counsel to complete his work before transmitting any referral to the House, what he has given us in essentially an interim report.

As the Starr investigation enters its fifth year, we face the prospect that we will begin our inquiry only to receive additional referrals in midstream. Under this open-ended resolution, each subsequent referral will become part of an ever-expanding ripple of allegations. With no end in sight.

That is not a process, Mr. Speaker. It's a blank check. And I believe it's more than the American people will stand for.

They do not want us traumatizing the country and paralyzing the government for another year when we don't even know whether there is "probable cause" to begin an inquiry. And they don't want us abdicating our constitutional responsibility to an unelected prosecutor and accepting his referral on faith.

If we do that—if all a President's adversaries have to do to start an impeachment proceeding is secure the appointment of an Independent Counsel and await his referral—then we will have turned the Independent Counsel Act into a political weapon with an automatic trigger—a weapon aimed at every future President.

What the people want is a process that is fair. A process that is focused. And a process that will put this sad episode behind us with all deliberate speed.

The Majority resolution does not meet those standards. Our alternative does. It provides for the Judiciary Committee to determine first whether any of the allegations would amount to impeachable offenses if proven. Only if the answer to that question is "yes" would we proceed to inquire into whether those allegations are true. The entire process would end by December 31—the target date chosen by Chairman HYDE himself—unless the committee asks for additional time.

Mr. Speaker, that is a fair and responsible way to do our job. It is also the only way to ensure that when that job is done, the American people will embrace our conclusions, whatever they may be.

Mr. POMEROY. Mr. Speaker, as I have indicated repeatedly over the past weeks and months, President Clinton's conduct in having an improper relationship with Monica Lewinsky and not being truthful about it was wrong, plain and simple, and it has left me profoundly disappointed.

I believe the House Judiciary Committee should begin an inquiry into whether the report of Independent Counsel Kenneth Starr on these matters presents facts that warrant impeachment of President Clinton. The debate today in the House is not about whether to proceed with an impeachment inquiry. It is about how to proceed.

Because this is only the third time in our history that Congress has taken the step of initiating an impeachment inquiry against a President, it is vitally important that we proceed in a fair, deliberate and timely manner. We must always remember that our Founding Fathers did not intend the impeachment process to be an exercise in partisan wrangling to be pursued when the legislative and executive branches are controlled by different political parties. Instead, our Constitution establishes impeachment as a solemn and extraordinary removal process triggered only when grounds of "treason, bribery or other high crimes and misdemeanors" are established against a President.

It is critical to establish appropriate ground rules for this extremely rare and constitutionally significant proceeding. A proper inquiry must focus squarely on the matters raised by the Starr report, evaluate the constitutional standard for impeachment, weigh the sufficiency of the evidence, and reach a recommendation on the question of impeachment by the end of this year.

As our Nation's history has shown, an ongoing impeachment inquiry is incredibly disruptive to the normal functioning of our government. It is therefore imperative that the process be concluded as quickly as can reasonably be accomplished. North Dakotans and all Americans believe that we must return to the urgent policy matters before us—strengthening the quality of our schools, preserving Social Security, and assisting our family farmers.

The inquiry process advanced by the majority on the House Judiciary Committee is fatally flawed because it lacks focus, a careful process, and a clear end point. While an appropriate inquiry should proceed, a drawn out procedure designed to prolong scandal and achieve political advantage must not. I will vote today against the majority's inquiry resolution and instead to amend the inquiry process so that this very important constitutional proceeding is fair and expeditious, allowing all of us to return to the people's business.

Mrs. KILPATRICK. Mr. Speaker, today I rise to express my trepidation over the potentially ominous precedent that the impending impeachment proceeding may lay out for the annals of our nation's history. In expressing my concern, I cannot ignore the history which has placed this important resolution before this august body. My unease arises because it seems that after years of investigating White Watergate, Travelgate, Filegate and other events, the linchpin of the Independent Counsel's case are charges of perjury which emanate from a private lawsuit funded predominantly by the most conservative, political enemies of the President.

While there is no question that the President's conduct was reprehensible, I take great pause in the facts which have compelled the leader of the free world before the American corpus and bared him virtually raw. I take great pause in what this means to the office of the President and, for that matter, any other leader in American society who chooses public policy contradictory to powerful opponents.

While many here today speak to the "rule of law" they neglect another American ideal which frames the rule of law. A bulwark of the American psyche is our embrace of the principle of fairness. It is the spirit of fairness that gave birth to the bedrock principle of American jurisprudence that the punishment must be proportional to the offense. It is with these principles in mind, that I suggest to my dear colleagues, that as we vote today in the people's house, and as this process moves forward, we must use all due deliberation to ensure fairness, and that any punishment meted out fit closely with the President's transgressions.

Now the nation and we here in Congress must turn our attention to whether or not to proceed with an impeachment inquiry. And more importantly, we must focus on how we should proceed with an impeachment inquiry. In reviewing the proposals before Congress today, I state my support for the Democratic Amendment. The Democratic Amendment is focused, fair, expeditious and deliberate. By requiring the consideration of a constitutional standard for impeachment, and a fair comparison of the allegations in the context of the well deliberated standard, the Democratic Amendment will allow the Congress to resolve this terrible blight on our nation's history expeditiously and decisively. The Democratic Amendment sets forth clear goals both for the scope and length of this investigation so as to prevent the further agony of dragging the country through a long and intrusive fishing expedition.

It is my fervent belief that the inappropriate actions of President Clinton do not rise to the standard of high crimes, treason, bribery or misdemeanors envisioned by the Framers of the Constitution. It is my sworn duty to protect the Presidency, and not the President. As such, it is my conclusion and the conclusion of most reasonable American citizens, that the last two elections must not be usurped by Congress. I cannot support a broad-based, infinite inquiry on the alleged actions of the President.

In summation, I will not support the further abuse of taxpayer dollars. I will not support a potentially unending fishing expedition based on facts that are no longer under dispute. I will not support this blatant pillage of the rights of all Americans. I will not support the Republican resolution to begin an impeachment inquiry upon our President. It is time for Members of Congress to stand up and protect our Constitution and reject this onerous precedent.

Mr. NUSSLE. Mr. Speaker, the question before us today is whether to look forward or look away.

After reading the referral Independent Counsel Kenneth Starr presented to the House of Representatives on September 9, 1998, and reviewing the materials made available to us since then, I believe there is enough information to continue on with an inquiry into the impeachment of the President.

Our colleagues on the House Judiciary Committee have already approved this resolution and believe a further investigation into the allegations against the President is appropriate. A vote in favor of this resolution by the full House will enable the House Judiciary Committee to proceed with their Constitutional obligations to conduct this investigation and make the necessary recommendations concerning the impeachment of the President.

I vote in favor of moving the process forward.

Mr. WEYGAND. Mr. Speaker, with a heavy heart and a clear conscience, I rise today to support the resolution commencing an impeachment inquiry into the President of the United States.

Congress and the American people are faced with a dilemma. On one hand, we are aware of admitted wrongdoings by the leader of our nation and on the other hand, we are faced with what I feel is overzealous and partisan conduct of the Independent Counsel. Both are wrong. We cannot and must not compromise our principles because of their lack of principles. We deserve a process which is independent of these two forces, so we can work responsibly on our duties as outlined by the Constitution.

My decision to vote in this manner was reached after self-examination and painstaking reflection on my own deeply held beliefs. This process is not one that I enter, nor should be entered into lightly and hope that we can work to make this inquiry progress smoothly and without partisanship, which has become all too commonplace in the House. Lately, I have been concerned over the overt partisan tone on both sides of the aisle. We cannot continue to view this process through politicians' eyes, which have the tendency to become jaded by an individual's political beliefs. We cannot be cavalier and must be conscientious. As we continue this process, we must strive to be not only bi-partisan, but non-partisan because the framers of our Constitution and the people of our nation deserve nothing less.

We must remain focused on the true meaning of this action today. This vote is not a vote for impeachment nor does it authorize the removal of the leader of our nation from his post. This step today is taken so Congress can study if the admitted transgressions of the President warrant an official action or indictment by this chamber.

It is my sincere belief that this inquiry is the proper forum in which the House of Representatives can undertake its solemn responsibility of deliberating if any of the President's actions rise to the level of impeachment. I desire nothing more than to have a quick and resolute end to this distressing situation. I believe that ignoring the President's situation will force our nation to endure this pain even longer. I feel an inquiry serves as the best avenue for the President to provide his defense and for Congress to reach the deliberative end for which our nations yearns.

My preference would be to limit this inquiry, by setting a deadline and imposing limits on what the inquiry would cover. These parameters were offered by the Democrats and I support these reasonable efforts. I had hoped the Democratic alternative would be the roadmap that Congress would take for this inquiry. To my dismay, this effort failed. I support the underlying resolution.

As I have said, today's vote is not a vote to impeach the President. In fact, based on the knowledge I have today, I would not support an impeachment of the President. I have serious misgivings about the President's actions and am disappointed with the extremely poor choices he made.

Each session, Members of Congress face a great number of votes. Some of these votes are merely procedural while others are more weighty relating to crucial issues affecting the welfare of our nation. All of these votes, seem to pale in comparison to the vote we cast today. Barring a vote on the declaration of war, I believe this is one of the most important votes we are called to make. I am guided by my strong beliefs and distinct desire to move on with this inquiry and come to a thoughtful, quick and appropriate resolution.

Mr. HASTERT. Mr. Speaker, We stand at a solemn moment in our nation's history. Today, the House votes on a recommendation from the Judiciary Committee to proceed with a fair and judicious inquiry into the charges contained in the report from the Independent Counsel. Like most of the people on Illinois' 14th Congressional District, I am very sad about this whole situation, and I am concerned that the President's actions have harmed not only his own reputation, but the trust and confidence that people have in the Presidency.

We live in a dangerous world. And our economy, while good, is threatened by problems from abroad. In these times, we need leadership that people can trust if our democracy is to work. Confidence in government is built upon trust. Despite all the media hype and sensationalism, I believe the Judiciary Committee must calmly and professionally do its work and uncover the truth, because that is the only way we can put this matter behind us. Sweeping the matter under the rug just won't work but that would be a disservice to the American people. We must stand up for the Constitution and the laws of our land.

Today, I will vote to allow the inquiry to begin so we can move quickly to uncover the truth. Every member of the Judiciary Committee, Republican and Democrat, voted for an investigation; they only disagreed on whether it should be artificially limited. The Committee must be free to follow all of the facts until they find the truth. I prefer not to set an arbitrary deadline because it will encourage those who do not want to get to the truth to run out the clock. Watergate Chairman Peter Rodino understood that, and that's why he rejected a time limit when Republicans sought one during the Watergate Hearings. I am satisfied with Chairman HYDE'S commitment to try and get this matter resolved by the end of the year.

Much as we wish we could just jump to an end result, the Founding Fathers were wise in establishing a balanced and deliberative process. It is the only path to the truth—the lifeblood of our justice system and of our democracy. Today, we begin a process to uphold the rule of law and help the nation heal.

Mr. DELAHUNT. Mr. Speaker, I oppose the resolution of inquiry as reported by the Judiciary Committee. I do so based on the concerns expressed in the Minority's dissenting views, and for the additional reasons set forth below.

I

On September 9, 1998, Independent Counsel Kenneth W. Starr referred information to the House that he alleged may constitute grounds for impeaching the President. In the 30 days that have elapsed since our receipt of that referral, neither the Judiciary Committee nor any other congressional committee has conducted even a preliminary independent review of the allegations it contains.

In the absence of such a review, we have no basis for knowing whether there is sufficient evidence to warrant an inquiry—other than the assertion of the Independent Counsel himself that his information is "substantial and credible" and "may constitute grounds for impeachment."

I believe that our failure to conduct so much as a cursory examination before launching an impeachment proceeding is an abdication of our responsibility under Article II of the Constitution of the United States. By delegating that responsibility to the Independent Counsel, we sanction an encroachment upon the Executive Branch that could upset the delicate equilibrium among the three branches of government that is our chief protection against tyranny. In so doing, we fulfill the prophecy of Justice Scalia, whose dissent in *Morrison* v. *Olson* (487 U.S. 654, 697 (1988)) foretold with uncanny accuracy the situation that confronts us.

II

The danger perceived by Justice Scalia flows from the nature of the prosecutorial function itself. He quoted a famous passage from an address by Justice Jackson, which described the enormous power that comes with "prosecutorial discretion":

> What every prosecutor is practically required to do is to select the cases . . . in which the offense is most flagrant, the public harm, the greatest, and the proof the most certain. . . . If the prosecutor is obliged to choose his case, it follows that he can choose his defendants. Therein is the most dangerous power of the prosecutor: that he will pick people that he thinks he should get, rather than cases that need to be prosecuted. With the law books filled with a great assortment of crimes, a prosecutor stands a fair chance of finding at least a technical violation of some act on the part of almost anyone. In such a case, it is not a question of discovering the commission of a crime and then looking for the man who has committed it, it is a question of picking the man and then searching the law books, or putting investigators to work, to pin some offense on him. It is in this realm—in which the prosecutor picks some person whom he dislikes or desires to embarrass, or selects some group of unpopular persons and then looks for an offense, that the greatest danger of abuse of prosecuting power lies. It is here that law enforcement becomes personal, and the real crime becomes that of being unpopular with the predominant or governing group, being attached to the wrong political views, or being personally obnoxious to or in the way of the prosecutor himself. Morrison, 487 U.S. 654, 728 (Scalia, J., dissenting), quoting Robert Jackson, The Federal Prosecutor, Address Delivered at the Second Annual Conference of United States Attorneys (April 1, 1940).

The tendency toward prosecutorial abuse is held in check through the mechanism of political accountability. When federal prosecutors overreach, ultimate responsibility rests with the president who appointed them. But the Independent Counsel is subject to no such constraints. He is appointed, not by the president or any other elected official, but by a panel of judges with life tenure. If the judges select a prosecutor who is antagonistic to the administration, "there is no remedy for that, not even a political one." 487 U.S. 654, 730 (Scalia, J., dissenting). Nor is there a political remedy (short of removal for cause) when the Independent Counsel perpetuates an investigation that should be brought to an end:

> What would normally be regarded as a technical violation (there are no rules defining such things), may in his or her small world assume the proportions of an indictable offense. What would normally be regarded as an investigation that has reached the level of pursuing such picayune matters that it should be concluded, may to him or her be an investigation that ought to go on for another year. 487 U.S. 654, 732 (Scalia, J., dissenting).

Under the Independent Counsel Act, there is no political remedy at any point—unless and until the Independent Counsel refers allegations of impeachable offenses to the House of Representatives under section 595(c) At that point, the statute gives way to the ultimate political remedy: the impeachment power entrusted to the House of Representatives under Article II of the Constitution.

III

Section 595(c) of the Independent Counsel Act provides that:

> An independent counsel shall advise the House of Representatives of any substantial and credible information which such independent counsel receives, in carrying out the independent counsel's responsibilities under this chapter, that may constitute grounds for an impeachment. 28 U.S.C. 595(c).

The statute is silent as to what the House is to do once it receives this information. But under Article II, it is the House—and not the Independent Counsel—which is charged with the determination of whether and how to conduct an impeachment inquiry. He is not our agent, and we cannot allow his judgments to be substituted for our own. Nor can we delegate to him our constitutional responsibilities.

Never in our history—until today—has the House sought to proceed with a presidential impeachment inquiry based solely on the raw allegations of a single prosecutor. The dangers of our doing so have been ably described by Judge Bork, who has written that:

> It is time we abandoned the myth of the need for an independent counsel and faced the reality of what that institution has too often become. We must also face another reality. A culture of irresponsibility has grown up around the independent-counsel law. Congress, the press, and regular prosecutors have found it too easy to wait for the appointment of an independent counsel and then to rely upon him *rather than pursue their own constitutional and ethical obligations*. Robert H. Bork, *Poetic Injustice*, National Review, February 23, 1998, at 45, 46 (*emphasis added*)

We must not fall prey to that temptation. For when impeachment is contemplated, the *only* check against overzealous prosecution is the House of Representatives. That is why—whatever the merits of the specific allegations contained in the Starr referral—we cannot simply take them on faith. Before we embark on impeachment proceedings that will further traumatize the nation and distract us from the people's business, we have a duty to determine for ourselves whether there is "probable cause" that warrants a full-blown inquiry. And we have not done that.

IV

What will happen if we fail in this duty? We will turn the Independent Counsel Act into a political weapon with an automatic trigger—a weapon aimed at every future president.

In *Morrison*, Justice Scalia predicted that the Act would lead to encroachments upon the Executive Branch that could destabilize the constitutional separation of powers among the three branches of government. He cited the debilitating effects upon the presidency of a sustained and virtually unlimited investigation, the leverage it would give to the Congress in intergovernmental disputes, and the other negative pressures that would be brought to bear upon the decisionmaking process.

Whether these ill-effects warrant the abolition or modification of the Independent Counsel Act is a matter which the House will consider in due course. For the present, we should at least do nothing to exacerbate the problem. Most of all, we must be sure we do not carry it to its logical conclusion by approving an impeachment inquiry based solely on the Independent Counsel's allegations. If all a president's political adversaries must do to launch an impeachment proceeding is secure the appointment of an Independent Counsel

and await his referral, we could do permanent injury to the presidency and our system of government itself.

v

If the House approves this resolution, it will not be the first time in the course of this unfortunate episode that it has abdicated its responsibility to ensure due process and conduct an independent review. It did so when it rushed to release Mr. Starr's narrative within hours of its receipt, before either the Judiciary Committee or the President's counsel had any opportunity to examine it. It also did so when the committee released 7,000 pages of secret grand jury testimony and other documents hand-picked by the Independent Counsel—putting at risk the rights of the accused, jeopardizing future prosecutions, and subverting the grand jury system itself by allowing it to be misused for political purposes.

These actions stand in stark contrast to the process used during the last impeachment inquiry undertaken by the House—the Watergate investigation of 1974. In that year, the Judiciary Committee spent weeks behind closed doors, poring over evidence gathered from a wide variety of sources—including the Ervin Committee and Judge Sirica's grand jury report, as well as the report of the Watergate Special Prosecutor. All before a single document was released. Witnesses were examined and cross-examined by the President's own counsel. Confidential material, including secret grand jury testimony, was never made public. In fact, nearly a generation later it remains under seal. The Rodino committee managed to transcend partisanship at a critical moment in our national life, and set a standard of fairness that earned it the lasting respect of the American people.

Today the Majority makes much of the claim that their resolution adopts the language that was used during the Watergate hearings. While it may be the same language, it is not the same process. Too much damage has been done in the weeks leading up to this vote for the Majority to claim with credibility that it is honoring the Watergate precedent. But it is not too late for us to learn from the mistakes of the last three weeks. If we adopt a fair, thoughtful, focused and bipartisan process, I am confident that the American people will honor our efforts and embrace our conclusions, whatever they may be.

Mr. THORNBERRY. Mr. Speaker, I support the Resolution before us today. The bottom line question is: Should we investigate the allegations that have been made against the President. As someone has said, "Do we look further or do we look away." To fulfill the oath that each of us took, I believe that we must look further.

Some may try to change the subject by quibbling with the parameters of the inquiry or the lack of a time limit. Those are details—if not excuses—which do not change the fundamental question. The only precedent of modern times, the Watergate inquiry, is being followed.

Others seem to have concluded that even if all of the charges are true, it doesn't matter; they do not constitute an impeachable offense. Those Members are wrong. Perjury, obstruction of justice, abuse of power do matter—by anyone—and especially by the one person charged in the Constitution with executing the laws of the land.

We must fulfill our oath to the Constitution that we have sworn to "support and defend." We cannot stick our heads in the sand and wish this unpleasant duty away. We cannot pass along our responsibility to polls, the media, or the other body. We have to try to do what is right, wherever that may take us, even if some of the facts are distasteful.

But, we must also remember that our response to these facts will help determine what kind of nation we will be in the future. Young people—and even those not so young—are watching. They are learning lessons—lessons about telling the truth, lessons about selfish, reckless behavior, lessons about self-discipline and responsibility. They are watching to see if we really mean what we say, whether actions really do have consequences. We can teach them good, constructive lessons, or we can teach them lessons of another kind.

How we all handle this episode—what we say about it and what we do about it—will affect how much trust people are willing to give their elected representatives and the institutions which have navigated us through more than 200 years of often treacherous waters. Even more importantly, however, how we handle this episode will affect the values and moral character of a whole generation of Americans.

There are important decisions to be made in Washington over the coming weeks, but there are even more important decisions to be made around the kitchen table in every American home. I pray we all make the right decisions.

Mr. RIGGS. Mr. Speaker, this is a historic moment. Only twice before in the history of our great Republic have we stood at the brink of such dramatic action concerning a sitting President. The burden upon us as Members of this House is great, and one that I do not take lightly. I know a majority of our colleagues feel the same way. The eyes of the nation are on us as we perform this duty with the best interests of our democracy at heart.

I rise today to urge bipartisan support of an impeachment inquiry into the very serious allegation of felony criminal conduct by the President of the United States. Our oath of office requires no less.

It has become clear over the last several months that the President lied under oath in the Paula Jones case, lied under oath to the grand jury, and after taking an oath to the nation—an oath in which he swore to uphold the Constitution and faithfully execute the law—he lied to the American people.

Our American government—our systems of laws—is based on truth. We all rely on our leaders to respect and uphold that system. The President of the United States is the chief law enforcement officer in our country, and when the chief law enforcement officer shows utter disregard for the truth and such little respect for the judicial process, it is no less than an assault on the rule of law. Congress cannot stand idly by. We have a prescribed Constitutional duty, as the people's representatives. The founding fathers charged us with the first step in this most solemn process. We do not sit in judgment today. Instead we are here to ensure that the President is held accountable for his actions in order to protect the dignity of the office he holds.

Equality is another principle fundamental to our nation, and one that Americans hold dear. Every person should be equal before the law. If any other American citizen lied in a civil deposition, as the President did—lied to a grand jury, as the President did—or refused to answer grand juror questions without asserting a Fifth Amendment privilege, as the President did—that citizen would be prosecuted, and that citizen would face certain punishment, including possible imprisonment. Should such offenses be acceptable in a President? The answer is no.

But there are larger issues here than just narrow legal questions of perjury or obstruction of justice, Mr. Speaker. A President does not merely watch over the daily operations of the federal government. He is our leader, using his moral authority to guide our nation. A President has singular power to influence our history, set our agenda, and to send our sons and daughters into harm's way. There is a sacred trust which exists between the President of the United States and the people. When Bill Clinton made the decision to repeatedly lie and mislead the American people, he violated that trust and broke that faith. I believe he can no longer effectively lead our country or perform the duties expected of his office with that trust shattered. Long before we reached the point we are at today, the point of moving forward with an impeachment of the President, I joined many of my colleagues from both sides of the aisle in suggesting that Bill Clinton should do the honorable thing and resign. He could have ended this painful episode at the beginning of this year by telling the truth. But he made the decision to prolong this ordeal and continue to obfuscate, hiding behind veiled lies while parsing legal definitions. Seven months after shaking a finger at the American people and spending millions of taxpayer dollars in his defense, finally he begrudgingly admitted his lies.

Bill Clinton's dependence on strained, anguished legalisms continues to force the American people down the path of impeachment. The choice our President has left us with is clear: We can proceed with our Constitutionally mandated duty and move forward with this impeachment inquiry, or we can knowingly let dishonest, perjurious—possibly felonious—behavior slide in the highest office in our nation.

This resolution is the right course of action for the House to take today. It lays out a procedure that is fair and just, both to the President and to the members of his party here in the House. Now is not the time for partisanship. Some of my colleagues on the other side of the aisle have put forth their own resolution which would force any inquiry into an artificial time constraint, encouraging partisan stalling and bickering. We need to move ahead in a bipartisan, statesmen-like manner in this most grave of responsibilities. Chairman HYDE and the members of his Judiciary Committee have given us the vehicle to do that. I congratulate them on their hard work and evenhandedness. The American people and the Congress have

been given unprecedented access to the facts, regardless of their political import, and now we must act on those facts.

It is with a heavy heart and a deep sense of responsibility to my office and to my constituents that I vote in favor of this resolution today.

Ms. ROS-LEHTINEN. Mr. Speaker, with a commitment to the principles of the rule of law which makes this country the beacon of hope throughout the world, I cast my vote in favor of the resolution to undertake an impeachment inquiry of the conduct of the President of the United States. As a Representative in Congress, I can do no less in fulfilling my trust responsibility to the Constitution and to all who have preceded me in defending the Constitution from erosions of the rule of law.

The impeachment inquiry is necessary to determine the facts surrounding the public conduct of the President, including allegations of lying under oath, obstruction of justice, and conspiracy. The supporting evidence is clearly sufficient to warrant further investigation. Without further investigation, we would be ignoring the charges and clear preliminary evidence without cause or reason. The truth should be our only guide, and only a thorough investigation can produce the truth. Those who seek to avoid a thorough investigation are really seeking to avoid the truth.

These allegations of lying under oath, obstruction of justice, and conspiracy are not about private conduct, but instead about public conduct in our courts of law. Our courts of law and our legal system is the bedrock of our democracy and of our system of individual rights. Lying under oath in a legal proceeding undermines the rights of all citizens, who must rely upon the courts to protect their rights. If lying under oath in our courts is ignored or classified as "minor", then we have jeopardized the rights of everyone who seek redress in our courts. Lying under oath and obstruction of justice are ancient crimes of great weight because they shield other offenses, blocking the light of truth in human affairs. They are a dagger in the heart of our legal system and our democracy; they cannot and should not be tolerated.

We all know that "a right without a remedy is not a right". If we allow, ignore, or encourage lying and obstruction of justice in our legal system, then the rights promised in our laws are hollow. Our laws promise a remedy against sexual harassment, but if we say that "lying about sex in court" is acceptable or expected, then we have made our sexual harassment laws nothing more than a false promise, a fraud upon our society, upon our legal system, and upon women.

The Office of the Presidency is due great respect, but the President (whoever may hold the office) is a citizen with the same duty to follow the law as all other citizens. The world marvels that our President is not above the law, and my vote today helps ensure that this rule continues.

Mr. RILEY. Mr. Speaker, I rise in support of House Resolution 581 to begin an inquiry to determine whether to impeach the President. Mr. Speaker this is a historic day in the House. It is also a sad and solemn day. It is with great regret and respect that the House considers this resolution before us today.

Mr. Speaker, I sympathize with the plight of our friends across the aisle. Yes that's right they have my sympathy and my understanding. Twenty-five years ago when the Watergate facts became public, Republicans initially opposed efforts to move forward with impeachment proceedings against President Nixon. It took some time, but after examining the facts and laying aside partisan allegiances, Republicans came forward for the good of the country and joined with House Democrats to support the House proceedings regarding President Nixon and Watergate. That took courage, open mindedness, a sense of duty to the people those Members of Congress represented, and an understanding of the oath of office each one of them, and each one of us, has taken. It was the same oath taken by the President. It was an oath taken with our hands on the Bible and sworn before God.

Today, our colleagues across the aisle face the same issues we Republicans did twenty-five years ago. I think our colleagues are wrong to oppose this resolution and wrong to attack the investigation and findings turned over to the House. But I understand their opposition. I have hope that, in time, after examining all the facts, evidence and allegations regarding President Clinton, they too will, for the good of the country, join us in moving forward with these proceedings to determine whether the President's action warrant removal from office. It is our constitutional duty to move forward today just like it was twenty-five years ago.

For those of my Democrat colleagues who support this resolution I say thank you. I look forward to working in a bipartisan matter to further investigate the charges against President Clinton and recommend a course of action for our colleagues in the other body. For those of my Democrat colleagues who oppose this resolution, I ask them to put aside politics. This issue is too important and too grave to proceed without you. I believe, in time, they too will understand the need to move forward and work together in a true bipartisan matter for the good of our country.

I urge my colleagues, support House Resolution 581. The American people deserve no less, and our responsibilities as Members of Congress preclude us from no less.

Mr. HOYER. Mr. Speaker, today we confront one of our most solemn responsibilities as Members of Congress, that of the question of impeachment of a President of the United States. In doing so, we consider embarking upon a task of the gravest consequence in democracy: the removal of the elected leader of our Nation by other than electoral process. We have considered this course on only two other occasions in the 209 year history of our Constitution and Government. It is plain that we should proceed judiciously and fairly in carrying out this duty.

Today's vote is how we should undertake this task. There are two proposals: The Republican proposal suggests that we authorize the Judiciary Committee to pursue an open ended investigation, consider all things that the Committee majority deems relevant for such time as that inquiry might take.

The Democratic proposal provides for the Judiciary Committee to pursue an analysis of the facts referred by the Independent Counsel and the law and to make such recommendations to the House as it deems appropriate after such review.

I shall vote for the Democratic proposal and against the Republican one. My constituents should know why.

First, I believe the President's conduct and public representations merit the disdain and deep disappointment, and, yes, even anger, of the American people. Having said that, I believe we must act according to the Constitution, the facts, and with a view to the precedents of history and the precedents we will establish for the future.

In many ways the situation that confronts us is unique. This matter comes to us from the Office of Independent Counsel after four and one-half years of extensive investigation, at a cost of over forty million dollars. In addition the House and Senate have themselves spent over ten million dollars and thousands of hours on hearings, depositions, investigation, and consideration of allegations against the President and his administration.

I believe the Republican proposal to undertake additional investigation and hearings is not only unnecessary and redundant, it is also not in the best interests of our Country. I have stated before that I think this is the conclusion of the American public. Whatever action they favor, I believe they strongly support a prompt resolution so that whatever the outcome we can again focus on a public agenda reflecting the concerns, aspirations, and realities of our people's lives and our Country's in the international community. To do otherwise will jeopardize our future both in the short and long term. We must not continue to mire our public discourse in muck, ridicule, and nationally demeaning debate.

Secondly, I am convinced that we must decide whether the allegations contained in the referral from the Office of Independent Counsel, even if true, constitute impeachable offenses. It is clear that there is disagreement on that question among legal scholars.

The Republican resolution is clearly focused on procedures for further investigation and fact finding rather than a consideration of the information, allegations and conclusions referred by the Independent Counsel. It is difficult for me not to conclude that this is simply intended to prolong this matter for another year or two for political rather than Constitutional reasons. From circus-like delivery of the Counsel's report to the Congress the purpose of which, as quite obviously, to heighten public frenzy and expectation; to the almost immediate release of a salacious report designed, in my opinion, for sensationalism and to add to the debasement of the President, to the subsequent release of volumes of raw material for consumption by the public; to two days consideration weeks before a national election with the gag procedures imposed upon debate of the two alternatives, it is impossible to view these deliberations as either fair or judicious. Such action ill serves our Constitution or our Country. It is, I sadly lament, nevertheless, consistent with the totally partisan tenor of the leadership of this Congress.

The alternative resolution I will support provides that the Judiciary Committee will review the evidence referred to it and either recommend to the House to impeach, to impose

such sanctions as it deems warranted or to take no further action. The Committee is directed to do so prior to December 31, 1998—a time frame deemed possible by the Chairman. Furthermore, if the Committee finds that it is unable to accomplish its work in the time frame provided it may ask the House for more time.

Neither this President nor any other can carry out the duties required of him by the Constitution and laws of this Nation while under constant investigation and attack. The American people understand that, which is why they want this matter brought to a close.

Our decisions should not be made based upon poll or plebiscite. But, I am convinced the people are absolutely correct in their judgment that we must conclude this tragic chapter in our Nation's history quickly before it demeans us further and debilitates us more.

Mr. SANDLIN. Mr. Speaker, I rise in support of the Democratic alternative and against the Republican resolution. This is not a vote about whether there will be an inquiry. Rather it is a vote about how it will be done.

Obviously, this is a somber day in our nation's history. Today, we officially embark on a journey that only two Congresses before us have—that of an impeachment inquiry. On a matter of such import it is critical that this body act in a responsible manner, not in a partisan manner. We must rise above politics. It is critical that our vote be dictated by conscience and by the rule of law—not by party.

Even the gentleman from Georgia, Mr. LINDER, seemed to recognize the great harm that we can do by reducing the serious matter of impeachment of a President to mere politics. He stated in an interview last month, "If all Starr has is what we've seen, I don't think the public is ready for impeachment. I have said all along that one party cannot impeach the other party's president."

The Constitution grants us an awesome responsibility and I believe our Founding Fathers would be deeply disappointed to know that some among us would turn that responsibility into a political game. Alexander Hamilton fought for a high standard for impeachment of a President. He understood the inherently political nature of allowing such an issue to be decided by a legislative body. In fact, he warned that "there will always be the greatest danger that the decision will be regulated more by the comparative strength of parties, than by the real demonstrations of innocence or guilt."

In 1974, this body voted 410 to 4 in favor of a resolution similar to that being offered by the Republicans today. That action was clearly a bipartisan decision. According to the report by the Judiciary Committee staff at that time, "Constitutional Grounds for Presidential Impeachment," the action was not "intended to obstruct or weaken the presidency. It was supported by members firmly committed to the need for a strong presidency and a healthy executive branch of our government." We clearly do not have a near unanimous decision today. While I would never question the motives of any of my colleagues, I am concerned that the motives of some in 1998 are not as pure as the motives of this body in 1974.

A review of the debate of our Founding Fathers reveals their concern over the potential for capricious use of the impeachment power. It becomes clear after a review of history that the Founding Fathers intended that an impeachable offense was an offense against the United States. There was a clear difference between public service and private conduct. They did not want Congress to have the unlimited right to decide who is President. They believed that only in the most extreme cases should the Congress undo an election of the American people.

Eight previous Presidents—John Tyler, Andrew Johnson, Grover Cleveland, Herbert Hoover, Harry S. Truman, Richard M. Nixon, Ronald W. Reagan, and George H.W. Bush—have had proposed articles of impeachment filed against them in the House of Representatives. The charges have fallen into two broad categories—behavior considered to be offensive, but not necessarily illegal; and acts that violate statutory or constitutional law. Only one of those presidents was impeached and the second resigned before the House could vote to impeach. In both instances, a clear crime was alleged to have been committed against the State.

After a review of the intent of the framers and of various impeachment resolutions that have been filed, it is clear that, with the possible exception of the charge of "shameless duplicity, equivocation, and falsehood with his late Cabinet and Congress" against President Tyler, the charges leveled against President Clinton to date do not come close to any of the charges brought against other Presidents—even those in which no impeachment resolution was given serious consideration. While other impeachment charges have dealt almost exclusively with alleged crimes against the state and therefore interfered with the Presidential duties, the charges against President Clinton allege actions that did not interfere with his Presidential duties.

Because of the nature of the charges against President Clinton, the investigation should be disposed of as quickly as possible. The Democratic resolution lays out specific time frames in order to fully and fairly conduct an inquiry and, if appropriate, to act upon the referral from the Independent Counsel in a manner that ensures the faithful discharge of the constitutional duty of Congress and concludes the inquiry at the earliest possible time.

To date, I believe this matter has significantly disrupted the progress of the Congress. It would be irresponsible for us not to limit the scope of the investigation and the time in which we conduct this investigation. We must get back to the business of the people as soon as possible and stop allowing this matter to paralyze the country. The working families of America need our help and they need it now. We have done nothing to ensure that home health agencies are able to continue their business into next year. There is no managed care reform. There is no legislation to reduce class size and modernize schools. There has been no action on funding the IMF and rescuing the world economy. My constituents did not elect me to participate in endless investigations. They elected me to take care of the business of the people.

Mr. Speaker, we must carefully consider the matter at hand today and ask ourselves, "How can we best proceed in this matter to prevent the fears of our Founding Fathers from coming true?" I submit to you that the most responsible course of action is to impose upon ourselves the deadlines provided in the Democratic alternative. Only swift and deliberate action can meet the standards of Hamilton. There should be no reason why we cannot meet these deadlines and return to the business of the people.

Mr. DELAHUNT. Mr. Speaker, the issue before us today is not just the conduct of the President. The overriding issue is how this committee will fulfill its own responsibilities at a moment of extraordinary constitutional significance.

Three weeks ago, the Independent Counsel referred information to Congress that he alleged may constitute grounds for impeaching the President.

But it is not the Independent Counsel who is charged by the Constitution to determine whether to initiate impeachment proceedings. That is our mandate. He is not our agent, and we cannot allow his judgments to be substituted for our own.

I am profoundly disturbed at the thought that this committee would base its determination solely on the Starr referral.

Never before in our history has the House proceeded with a presidential impeachment inquiry premised exclusively on the raw allegations of a single prosecutor. Let alone a prosecutor whose excessive zeal has shaken the confidence of fair-minded Americans in our system of justice.

It is the committee's responsibility to conduct our own preliminary investigation to determine whether the information from the Independent Counsel is sufficient to warrant a full-blown investigation. And we have not done that.

If we abdicate that responsibility, we will turn the Independent Counsel Statute into a political weapon with an automatic trigger—aimed at every future president. And in the process, we will have turned the United States Congress into a rubber stamp.

Just as we did when we rushed to release Mr. Starr's narrative within hours of its receipt, before either this committee or the President's counsel had any opportunity to examine it.

Just as we did when we released 7,000 pages of secret grand jury testimony and other documents hand-picked by the Independent Counsel—subverting the grand jury system itself by allowing it to be misused for a political purpose.

Just as we are about to do again: by launching in inquiry when no member of Congress even now, has had sufficient time to read, much less analyze, these materials. Not to mention the 50,000 pages we have not released.

For all I know, there may be grounds for an inquiry. But before the committee authorizes proceedings that will further traumatize the nation and distract us from the people's business, we must satisfy ourselves that there is "probable cause" to recommend an inquiry.

That is precisely what the House instructed us to do on September 10. The chairman of the Rules Committee himself anticipated that we might return the following week to seek "additional procedural or investigative authorities to adequately review this communication."

Yet the committee never sought those additional authorities. Apparently we had no intention of reviewing the communication.

That is the difference between the two resolutions before us today. The Majority version permits no independent assessment by the committee, and asks us instead to accept the referral purely on faith.

Our alternative ensure that there is a process—one that is orderly, deliberative and expeditious—for determining whether the referral is a sound basis for an inquiry.

The Majority has made much of the claim that their resolution adopts the same process—indeed, the very language—that was used during the Watergate hearings of 24 years ago.

It may be the same language. But it is not the same process.

In 1974, the Judiciary Committee spent weeks behind closed doors, poring over evidence gathered from a wide variety of sources—including the Ervin Committee and Judge Sirica's grand jury report, as well as the report of the Watergate Special Prosecutor. All before a single document was released. Witnesses were examined and cross-examined by the President's own counsel. Confidential material, including secret grand jury testimony, as never made public. In fact, nearly a generation later it remains under seal.

It is too late now to claim that we are honoring the Watergate precedent. The damage is done. But is not too late for us to learn from the mistakes of the last three weeks. If we adopt a fair, thoughtful, bipartisan process, I am confident the American people will embrace our conclusions, whatever they may be.

If the Majority chooses to do otherwise, it certainly has the votes to prevail. Just as the Democratic majority had the votes in 1974. But the Rodino committee recognized the overriding importance of transcending partisanship. And it earned the respect of the American people.

It is our challenge to ensure that history is as kind to the work of this committee.

Mr. POSHARD. Mr. Speaker, the vote today is not a vote for or against impeachment. It is not a vote on whether to proceed with the investigation. It is a vote on how to proceed. It is a vote to determine the parameters of the Judiciary Committee's investigation. The Republican proposal wants an investigation which is open-ended, without time limits and not limited to the Starr report. The Democratic alternative focuses the scope of the inquiry to the matter actually before the House in the referral by Mr. Starr. The independent counsel at this time has leveled very specific charges, and these are the ones that should be investigated. The Democratic resolution would first determine if these charges constitute grounds for impeachment. If that determination is reached, a focused inquiry will follow, and this Congress would then get to vote on the Committee's final recommendation. This is a fair process.

I will make my final decision regarding the President's actions after the deliberations of the Judiciary Committee are finished. I hope my colleagues all do the same. Based on the President's admitted behavior, I have strongly condemned his actions and believe he must experience the consequences of his behavior. Whether those consequences rise to the level of impeachment cannot be determined until the Committee investigation is finished, and I believe the Democratic alternative which I support is the most focused, fair, and expeditious way for the Committee to proceed.

Mr. SERRANO. Mr. Speaker, I rise in strong opposition to the Republican resolution calling for further interminable, open-ended, partisan investigation of the President of the United States. My constituents share my outrage at the attacks on President Clinton, and many—more than on any other issue in my eight years in this House—have called, written, and e-mailed me to share their views on the course Congress should take in this matter.

As many of my colleagues on both sides have said, the duty imposed on the House by allegations of Presidential treason, bribery, or other "high crimes and misdemeanors" is very grave. Faced with such allegations, the House must carry out its responsibility in the fairest, most non-partisan manner possible. This is vital to preserving the integrity of a Constitutional process, and we owe it to the President and to the American people.

Having said that, I, and my constituents, believe that this process, based on these allegations, has been unfair and partisan, that the offenses alleged against the President are not impeachable, and that the House Republican leadership should end the investigation and try to do as much of the people's business as is possible in the few days left before Congress adjourns for the year.

On September 11, I voted against immediate release of the Starr report. Basic fairness, like that extended to you, Mr. Speaker during the Ethics Committee investigation into your dealings, would have given the President the chance to review the allegations against him and to respond. After all, the Independent Counsel and his lawyers have spent more than four years and over $40 million focusing all their attention on finding wrongdoing by the President. And the grand jury process, which led to the report, is supposed to present only the prosecutor's version of the facts, not the accused's.

And no-one in Congress reviewed the Starr referral before it was dumped into print and onto the Internet, even though innocent people's reputations were damaged by it, and much of the material was so salacious that our children shouldn't have such easy access to it. Nor was there any apparent reason to release the additional material other than to further humiliate the President.

I believe it would be a bad precedent and a big mistake to remove the President, whom the people elected twice and whose performance in office the people still support, over a private consensual relationship. We must understand, as my constituents clearly do, that liberty and privacy are tightly linked, and that the more we permit intrusion into and exposure of the private lives of our people, even our Presidents, the more we jeopardize our liberty.

I believe the House should not proceed with any further investigation and should instead get on with the unfinished business of America. Therefore, I will vote against both resolutions, and I urge my colleagues to do the same.

Mr. CASTLE. Mr. Speaker, in accordance with the responsibilities placed on Congress by the Constitution, I support House Resolution 581 to authorize the Judiciary Committee to conduct an inquiry to determine whether the actions of the President of the United States require articles of impeachment to be filed against him.

It is a sad and somber moment for the Congress and for the country. No one should take any joy in the fact that Congress must examine these issues. The House Judiciary Committee should now conduct its investigation in a fair and expeditious manner. The President should be afforded every opportunity to address each point in the inquiry. There should be no rush to judgement, but there should also be no effort to delay or obstruct the legitimate examination of evidence and witnesses. I do not support an endless investigation, but a short, artificial time limit would encourage delays in responding to legitimate questions that must be answered.

It is important to emphasize that this is an inquiry. No determination has been made on the fate of the President. We should have an expeditious and open process in effort to complete this unfortunate, but necessary task as quickly as possible. When the inquiry is complete, the House should make a fair determination based on the facts, the law, and on what is in the best interest of our Nation.

Mr. LEVIN. Mr. Speaker, I reiterate my deep dismay at the President's personal conduct and his misleading the American people. We need a process that appropriately punishes the President without unduly punishing our nation. Today's debate is not about whether there will be an impeachment inquiry, but about how the impeachment inquiry should proceed and for how long.

The House should approve an impeachment inquiry today that refers the allegations contained within the Starr Report to the Judiciary Committee to determine if they constitute impeachable offenses in a manner that assures an early conclusion and is clearly defined as to its scope. The Hyde proposal meets none of these criteria.

I agree with President Gerald Ford who recently wrote that "the Judiciary Committee should be able to conclude a preliminary inquiry into possible grounds for impeachment before the end of the year."

The impeachment inquiry we approve today should be focused and clearly defined as to its scope. The Hyde proposal is neither focused nor clearly defined and places no limit on how long the investigation can go on.

I believe the impeachment inquiry proposal that will be offered by Mr. BOUCHER meets appropriate standards and the interests of the American people. The Hyde proposal does not.

Mr. COYNE. Mr. Speaker, I rise today to address the serious business before us—the resolution authorizing the House Judiciary Committee to undertake an impeachment inquiry into the admitted and alleged misdeeds of President Clinton.

We all know that President Clinton did something wrong. He had an affair and he lied about it. He admitted that to the nation in August. I was sorely disappointed by his misbehavior. His actions are to be condemned.

The question that Congress must address in the coming weeks and months, however, is whether his misdeeds merit impeachment. That means that we must sort out what he did, what his intentions were, and whether his actions constituted impeachable conduct.

The first step—and only the first step—in this process was the submission of Independent Counsel Kenneth Starr's referral to Congress last month. The last sections of the referral documents were released to the public last week, and at this point Americans have had enough time to begin to digest the contents of the Independent Counsel's report.

Congress now has the responsibility of weighing the Independent Counsel's charges objectively and determining whether to proceed with the next step in the impeachment process, which consists of an impeachment inquiry by the House Judiciary Committee.

I believe that given the seriousness of the charges, an impeachment inquiry is appropriate. The Starr Report is clearly not objective, but we must remember that it is not supposed to be objective. A grand jury proceeding is supposed to make the most compelling case possible for prosecution. The House should now review the Independent Counsel's referral, allow the President to present his side of the story, and require testimony from any other source that it deems necessary. Consequently, I support legislation authorizing the House Judiciary Committee to undertake an impeachment inquiry.

I am concerned, however, that an open-ended inquiry with the authority to re-visit every allegation made against President Clinton over the last 25 years would be excessive. Many of these charges have been investigated extensively—by Congressional committees, the Justice Department, and the Independent Counsel's office.

Consequently, I will vote today for the Democratic alternative to this resolution, which would authorize an impeachment inquiry but limit its scope to the Independent Counsel's referral. If, as I suspect, that alternative is rejected, I will vote against the resolution. I want to make clear, however, that I support an inquiry. I will vote against the resolution because I believe that an inquiry should focus on the charges set forth in the Independent Counsel's referral. It shouldn't be an open-ended, partisan fishing expedition.

Impeachment of a president is one of the most serious actions that the House of Representatives can take. I know that my colleagues all appreciate the gravity of what we are about to do. I urge my colleagues to act with the country's long-term interests in mind. Thank you.

Mr. BALLENGER. Mr. Speaker, today I rise in support of H. Res. 581, a resolution to open an inquiry by the House Judiciary Committee to determine whether substantial evidence exists to recommend the impeachment of the President of the United States.

When taking his oath of office, President Clinton vowed to "preserve, protect, and defend the Constitution of the United States." Independent Counsel Kenneth Starr's report outlines eleven potentially impeachable offenses against President Clinton suggesting he did not honor his oath. An investigation into these allegations is necessary to determine if there is substantial evidence to prove that President Clinton did, in fact, commit these crimes and to determine if these offenses warrant impeachment. Contrary to some opinions, this impeachment inquiry is not an attempt to disgrace the President but an honest effort to discover the truth.

I endorse this impeachment inquiry by the Judiciary Committee. Like all Americans, I hope it can proceed fairly and conclude expeditiously. Just as Clinton took an oath of office when being sworn in as President of the United States, I also took an oath of office as a Member of Congress to uphold the laws of the land. For that reason, I support H. Res. 581—a vote for truth and justice.

Mr. PASCRELL, of New Jersey. Mr. Speaker, today, I cast my vote for the proposal offered by Representative RICK BOUCHER for an impeachment inquiry. I firmly believe that this is the best course of action for our country. The Hyde proposal, in an effort to advance a political agenda, would allow this inquiry to go on indefinitely. But the American people deserve to have closure on this matter as soon as possible.

Alexander Hamilton, over 200 years ago, warned our great nation of the divisive nature of unfair inquiries. Our proposal would allow us to uphold our Constitutional responsibilities, namely to determine whether these charges made against the President are true and if true, they mandate the President's impeachment.

We have a duty to our constituents to get back to work on the many issues that affect our nation's families. That is why I, and everyone in this room, was sent here in the first place. The deadline our proposal imposes would grant ample time to review the Starr Report, make these difficult decisions, and refocus our energies on other vital matters. My fear of the Hyde proposal is based solely on its open ended nature and the financial toll another lengthy investigation will place upon us.

Make no mistake, I think the President's admitted behavior is indefensible and that this matter has done great harm to our country and the office of the President. But, we need to move on and bring closure to this issue. I will not allow the House Leadership to bring down the institution in which I so proudly serve. And I will do my best to insure that the decisions made best serve our Constitution and our nation. No individual and no party is privy to virtue."

Mr. BOUCHER. Mr. Speaker, at the conclusion of this debate, I will offer a motion to recommit the resolution offered by the gentleman from Illinois to the Committee on the Judiciary with the instruction that the Committee immediately report to the House the resolution in the form of our Democratic alternative.

While we would have preferred that Democrats have a normal opportunity to present our resolution as a amendment, the procedure being used by the House today does not make a Democratic amendment in order. The motion to recommit with instructions, however, offers an opportunity for adoption by the House of our alternative.

The Democratic amendment is a resolution for a full and complete review by the Judiciary Committee of the material referred to the House by the Office of the Independent Counsel. The Republican resolution also provides for that review. The difference between the Democratic and Republican alternatives is only over the scope of the review, the time that the review will take, and the requirement in our Democratic alternative that there be a recognition of the historical Constitutional standard for impeachment.

The public interest requires that a fair and deliberate inquiry occur. Our resolution would assure that it does.

But the public interest also requires an appropriate boundary on the scope of the inquiry. It should not become an invitation for a free ranging fishing expedition, subjecting to a formal impeachment inquiry matters that are not before the Congress today. The potential for such a venture should be strictly limited by the resolution of inquiry. Our proposal contains those appropriate limits. It would subject to the inquiry the material presented to us by the Office of the Independent Counsel which is the only material before us at the present time.

The public interest also requires that the matter be brought to conclusion at the earliest possible time that is consistent with a complete and through review.

The country has already undergone substantial trauma. If the Committee carries its work beyond the time reasonably needed for a complete resolution of the matter now before us the injury to the nation will only deepen.

We should be thorough, but we should be prompt. Given that the facts of this matter are generally well known, and given that there are only a handful of witnesses whose testimony is relevant, all of whom have already undergone grand jury scrutiny, there is no reason to prolong the Committee's work into next year. A careful and thorough review can be accomplished between now and the end of this year. Our resolution so provides.

Our resolution requires that the Committee hold hearings on the Constitutional standard for impeachment which has evolved over two centuries and which was recognized most recently by the Committee and by the House in 1974.

Our substitute then directs the Committee to compare the facts stated in the referral to the Constitutional standard and determine which if any of them rise to the standard.

Any of the facts stated in the referral which pass that initial test would then become the subject of a formal inquiry and investigation following which the Committee could reach its conclusion. It could recommend articles of impeachment, alternative sanctions or a no action option.

Under our resolution the committee will begin its work on October 12 and conclude all proceedings, including the consideration of recommendations in December. The House could then complete its consideration of any recommendations the Committee may make by the last week in December.

This approach is fair. It's in the public interest, and it is what the American public expects.

It gives deference to the Constitutional standard for impeachment recognized by the House in its 1974 report. It offers ample time to consider carefully, any of the allegations which rise to the Constitutional standard.

It assures that the entire matter will be resolved promptly and that the Nation is not distracted by a prolonged inquiry which is clearly not justified by the material presented in the referral.

It presents a framework that will enable the Committee and the House of Representatives to discharge their Constitutional obligations in a manner which is both thorough and expeditious.

I urge approval of the Democratic plan as rules of proceeding which are well tailored to the challenge before us.

Mrs. MORELLA. Mr. Speaker, today is a sad day for our country. I take no pleasure in today's proceedings, or the events which have brought us to this point. I have been entrusted by the people of my district to exercise my judgment in this matter, and I take seriously their confidence in me to use my best judgment and to carry out my Constitutional responsibilities in a somber and thoughtful manner.

We are a nation of law. In conformity with our Constitutional obligation to oversee the Executive Branch of government, Congress passed an independent counsel law, which was signed by President Clinton. The independent counsel appointed pursuant to that law to investigate allegations of illegal conduct within the Executive Branch has, pursuant to that law, forwarded to the Judiciary Committee his report detailing possible impeachable offenses committee by President Clinton.

In forwarding to the full House a resolution regarding an inquiry of impeachment, all members of the Judiciary Committee voted for an inquiry; they differed only on the inquiry's time and scope. Regardless of whichever resolution we pass today, the authorization to conduct an inquiry will expire at the end of this Congress.

Some have suggested that we simply censure President Clinton for his conduct and move on. However, there is no Constitutional provision for censuring a president, and we do not have a censure resolution before us today. While some have pointed to former President Ford's suggestion that the President be censure, they fail to take note of his view that such a censure would follow a presumptive finding by a Judiciary Committee inquiry that the President has not committed impeachable offenses.

We must follow the course set out in the law and the Constitution. It is our duty and responsibility to determine through an inquiry whether or not impeachable offenses were committed. I have every expectation that the House will conduct this inquiry as expeditiously as possible so that the country may achieve closure and move on.

Mr. STARK. Mr. Speaker, today the House considers whether the information sent to the Congress for consideration in the Independent Counsel Report warrants the start of an impeachment inquiry by the House.

The President has admitted that he had an extramarital affair and then lied about it. No one disputes that fact. The President's conduct, while reprehensible, was a betrayal of his vows to his wife but not his oath of office. His actions were personal in nature. If his lies to cover up his conduct amount to perjury, he can and should be held accountable through our judicial system.

Our founding fathers had something quite different in mind when they drafted the Constitutional language on impeachment, a political remedy for tyrannical acts. The Federalist papers shed some light on that. George Mason said that the phrase "high crimes and misdemeanors" refer to presidential actions that are great and dangerous offenses or attempts to subvert the government. Alexander Hamilton, in the Federalist paper 65, wrote that impeachable offenses relate chiefly to injustices done immediately to society. Ben Franklin spoke of impeachment as an alternative to assassination.

When this House voted to proceed with an inquiry to impeach President Nixon in 1974, the offenses in the impeachment resolution contained serious abuses of official power: President Nixon used government agencies to carry out his personal and political vendettas against citizens. Not included in the list of impeachable offenses for President Nixon was his deliberate backdating of a tax document and his false filing under oath of IRS returns by which he sought to fabricate a huge, tax deduction. That conduct was felonious but determined not to be an impeachable offense in 1974 because it did not threaten our form of government; it was personal, reprehensible conduct.

I will cast my vote against the Hyde resolution. It leads us into an impeachment inquiry without focus or time limitation.

I will support the Democratic motion to recommit because we need to resolve the issue of impeachment this year and then move on with the business of governing. We have serious work to do to resolve the solvency of the Social Security and the Medicare trust funds; we have children in need of heath care and quality child care; our schools are overcrowed. The needs of real people will not be addressed until we bring closure of this issue.

Mrs. WILSON. Mr. Speaker, I am the junior member of this House. The one who, arguably, comes to this decision with the cleanest slate, the least experience, and a perspective formed largely outside of these halls.

This morning, as we began our business, every member of this body gathered, faced the flag and repeated the same pledge that school children from Long Island to Los Angeles, from Seattle to Saratoga recited this morning. "I pledge allegiance * * *" With our hands over our hearts, we told the country and each other than we are one nation, under God, with liberty and justice for all. Liberty and justice for all.

The meaning of justice in a free society governed by a constitution is what has been on my mind in the last weeks. I have read the Independent Counsel's report and much of the supporting information which he has transmitted to us. Like my colleagues from both parties on the Judiciary Committee, I have come to the conclusion that we have been presented with substantial and credible evidence concerning the President of the United States that may constitute grounds for impeachment. We must do our duty and fully and fairly investigate these matters.

I have reached this conclusion with a profound sense of sadness. America is a great nation, and we are not less great because we are governed by fallible men and women. Indeed, our founding fathers knew well our failings, and led us to rely not upon the rule of men, but upon the rule of law. That is what is at stake here today—equal justice under the law.

I am reminded of the symbol of justice in America. Justice holding the scales is not blind because she looks away or because she will not see. Justice is blind so that every citizen, regardless of race or creed or station in life, will be treated equally under the law. That includes the President of the United States. It is a powerful symbol. And today, it is one we must live up to.

We are not called upon today to vote on articles of impeachment. We are only voting on whether to proceed, or to look away.

We are a nation ruled by laws. It is up to us to keep it that way.

Mr. SMITH of Michigan. Mr. Speaker, I favor further inquiry by the Judiciary Committee. The issue before us today is straightforward: Do the allegations of possible impeachable offense merit further investigation? Anyone who answers "no" and asserts that there should be no further review has a very high burden to meet. I think that the Judiciary Committee's careful, fair and expeditious review of all of the facts in light of the relevant law is precisely the Constitutional duty required of us by our oath of office. I also think that such a review is the duty we owe the American people.

Congress has received substantial and credible evidence that the President of the United States repeatedly violated the criminal laws of this country. I believe it would be a dereliction of duty of the highest order for us to decide today that no further review is needed. After meeting with Chairman HYDE, I am convinced that we will move forward fairly, quickly and in a bipartisan manner. I am also troubled by reports that the White House is pressuring Democrats to vote against this inquiry.

My office has received over a thousand calls and letters in the past month on this scandal. Additionally, my web page also gives constituents an opportunity to express their views. Eighty percent of the people who have contacted me have urged me to move forward with this investigation.

Despite much of the rhetoric, today's final vote only answers one question: Should we investigate the allegations or forget it? Those who vote against the resolution are, in fact, saying that we should just ignore all the allegations against the President and have no further inquiry.

I have not decided whether President Clinton has technically committed impeachable offenses. However, I have called for President Clinton's resignation. Whether his actions rise to the level of 'high Crimes and Misdemeanors' is still to be determined. The point is that we need to investigate the actions of the President and we need to get this situation behind us as quickly as possible, hopefully by the end of the year.

Today's vote marks only the third time in American history that the House has opened an inquiry into possible impeachment of a President. It is a serious vote for all of us, possibly one of the most important votes I will take. I have made the decision to vote yes because I truly believe to do otherwise would not be in the best interest of our country's future.

Mr. FRANK of Massachusetts. Mr. Speaker, our former colleague from Oklahoma, Mickey Edwards, has gone from service in the House of Representatives to a very distinguished career teaching at the Kennedy School of Government at Harvard. He has combined this with a role as a thoughtful commentator on public affairs. Mr. Edwards is as those who served with him know a very thoughtful conservative, and I disagree with him on many policy issues. Indeed, I disagree with his assessment of the policy impact of the Clinton administration, in foreign policy and elsewhere, which is included in this article. But on the whole it seems to me an extremely thoughtful essay that sheds a good deal of light on the difficult task we face in the coming weeks and months in dealing with the Independent Counsel's investigation of the President.

Both because of the thoughtful nature of this work, and because of Mr. Edwards credentials as one of the most intellectually honest of our political commentators, I ask this his thoughtful essay from the Boston Herald be printed here.

STARR ELECTS TO TOPPLE 1996 ELECTION

This is what we know:

First, that the president has committed adultery and is accused of lying about it before a grand jury. Second, and even more disturbing, we know that we now have in the United States a prosecutor to whom our civil liberties are an inconvenience.

As a conservative, I have dedicated my adult life to opposing the spread of statist power. I have feared, and fought against, the intrusions of Big Brother into the private lives of American citizens. That is why I am disturbed by Bill Clinton but frightened by Kenneth Starr.

Here is the situation: The Constitution grants to the people, through their representatives, the power to remove a president who is guilty of criminal behavior. It is a discretionary power; it has been delegated to a political branch of government and the decision is intended to be based on political as well as legal considerations.

Bill Clinton has twice been elected president. Many of the facts we know about his patterns of behavior were known before the people placed him in office. Perhaps citizens have learned more about the president's tendencies, about his behavior, but if there is any surprise it is about the extent of that behavior, not about its existence.

Because we know all this, the questions that matter most are not whether we should be appalled by the behavior of this president, but about how reluctant we should be to overturn the results of an election, and, second, the extent to which we should sanction the activities of an extra-constitutional inquisitor whose activities threaten not merely our sensibilities but our civil liberties as well.

I am not among the president's defenders. For his indiscretions and lies, he alone is responsible. Even had his activities been less unsavory, he would still be judged by history to be a president of modest accomplishment. His ineptitude in foreign policy alone would doom him to the ranks of mediocrity. But—this is a big distinction—even though I might wish Mr. Clinton had never been elected, he was; he defeated a sitting president and a prominent senator. His election was not a fluke; it was a decision.

Prudence dictates caution in removing from office a man or woman whom the people have placed there. A president's activities may be so heinous that he must be removed at any cost, but in a democratic society, the overturning of an election must rest on more than shocked sensibility. What Mr. Clinton has lied about is an adulterous affair. If he is found to have lied to the grand jury, his actions may be oath reprehensible and illegal. But there is a question of context: what he lied about was whether he carried on a consensual sexual relationship. It may be enough to make one gap; it is not enough to overturn the will of the people that he should be the president.

This brings us to a more serious matter. When Richard Nixon was our president, a Democratic Congress, asserting that a Republican Justice Department could not be trusted to act in the public interest, circumvented the existing governmental structure by creating a special prosecutor (the title is "independent counsel," but as Kenneth Starr has demonstrated, it is an office with the power to function in a disturbingly aggressive manner).

We should all be concerned about the danger inherent in giving the state the ability to trample underfoot the rights of a citizen on behalf of some presumed "greater good." There are "greater goods," those common national interests that sometimes transcend narrower individual interests, but even in the pursuit of such common interests the civil rights of citizens must be preserved.

Kenneth Starr has no such sensibility. He began with a mandate to consider such matters as the possible misuse of secret FBI files, but from that starting point, he ended up in Bill Clinton's bedroom (or, in this case, his Oval Office). He intimidated witnesses. He looked into what books his witnesses read and what movies they watched. He subjected the public to the kind of voyeurism he has publicly criticized. (If he felt the need to illustrate what Mr. Clinton and Monica Lewinsky did, to prove that Mr. Clinton had lied, one example would have been sufficient; even that would not have been necessary if one assumes members of Congress can decide for themselves what does, and does not, constitute "sex.")

Bill Clinton may be an embarrassment, but the Congress should not overturn a national election simply because a president lied about matters about which he should have never been questioned. And whatever Mr. Clinton's flaws, the real danger here is not Mr. Clinton's flaws, the real danger here is not Mr. Clinton's immaturity but Mr. Starr's casual disregard for those considerations which protect the citizen against the excessive intrusions of the state.

Mr. HALL of Ohio. Mr. Speaker, this is only the third time since the founding of our Nation that the House of Representatives has seriously considered impeaching the President of the United States. Consequently, I have deliberated extensively over the upcoming vote. Having reached a decision, there is little doubt in my mind that the Judiciary Committee of the House of Representatives should conduct a limited, clearly defined inquiry into whether President Bill Clinton should be impeached. The alternative, a broad-based impeachment investigation with no time limits is unnecessary, unwarranted, and potentially harmful to our Nation.

Removing the President from office would invalidate the election of Bill Clinton by the American people. The standard for impeachment must be set high for Congress to revoke decisions made by the people at the ballot box. The authority to impeach is an awesome power which, if misused, threatens the foundation of American democracy.

There is probably no individual in history who has been investigated more than President Clinton. Independent Counsel Kenneth Starr and his predecessor have taken more than four years, spent almost $45 million, and employed 60 attorneys, investigators, and other staff to examine President Clinton's activities for evidence of wrongdoing. In addition, more than half a dozen House and Senate committees have investigated potential abuses by President Clinton and the First Lady—including many of the same subjects the Independent Counsel investigated—at additional expense to taxpayers.

I have read the report by Independent Counsel Starr and seen some of the evidence produced by the other investigations. I have strong doubts that they justify impeaching the President, or starting a new, lengthy investigation. The U.S. Constitution permits the Congress to remove the President upon conviction of "treason, bribery, or other high crimes and misdemeanors." President Clinton's actions are unbecoming to the office of the President and thoroughly offensive to the American people and to me. But they are not impeachable offenses.

The impeachment process is filled with potential dangers for America. With the near-collapse of the economies of Russia and several Asian countries, the world is on the verge of an international economic crisis. Military action may be necessary to stem the genocide in Kosovo. The threat of terrorism against U.S. citizens and interests abroad has never been greater. The impeachment process will weaken the President and hurt our Nation's ability to deal with international problems. Our military and economic risk increases the longer it drags on.

A long impeachment process will further distract the attention of Congress from more important issues, such as health care, education, tax reform, protecting Social Security, and reducing hunger and poverty. We should be dealing with these problems, not conducting endless investigations. An open-ended inquiry could cost millions of dollars—money which could be spent more productively. We are becoming a government that sees as its principal mission the investigation of its officers and citizens. Such a government does not serve the people.

Our task is to make the best decision—one that will bring the President to justice and spare the American people from further pain. This vote is not about whether President Clinton will be punished. I believe the President should be punished for his misconduct. We must send a clear and unambiguous signal that this type of behavior is not acceptable. But let's not punish the entire Nation by going forward with an unlimited investigation. If, after a limited investigation, new and unexpected impeachable offenses are discovered, then that avenue should be pursued vigorously. But if that does not happen, the House should consider the recent suggestion of former President Gerald Ford that we publicly rebuke President Clinton. More than any other living American, Mr. Ford knows the pain and public divisiveness an impeachment process imposes on our country and its citizens.

If we vote for an unlimited investigation, when will it end? We have the assurance of well-meaning House leaders that it can be wrapped up by the end of the year. But if that is the goal, why not put it in this resolution? The Judiciary Committee took five months to write articles of impeachment against former President Nixon. The case against President Clinton, which already has become more partisan and controversial, probably will take longer. If we proceed with an unlimited investigation, we are likely to see our newspapers and airwaves filled with still more stories about Monica Lewinsky, Whitewater, and alleged White House scandals from now until the end of the 106th Congress in the year 2001.

I recognize that my own constituents are deeply divided on this issue. Daily I have been receiving thoughtful and passionate telephone calls, letters, and e-mails from residents of Dayton and Montgomery County, Ohio, which I am privileged to represent. After listening to both sides, I have concluded that another investigation by the House of Representatives is not warranted by the evidence, nor is it likely to find anything that has been missed already by investigators. An open-ended inquiry will just be a waste of taxpayers' money and a drain on the Nation. Therefore, I will not vote for another endless round of hearings, depositions, and testimony that serve no purpose.

The alternative I support calls for the Judiciary Committee to begin an impeachment investigation that will finish no later than December 31, 1998, and will be confined in scope to the charges forwarded to the House by the Independent Counsel. This approach does not rule out additional investigations if new, credible information is presented by the Independent Counsel or any other source.

President Clinton has shamed himself and the office of the President, a blot that will stain his record in history. The question is now whether we will shame the House of Representatives by letting this trauma linger on endlessly and drag our Nation down.

Mr. Speaker, this vote is really about setting limits. The Independent Counsel has conducted an unlimited investigation with unlimited time and money. The House of Representatives has given virtually unlimited public access to the documents and evidence he produced. Now, the House is about to authorize another unlimited investigation. I'm willing to say there should be limits. We as a Congress and a Nation have too many other important things to do. It is time for members of the House to put some limits on this process and get on with fulfilling the many other responsibilities we have to the American people.

Mr. DELAHUNT. Mr. Speaker, on September 18, 1998, the House Judiciary Committee voted to release to the public several volumes of supporting material received from the Independent Counsel nine days ago, including grand jury transcripts and the President's videotaped testimony.

In my judgment, the headlong rush to publicize secret grand jury testimony not only endangers the rights of the individuals involved in this particular case, but also undermines the integrity of one of the cornerstones of our system of justice—the grand jury system itself.

Unfortunately, the readiness of the majority to ignore these perils also calls into question the fundamental fairness of our own proceedings.

THE PACE ACCELERATES

On September 9, Independent Counsel Kenneth Starr sent the House of Representatives a 445-page report, together with some 2,000 pages of supporting materials, telephone records, videotaped testimony and other sensitive material, as well as 17 boxes of other information.

Within 48 hours, the House had voted to release the report and give the Judiciary Committee until September 28 to decide whether any of the remaining material should be kept confidential. While I agreed that we should release the report, I opposed our doing so before either the President's attorneys or members of the Committee had been given even a minimal opportunity to review it.

That vote was seven days ago. Since then, the breakneck pace has only accelerated. Today, we were asked to vote—10 days ahead of schedule—on whether to release what may well be the most sensitive materials of all—the grand jury transcripts, together with the videotape of the President's testimony.

Those of us who serve on the Committee had been doing our best to review these materials so that we would be in a position to evaluate whether or not they ought to be released. I cannot speak for other members, but I have been as diligent as possible, and had managed by this morning to get through—at most—some 30 percent of this material.

How can anyone make a considered judgment under such circumstances? How can we properly weigh the benefits of immediate disclosure against the harm it might cause? I have done my utmost not to prejudge the outcome of this investigation. I am prepared to follow the facts wherever they lead. But if the American people are to accept the eventual result of our deliberations, they must be satisfied that our proceedings have been thorough, disciplined, methodical and fair.

I seriously doubt that an objective observer looking back on these past nine days could characterize our proceedings in that manner. The process continues to careen forward—without a roadmap—a dizzying pace.

FUNDAMENTAL FAIRNESS

One portion of the Independent Counsel's report that I made sure to read—not once, but twice—was Mr. Starr's transmittal letter, which cautioned that these supporting materials contain "confidential material and material protected from disclosure by Rule 6(e) of the Federal Rules of Criminal Procedure" (the rule that provides for the secrecy of grand jury records).

The implication of that warning is that the public disclosure of protected grand jury material could do serious and irrevocable harm—not only to the President, but to the many other individuals caught up in the vast web of the Starr investigation, including innocent third-parties, witnesses, and other potential targets of ongoing (and future) investigations.

In the United States, those accused of criminal wrongdoing are presumed innocent—be they presidents or ordinary citizens. Yet if raw, unproven allegations are disclosed to the public before they can be challenged, the "presumption of innocence" loses all meaning. Minds are made up, judgments rendered, and the chance for a fair determination of the facts is lost.

That is one reason why federal grand jury testimony—whether in printed or in audio-visual form—is explicitly shielded from public disclosure under Rule 6(e).

But grand jury secrecy also serves the interests of the prosecution, by encouraging witnesses to come forward and ensuring that prejudicial material will not poison the jury pool and make it impossible to hold a fair trial. This is especially important when the targets and potential targets of an investigation are public figures.

The pre-indictment release of secret testimony compromises both objectives—trampling on the rights of the accused and jeopardizing subsequent indictments. Beyond this, it calls into serious question the fairness and integrity of the grand jury system itself.

"LAUNDERING" THE EVIDENCE

Through its action today, the Judiciary Committee has engaged in an abuse of the grand jury process that has enabled it to accomplish indirectly what the Independent Counsel was prohibited from doing directly.

The Independent Counsel has developed his case by using the grand jury to compel testimony from various witnesses. Although the grand jury voted to subpoena the President, the videotaped testimony was ultimately obtained under a negotiated agreement, under which the Independent Counsel agreed to treat the testimony as secret grand jury proceedings pursuant to Rule 6(e). It was solely on this basis that the President consented to testify.

The Independent Counsel subsequently receive permission from the court to release the videotape, together with the other grand jury material, to the Congress. But the court order did not authorize its further release to the public or the press.

By releasing that testimony to the public, we are—in effect—laundering the evidence so as to nullify the express agreement under which it was obtained. This is an abuse of the grand jury that can only damage the public's faith in that institution and impair its ability to perform its essential role.

And what are the benefits that justify these evils? We are told only that the public has a "right to know"—an interest in the case that entitle sit to the information. Some have even suggested that that interest is a financial one—that the public "paid" for this material and is entitled to it.

To this, one can only respond that the public pays for the grand jury testimony in every case. The public has an interest in every case—especially where the case involves high officials or other celebrities. We accommodate that interest by requiring that trials be held in open court. But the public is no more entitled to secret grand jury testimony than it is to classified intelligence. Not even when the case is concluded, let alone while it is still going on.

In an ordinary criminal trial, grand jury testimony is disclosed under Rule 6(e) only under certain specific circumstances. For example, criminal defendants are entitled to see grand jury proceedings in order to cross-examine witnesses or challenge their credibility on the basis of prior inconsistent statements.

On the other hand, the public release of material of this nature would violate not only Rule

6(e), but Department of Justice guidelines, court precedents and ethical rules binding on prosecutors in every jurisdiction in this country. A party found to have disclosed the material would be subject to sanctions, and the material itself would be excludable in court. The court might even grant a defendant's motion to dismiss the case for prejudice.

LOOKING TO PRECEDENT

This is certainly not an ordinary case. But neither is it so exceptional as to justify our riding roughshod over precedent and due process.

In the one historical precedent that is closest to the present situation, due process was scrupulously observed. Twenty-four years ago, a Republican president was under investigation by a Democratic House.

The Judiciary Committee spent seven weeks in closed session, reviewing judge Sirica's grand jury materials prior to their release. President Nixon's lawyers were permitted not only to participate in these sessions, but to cross-examine witnesses before their testimony was made public.

While there are obviously major differences between the current controversy and the Watergate affair, President Clinton is entitled to the same due process protections afforded President Nixon in the course of that investigation.

In fact, the case for preserving the confidentiality of the evidence is even stronger here than it was in the Watergate case. Mr. Starr's grant jury has made no findings whatsoever with respect to the evidence. The material we have consists merely of selected portions of what the persecutor put before the grand jury, together with his interpretation of that material. The jurors were never asked whether they thought that the video tape—or any other testimony—provided credible evidence of perjury or other wrongdoing. Having used the grant jury as a tool to gather information, the Independent Counsel bypassed it as a fact-finding body.

That is his prerogative. But the Judiciary Committee has a duty to see that the material provided to us is handled appropriately. If we act carelessly, and in haste, we will not only cripple this President, but will do lasting harm to the values and institutions we hold most dear.

Mr. SOLOMON. Mr. Speaker I would like to enter into the record a General Accounting Office report: Executive Office of the President, Procedures for Acquiring Access to and Safeguarding Intelligence Information

This report is a significant and impressive audit performed by the National Security and International Affairs Division of the GAO. It builds on the work previously requested by Chairman Goss and will be the foundation for further oversight by the Permanent Select Committee on Intelligence.

The President's stewardship in protecting the National Security of the United States of America is his highest responsibility. There is no higher calling. I believe that this report raises significant questions that should be addressed.

GAO REPORT TO THE CHAIRMAN, COMMITTEE ON RULES, HOUSE OF REPRESENTATIVES

EXECUTIVE OFFICE OF THE PRESIDENT—PROCEDURES FOR ACQUIRING ACCESS TO AND SAFEGUARDING INTELLIGENCE INFORMATION

U.S. GENERAL ACCOUNTING OFFICE,
NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION,
Washington, DC, September 30, 1998.

Hon. GERALD B. H. SOLOMON,
Chairman, Committee on Rules, House of Representatives.

DEAR MR. CHAIRMAN: This report responds to your request of November 6, 1997, asking us to determine whether the Executive Office of the President (EOP) has established procedures for (1) acquiring personnel access to classified intelligence information, specifically Sensitive Compartmented Information (SCI), and (2) safeguarding such information. You asked that our review include the following offices for which the EOP Security Office provides security support: White House Office, Office of Policy Development, Office of the Vice President, National Security Council, President's Foreign Intelligence Advisory Board, Office of Science and Technology Policy, Office of the United States Trade Representative, Office of National Drug Control Policy, and Office of Administration.

BACKGROUND

SCI refers to classified information concerning or derived from intelligence sources, methods, or analytical processes requiring exclusive handling within formal access control established by the Director of Central Intelligence. The Central Intelligence Agency (CIA) is responsible for adjudicating and granting all EOP requests for SCI access. According to the EOP Security Office, between January 1993 and May 1998, the CIA granted about 840 EOP employees access to SCI.

Executive Order 12958, Classified National Security Information, prescribes a uniform system for classifying, safeguarding, and declassifying national security information and requires agency heads to promulgate procedures to ensure that the policies established by the order are properly implemented, ensure that classified material is properly safeguarded, and establish and maintain a security self-inspection program of their classified activities.

The order also gives the Director, Information Security Oversight Office (an organization under the National Archives and Records Administration), the authority to conduct on-site security inspections of EOP's and other executive branch agencies' classified programs. Office of Management and Budget Circular Number A-123, Management Accountability and Control, emphasizes the importance of having clearly documented and readily available procedures as a means to ensure that programs achieve their intended results.

Director of Central Intelligence Directive 1/14, Personnel Security Standards and Procedures Governing Eligibility for Access to Sensitive Compartmented Information, lays out the governmentwide eligibility standards and procedures for access to SCI by all U.S. citizens, including government civilian and military personnel, contractors, and employees of contractors. The directive requires (1) the employing agency to determine that the individual has a need to know;[1] (2) the cognizant Senior Official of the Intelligence Community to review the individual's background investigation and reach a favorable suitability determination; and (3) the individual, once approved by the Senior Official of the Intelligence Community for SCI access, to sign a SCI nondisclosure agreement.[2] Additional guidance concerning SCI eligibility is contained in Executive Order 12968,[3] the U.S. Security Policy Board investigative standards and adjudicative guidelines implementing Executive Order 12968,[4] and Director of Central Intelligence Directive 1/19.

Governmentwide standards and procedures for safeguarding SCI material are contained in Director of Central Intelligence Directive 1/19, Security Policy for Sensitive Compartmented Information and Security Policy Manual.

The EOP Security Office is part of the Office of Administration. The Director of the Office of Administration reports to the Assistant to the President for Management and Administration. The EOP Security Officer is responsible for formulating and directing the execution of security policy, reviewing and evaluating EOP security programs, and conducting security indoctrinations and debriefings for agencies of the EOP. Additionally, each of the nine EOP offices we reviewed has a security officer who is responsible for that specific office's security program.

As discussed with your office, we reviewed EOP procedures but did not verify whether the procedures were followed in granting SCI access to EOP employees, review EOP physical security practices for safeguarding classified material, conduct classified document control and accountability inspections, or perform other control tests of classified material over which the EOP has custody. (See pages 8 and 9 for a description of our scope and methodology.)

EOP-WIDE PROCEDURES FOR ACQUIRING SCI ACCESS SHOULD BE MORE SPECIFIC

The EOP Security Officer told us that, for the period January 1993 until June 1996, (1) he could not find any EOP-wide procedures for acquiring access to SCI for the White House Office, the Office of Policy Development, the Office of the Vice President, the National Security Council, and the President's Foreign Intelligence Advisory Board for which the former White House Security Office[5] provided security support and (2) there were no EOP-wide procedures for acquiring access to SCI for the Office of Science and Technology Policy, the Office of the United States Trade Representative, the Office of National Drug Control Policy, and the Office of Administration for which the EOP Security Office provides security support. He added that there had been no written procedures for acquiring SCI access within the EOP since he became the EOP Security Officer in 1986. In contrast, we noted that two of the nine EOP offices we reviewed issued office-specific procedures that make reference to acquiring access to SCI—the Office of Science and Technology Policy in July 1996 and the Office of the Vice President in February 1997.

According to the EOP Security Officer, draft EOP-wide written procedures for acquiring access to SCI were completed in June 1996, at the time the White House and EOP Security Offices merged. These draft procedures, entitled Security Procedures for the EOP Security Office, were not finalized until March 1998. While the procedures discuss the issuance of EOP building passes, they do not describe in detail the procedures EOP offices must follow to acquire SCI access; the roles and responsibilities of the EOP Security Office, security staffs of the individual EOP offices, and the CIA and others in the process;

Footnotes at end of letter.

or the forms and essential documentation required before the CIA can adjudicate a request for SCI access. Moreover, the procedures do not address the practices that National Security Council security personnel follow to acquire SCI access for their personnel. For example, unlike the process for acquiring SCI access in the other eight EOP offices were reviewed, National Security Council security personnel (rather than the personnel in the EOP Security Office) conduct the employee pre-employment security interview; deal directly with the CIA to request SCI access; and, once the CIA approves an employee for access, conduct the SCI security indoctrination and oversee the individual's signing of the SCI nondisclosure agreement.

Director of Central Intelligence Directives 1/14 and 1/19 require that access to SCI be controlled under the strictest application of the need-to-know principle and in accordance with applicable personnel security standards and procedures. In exceptional cases, the Senior Official of the Intelligence Community or his designee (the CIA in the case of EOP employees) may, when it is in the national interest, authorize an individual access to SCI prior to completion of the individual's security background investigation.

At least since July 1996, according to the National Security Council's security officer, his office has granted temporary SCI access to government employees and individuals from private industry and academia—before completion of the individual's security background investigation and without notifying the CIA. He added, however, that this practice has occurred only on rare occasions to meet urgent needs. He said that this practice was also followed prior to July 1996 but that no records exist documenting the number of instances and the parties the National Security Council may have granted temporary SCI access to prior to this date. CIA officials responsible for adjudicating and granting EOP requests for SCI access told us that the CIA did not know about the National Security Council's practice of granting temporary SCI access until our review.

A senior EOP official told us that from July 1996 through July 1998, the National Security Council security officer granted 35 temporary SCI clearances. This official also added that, after recent consultations with the CIA, the National Security Council decided in August 1998 to refer temporary SCI clearance determinations to the CIA.

EOP HAS NOT ESTABLISHED PROCEDURES FOR SAFEGUARDING SCI MATERIAL

The EOP-wide security procedures issued in March 1998 do not set forth security practices EOP offices are to allow in safeguarding classified information. In contrast, the Office of Science and Technology Policy and the Office of the Vice President had issued office-specific security procedures that deal with safeguarding SCI material. The Office of Science and Technology Policy procedures, issued in July 1996, were very comprehensive. They require that new employees be thoroughly briefed on their security responsibilities, advise staff on their responsibilities for implementing the security aspects of Executive Order 12958, and provide staff specific guidance on document accountability and other safeguard practices involving classified information. The remaining seven EOP offices that did not have office-specific procedures for safeguarding SCI and other classified information stated that they rely on Director of Central Intelligence Directive 1/19 for direction on such matters.

EOP HAS NOT ESTABLISHED A SECURITY SELF-INSPECTION PROGRAM

Executive Order 12958 requires the head of agencies that handle classified information to establish and maintain a security self-inspection program. The order contains guidelines (which agency security personnel may use in conducting such inspections) on reviewing relevant security directives and classified material access and control records and procedures, monitoring agency adherence to established safeguard standards, assessing compliance with controls for access to classified information, verifying whether agency special access programs provide for the conduct of internal oversight, and assessing whether controls to prevent unauthorized access to classified information are effective. Neither the EOP Security Office nor the security staff of the nine EOP offices we reviewed have conducted security self-inspections as described in the order.

EOP officials pointed out that security personnel routinely conduct daily desk, safe, and other security checks to ensure that SCI and other classified information is properly safeguarded. These same officials also emphasized the importance and security value in having within each EOP office experienced security staff responsible for safeguarding classified information. While these EOP security practices are important, the security self-inspection program as described in Executive Order 12958 provides for a review of security procedures and an assessment of security controls beyond EOP daily security practices.

INFORMATION SECURITY OVERSIGHT OFFICE HAS NOT CONDUCTED SECURITY INSPECTIONS OF EOP ACTIVITIES

Executive Order 12958 gives the Director, Information Security Oversight Office, authority to conduct on-site reviews of each agency's classified programs. The Director of the Information Security Oversight Office said his office has never conducted an on-site security inspection of EOP classified programs. He cited a lack of sufficient personnel as the reason for not doing so and added that primary responsibility for oversight should rest internally with the EOP and other government agencies having custody of classified material.

The Director's concern with having adequate inspection staff and his view on the primacy of internal oversight do not diminish the need for an objective and systematic examination of EOP classified programs by an independent party. An independent assessment of EOP security practices by the Information Security Oversight Office could have brought to light the security concerns raised in this report.

RECOMMENDATIONS

To improve EOP security practices, we recommend that the Assistant to the President for Management and Administration direct the EOP Security Officer to revise the March 1998 Security Procedures for the EOP Security Office to include comprehensive guidance on the procedures EOP offices must follow in (1) acquiring SCI access for its employees and (2) safeguarding SCI material and establish and maintain a self-inspection program of EOP classified programs, including SCI in accordance with provisions in Executive Order 12958.

We recommend further that, to properly provide for external oversight, the Director, Information Security Oversight Office, develop and implement a plan for conducting periodic on-site security inspections of EOP classified programs.

AGENCY COMMENTS AND OUR EVALUATION

We provided the EOP, the Information Security Oversight Office, and the CIA a copy of the draft report for their review and comment. The EOP and the Information Security Oversight Office provided written comments which are reprinted in their entirety as appendices I and II respectively. The CIA did not provide comments.

In responding for the EOP, the Assistant to the President for Management and Administration stated that our report creates a false impression that the security procedures the EOP employ are lax and inconsistent with established standards. This official added that the procedures for regulating personnel access to classified information are Executive Order 12968 and applicable Security Policy Board guidelines and Executive Order 12968 and Executive Order 12958 for safeguarding such information. The Assistant to the President also stated that the report suggests that the EOP operated in a vacuum because the EOP written security procedures implementing Executive Order 12968 were not issued until March 1998. The official noted that EOP carefully followed the President's executive orders, Security Policy Board guidelines and applicable Director of Central Intelligence Directives during this time period. While EOP disagreed with the basis for our recommendations, the Assistant to the President stated that EOP plans to supplement its security procedures with additional guidance.

We agree that the executive orders, Security Policy Board guidelines, and applicable Director of Central Intelligence Directives clearly lay out governmentwide standards and procedures for access to and safeguarding of SCI. However, they are not a substitute for local operating procedures that provide agency personnel guidance on how to implement the governmentwide procedures. We believe that EOP plans to issue supplemental guidance could strengthen existing procedures.

The Assistant to the President also stated that it is not accurate to say that the EOP has not conducted security self-inspections. This official stated that our draft report acknowledges that "security personnel conduct daily desk, safe, and other security checks to ensure that SCI and other classified material is properly safeguarded." The Assistant to the President is correct to point out the importance of daily physical security checks as a effective means to help ensure that classified material is properly safeguarded. However, such self-inspection practices are not meant to substitute for a security self-inspection program as described in Executive Order 12958. Self-inspections as discussed in the order are much broader in scope than routine daily safe checks. The order's guidelines discuss reviewing relevant security directives and classified material access and control records and procedures, monitoring agency adherence to established safeguard standards, assessing compliance with controls for access to classified information, verifying whether agency special access programs (such as SCI) provide for the conduct of internal oversight, and assessing whether controls to prevent unauthorized access to classified information are effective. Our report recommends that the EOP establish a self-inspection program.

In commenting on our recommendation, the Assistant to the President said that to enhance EOP security practices, the skilled assistance of the EOP Security Office staff are being made available to all EOP organizations to coordinate and assist where appropriate in agency efforts to enhance self-inspection. We believe EOP security practices

would be enhanced if this action were part of a security self-inspection program as described in Executive Order 12958.

The Director, Information Security Oversight Office noted that our report addresses important elements of the SCI program in place within the EOP and provides helpful insights for the security community as a whole. The Director believes that we overemphasize the need to create EOP specific procedures for handling SCI programs. He observed that the Director of Central Intelligence has issued governmentwide procedures on these matters and that for the EOP to prepare local procedures would result in unnecessary additional rules and expenditure of resources and could result in local procedures contrary to Director of Central Intelligence Directives. As we discussed above, we agree that the executive orders, Security Policy Board guidelines, and applicable Director of Central Intelligence Directives clearly lay out governmentwide standards and procedures for access to and safeguarding of SCI. However, they are not a substitute for local operating procedures that provide agency personnel guidance on how to implement the governmentwide procedures.

The Director agreed that his office needs to conduct on-site security inspections and hopes to begin the inspections during fiscal year 1999. The Director also noted that the primary focus of the inspections would be classification management and not inspections of the SCI program.

SCOPE AND METHODOLOGY

To identify EOP procedures for acquiring access to SCI and safeguarding such information, we met with EOP officials responsible for security program management and discussed their programs. We obtained and reviewed pertinent documents concerning EOP procedures for acquiring SCI access and safeguarding such information.

In addition, we obtained and reviewed various executive orders, Director of Central Intelligence Directives, and other documents pertaining to acquiring access to and safeguarding SCI material. We also discussed U.S. government security policies pertinent to our review with officials of the Information Security Oversight Office and the U.S. Security Policy Board. Additionally, we met with officials of the CIA responsible for adjudicating and granting EOP employees SCI access and discussed the CIA procedures for determining whether an individual meets Director of Central Intelligence Directive eligibility standards.

As discussed with your office, we did not verify whether proper procedures were following in granting SCI access to the approximately 840 EOP employees identified by the EOP Security Officer. Also, we did not review EOP physical security practices for safeguarding SCI and other classified material, conduct classified document control and accountability inspections, or perform other control tests of SCI material over which the EOP has custody.

We performed our review from January 1998 until August 1998 in accordance with generally accepted government auditing standards.

At your request, we plan no further distribution of this report until 30 days after its issue date. At that time, we will provide copies to appropriate congressional committees; the Chief of Staff to the President; the Assistant to the President for Management and Administration; the Director, Information Security Oversight Office; the Director of Central Intelligence; Central Intelligence Agency; the U.S. Security Policy Board; the Director of the Office of Management and Budget; and other interested parties.

Please contact me at (202) 512-3504 if you or your staff have any questions concerning this report. Major contributors to this report were Gary K. Weeter, Assistant Director, and Tim F. Stone, Evaluator-in-Charge.

Sincerely yours,

RICHARD DAVIS,
Director, National Security Analysis.

FOOTNOTES

[1] The "need-to-know" principle is a determination made by an authorized holder of classified information that a prospective recipient requires access to specific classified information in order to perform a lawful and authorized function. The prospective recipient shall possess an appropriate security clearance and access approval in accordance with Director of Central Intelligence Directive 1/14.

[2] The SCI nondisclosure agreement establishes explicit obligations on the government and the individual to protect SCI.

[3] Executive Order 12968, Access to Classified Information, (Aug. 2, 1995).

[4] U.S. Security Policy Board, Adjudicative Guidelines for Determining Eligiblity for Access to Classified Information, Investigative Standards for Background Investigations for Access to Classified Information, and Investigative Standards for Temporary Eligiblity for Access (Mar. 24, 1997).

[5] The White House Security Office was abolished on June 19, 1996. On this date, the EOP Security Office assumed responsibility for security support for the EOP offices previously supported by the White House Security Office.

APPENDIX I—COMMENTS FROM THE ASSISTANT TO THE PRESIDENT FOR MANAGEMENT AND ADMINISTRATION

THE WHITE HOUSE,
Washington, September 23, 1998.

Mr. Richard Davis,
Director, National Security Analysis National Security and International Affairs Division, Washington, DC.

DEAR MR. DAVIS: We are writing in response to your September 11, 1998 letter and draft report for the Executive Office of the President (EOP), *Procedures for Acquiring Access to and Safeguarding Intelligence Information*. Unfortunately, the GAO report creates the false impression that the security procedures employed at the EOP are lax and inconsistent with established standards. Nothing could be further from the truth. In fact, as the evidence provided to the GAO makes abundantly clear, EOP security officials are experienced professionals who have executed their responsibilities diligently and with great attention to detail.

The GAO report also implies that these experienced professionals have not fulfilled their obligations under the law. This is completely unsupported by any reading of the facts. The extensive information provided by the EOP to the GAO auditors plainly demonstrates that the EOP has conscientiously abided by security precautions.

The EOP has made available to the GAO audit team reviewing EOP security procedures key personnel and relevant documents. In fact, the General Counsel of the Office of Administration and the EOP Security Office Chief have personally devoted a substantial number of hours to facilitate the GAO's audit. Numerous other EOP officials have also devoted significant amounts of time to assist the GAO auditors.

After the submission of hundreds of pages of documentation, more than ten meetings with the GAO auditors and more than ten individual interviews with EOP entities, the report still contains errors and statements that generate mis-impressions. It is our hope that the GAO will make the appropriate corrections to the report prior to its submission to the Congress.

In short, the EOP has established procedures for regulating personnel access to classified information; also, the EOP has a rigorous program, administered by career professional security officers, to safeguard classified information. The procedures in question are contained in E.O. 12968 and applicable Security Policy Board (SPB) guidelines. The safeguards in question are also contained E.O. 12958.

The report suggests that the EOP, and its constituent entities, operated in a vacuum because the EOP written security procedures implementing E.O. 12968 were not issued until March 1998. In fact, the EOP carefully followed the authoritative guidance set forth in the President's Executive Orders, SPB guidelines, and applicable Director of Central Intelligence Directives (DCI/Ds) throughout this time period. The President's Executive Orders are the cornerstones of the EOP's security programs and provide the basis for the adjudication of access to classified information, with or without subsequent guidelines. The EOP has found that the Executive Orders and SPB guidelines provide clear guidance that has been implemented with care in order to safeguard classified information and regulate access to it.

With respect to the draft report's comments relating to temporary SCI clearances, during the period July 1996 through July 1998, the NSC Security Officer, a professional career security officer on detail, granted 35 temporary SCI clearances subject to issuance by the CIA of a final SCI clearance. Before considering issuance of a temporary SCI clearance, the Security Officer conducted a thorough review of available background information from the completed SF-86, obtained the results of the FBI name check, and received a progress report from the FBI when the background check was substantially completed. Only if this careful examination revealed no derogatory information would a temporary clearance be granted. Although this process has been implemented successfully with no adverse indications, the NSC decided in August 1998, after consultations with CIA Headquarters personnel and with a view towards simplifying this process, to refer temporary SCI clearance determinations to CIA Headquarters.

The headline for the section of the draft report on self-inspections—EOP HAS NOT CONDUCTED SECURITY SELF-INSPECTIONS—is simply not accurate. Indeed, the draft report acknowledges that "security personnel conduct daily desk, safe, and other security checks to ensure that SCI and other classified material is properly safeguarded." The EOP operates consistently with the self-inspection guidelines issued by the Information Security Oversight Office pursuant to E.O. 12958 for safeguarding classified information, which is the primary focus of this draft report.

The GAO report includes three recommendations. One of the three recommendations included in the GAO report is that the EOP "initiate a self inspection program." As we have stated and supported on numerous occasions to the GAO auditors, our current self-inspection practices are effective. Nevertheless, we are continuing our efforts to enhance EOP security practices. We have made available to all EOP organizations the skilled assistance of our EOP security office staff to coordinate and assist where appropriate in agency efforts to enhance self-inspection.

The GAO also recommends that we revise the Security Procedures for the EOP Security Office to include "comprehensive guidance" on "acquiring SCI access" and "properly safeguarding SCI material," In fact, the

EOP Security Procedures do include comprehensive guidance. As we pointed out to the GAO auditors on several occasions, paragraph 10 (c) of the Security Procedures incorporates by reference guidance for obtaining SCI access. Although we disagree with the basis for the GAO recommendation, we have initiated an effort to supplement the Security Procedures with additional guidance.

Finally, the draft report recommends that the Information Security Oversight Office conduct periodic on-site reviews of the EOP security process. We stand ready to work with the ISOO in any such undertaking.

We would like to request a meeting with the GAO auditors to discuss the issues raised in this letter in addition to other technical corrections to the GAO report. If there is anything that I or any member of my staff, can do to be of assistance, please feel free to contact Mark Lindsay (202) 456-3880.

Sincerely yours,

VIRGINIA M. APUZZO,

Assistant to the President for Management and Administration.

GAO COMMENT

The following is our comment to the Assistant to the President for Management and Administration's letter dated September 23, 1998.

1. A representative of the EOP told us that the errors referred, for example, to statements in GAO's draft report that the EOP does not conduct self-inspections and that the EOP lacks written procedures.

APPENDIX II—COMMENTS FROM THE INFORMATION SECURITY OVERSIGHT OFFICE

INFORMATION SECURITY OVERSIGHT OFFICE, NATIONAL ARCHIVES AND RECORDS ADMINISTRATION,

Washington, DC, September 18, 1998.

Subject comments on General Accounting Office (GAO) report "Executive Office of the President: Procedures for Acquiring Access to and Safeguarding Intelligence Information".

Mr. Richard Davis,

Director, National Security Analysis, National Security and International Affairs Division, U.S. General Accounting Office, Washington, DC

DEAR MR. DAVIS: Thank you for the opportunity to comment on the subject draft GAO report. It addresses important elements of the Sensitive Compartmented Information (SCI) program in place within the Executive Office of the President (EOP) and provides helpful insights for the security community as a whole. The conclusions drawn in three areas of the report prompt the Information Security Oversight Office (ISOO) to offer the following comments.

(1) ISOO believes the draft report overemphasizes the issuance of individual office and agency procedures for handling SCI. While Executive Order 12958 prescribes a uniform system for classifying, safeguarding, and declassifying national security information, the Director of Central Intelligence (DCI) prescribes the augmentation of those procedures for SCI, both under the Executive order and the DCI's statutory authorities. As noted in the report, the DCI has issued Government-wide standards and procedures for access to SCI and for safeguarding SCI with Director of Central Intelligence Directives (DCIDs) 1/14 and 1/19, respectively.

Most executive branch agencies rely upon the DCIDs exclusively as their security procedures documents for SCI. Rather than generating others. Requiring agencies to generate additional procedures documents for SCI would result in unnecessary additional rules and expenditure of resources, and could result in procedures contrary to the DCIDs, particularly, if the DCI does not review and approve them. Ensuring that EOP offices and executive branch agencies have ready access to the DCIDs could alleviate concerns about the need for detailed procedures in each office and agency.

(2) Several factors have prevented ISOO from conducting compliance inspections for the past several years. These include the drafting and implementing of E.O. 12958, with its increased functions for ISOO. At the same time, the size of ISOO's staff has decreased by one-third to the point where its total professional and clerical staff numbers 10 people. Nevertheless, we agree that ISOO needs to be conducting inspections and we hope to do so during fiscal year 1999.

Your report suggests, however, that ISOO's inspections would cover SCI as it relates both to the issuance of SCI clearances and the safeguarding of SCI information. These areas would never be the primary or even secondary focus of ISOO's compliance inspections. First, ISOO does not have any jurisdiction over the personnel security (clearance) system. Second, ISOO's primary concern in classification management would not ordinarily focus on the SCI program. In other words, external oversight of the EOP's SCI programs would only coincidentally result from increased ISOO inspections.

(3) Finally, your report raises concerns about the granting of interim clearances for SCI access at the National Security Council (NSC). While we share the report's concerns about the possibility for abuse in this area, we also recognize and understand the NCS's responsibilities to the President. With respect to information generated by the Intelligence Community, having appropriately cleared individuals on the job in a timely manner is essential. Because the SCI program is so large and widely dispersed across the government, ISOO understands the NSC's need to have the ability to grant interim clearances, under specific conditions, so that individuals can perform their duties. Property managing and controlling how these interim clearances are granted would be an important element of oversight. Your report suggests that the DCI is addressing this issue with the NSC.

Please call me on 202-219-5250 if you have any questions concerning our comments on your draft report. Again, we appreciate the opportunity to comment.

Sincerely,

STEVEN GARFINKEL,

Director.

Mr. PAYNE. Mr. Speaker, I rise in adamant opposition to this resolution and to the travesty of justice we are witnessing here today. From the time the voters of America put this President in office six years ago, his enemies have led a frenzied crusade to reverse the results of the electoral process and to subvert the will of the American people.

They have stopped at nothing. What began as an investigation into an investment the President and First Lady made in Arkansas well over a decade ago has mushroomed into a frantic search to find something—anything—to bring this presidency down. The free-ranging, unbridled hunt for damaging information about the President has resulted in the expenditure of millions of tax dollars; it has featured the doctoring of tapes by Republicans; a so-called "Independent" Counsel whose office resorts to bullying, threats and intimidation; a mad rush to put the report of the Counsel on the internet without giving the President the basic right to review the charges against him; the release of the President's videotaped grand jury testimony again with total disregard to his rights, and now the push to expand the inquiry into areas which have already been thoroughly investigated.

Do we really want to turn this nation into a police state where enemies of the President, in pursuit of a political agenda, have the power to restrict individual freedoms and intimidate citizens?

The vast majority of my constituents have told me they are ready to forgive the President for making a mistake in his personal conduct. It is time to move on to the pressing issues facing our nation—education, health care reform, protection of social security, and continued economic growth. I urge my colleagues to put a stop to this partisan, out-of-control vendetta and to take care of the real business of the American people.

Mr. JOHNSON of Texas. Mr. Speaker, today is a solemn day. The Congress has considered an impeachment inquiry only two other times in our Nation's history. It is not a task that we take lightly.

I believe it is our constitutional duty to begin an impeachment inquiry based on the evidence delivered to the Judiciary Committee by Judge Starr.

I believe that the Chairman of the Judiciary Committee, HENRY HYDE, has been committed to a fair and judicious process, and we will continue to follow his lead.

Article 2, section 1 of our Constitution contains the oath of office that the President must take before entering office. It states: "I do solemnly swear (or affirm) that I will faithfully execute the Office of the President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States."

This body voted today to investigate whether the President has broken this oath by committing perjury and obstructing justice.

I, too, took an oath to uphold the Constitution when I entered the military and I have taken that oath as a State representative and as a U.S. Congressman. Each time, I took it as a serious obligation.

The American people deserve answers to the many questions about the conduct of this President and today we have begun the process of finding those answers.

Mrs. FOWLER. Mr. Speaker, I rise today with a heavy heart to support the resolution calling for an impeachment inquiry against the President, William Jefferson Clinton.

While the actions and evidence that have led us here today are deplorable, the action we are taking here today as a result is noble. It is in the finest tradition of our democracy that the process of impeachment begins.

We have heard much discussion today of the Constitution. We heard quotes from James Madison and the Federalist Papers. All that is certainly important in this debate. But our constituents have a voice in this process too, and I received a letter from one last week that I think puts all this in perspective. It's from a 6-year old boy in Jacksonville, Florida.

He writes, "Someday in my mind I hope we get a better President. I want to have a President that tells the truth. Even I think I could be a better President than this man."

There was a day when our children aspired to be President. Now, the children in my district aspire to be better than the President.

The Judiciary Committee, and this House, are about to begin a mission for the truth. But as we undertake the official process that is laid out in the Constitution, I hope we will also begin the process of healing our nation.

They said the truth is a liberating thing. It is only through a successful search for the truth that our nation can liberate itself from this scandal. To sweep it under the rug, would be to leave it to fester under the fiber of our democracy and to eat away at the rule of law.

Yes, we all want to put this behind us, but, as the Constitution requires, and our conscience dictates, we must proceed with this inquiry to do that.

I urge my colleagues to support the resolution.

Mr. FRELINGHUYSEN. Mr. Speaker, today I urge my colleagues to vote in favor of the House Judiciary Committee's recommendation to open an impeachment inquiry into the conduct of President Clinton.

I certainly understand the desire of all Americans, myself included, to be done with this matter and to return our attention to many serious issues that confront our country at home and abroad. And let me say quite frankly, I, like many of my colleagues, resent the fact that the President's actions have brought us to this Constitutional crisis. Given the serious charges leveled against the President including testifying falsely under oath, obstruction of justice, and witness tampering among others, I believe this inquiry is warranted.

Our inquiry has everything to do with the President's ability to lead our country. He is our Commander-in-Chief, as well as the chief architect of American foreign policy and our domestic welfare. The President symbolizes to our nation and the rest of the world what it is to be an American. For these very reasons we need to be certain of the President's conduct, and whether his wrongdoing warrants penalty. Our President must command the moral authority to lead this great nation, especially in the critical times of crisis. And whether it be an issue of national security, or as a role model for our children, our nation cannot afford to question the President's decisions or doubt his sincerity, which many of us do now. We may disagree politically, but every American must be convinced the President's leadership decisions are genuine. I for one, want more from my President than feigned anger and forced contrition. I want the truth that this inquiry seeks.

As recommended by the Judiciary Committee, the process by which this inquiry will be undertaken is the very same model used in the Watergate impeachment inquiry. While the Democrats on the Judiciary Committee did not support this particular model, I think it is important to note that they did support an inquiry, albeit a more limited one with a fixed timeframe for consideration.

There is no more serious obligation given to us under the Constitution than to uphold the rule of law and protect the integrity of the highest offices of our government. The charges against President Clinton cannot simply be ignored. We have a process for resolving them as prescribed by the Constitution and the House will not proceed in a Constitionally sound and orderly fashion and do so as expeditiously as possible.

The seriousness of Congress' duty to consider this issue is best stated by Judiciary Committee Chairman Peter Rodino of New Jersey in 1974, who said during the impeachment hearings of President Nixon, "we cannot turn away, out of partisanship or convenience, from problems that are now our responsibility, our inescapable responsibility to consider. It would be a violation of our own public trust if we, as the people's representatives, chose not to inquire, not to consult, not even to deliberate."

Mr. Speaker, the President has already admitted to violating the public's trust by lying to the American people, his family, supporters and Cabinet. We cannot let it happen again. It is our duty to restore that trust in the Presidency by approaching this inquiry with a commitment to fairness, and an unshakable dedication to seek the truth.

If it is proven the President of the United States lied under oath, obstructed justice and urged others to do the same, he has forsaken the oath he took when he became our President. Under those circumstances, removal from office is no longer a question. But to come to that conclusion, this Congress and the American people must be satisfied by the fairness and thoroughness of our deliberations.

As the House proceeds, I like all Members, must reserve final judgment on the appropriate action until all the evidence is carefully reviewed and judiciously weighed.

So today, I say let us begin. Let us open the impeachment inquiry of President Clinton.

Mr. MORAN of Virginia. Mr. Speaker, whether this House votes today for the Democratic alternative, which I prefer, or the resolution that was reported from the House Judiciary Committee, which I will vote for when the alternative fails, this much is clear:

The guiding purpose of this inquiry must be to obtain the truth. We must conduct this inquiry in order to give the President the opportunity to acquit himself. And we must conduct this inquiry in a manner that brings honor to this institution, and that keeps faith with the Constitution that we are sworn to uphold.

I don't know, Mr. Speaker, what the outcome of the Committee's inquiry will be. I share the hope that I think all fair-minded Americans hold that the President will emerge from this process exonerated and able to renew his effective service. The Congress will carry a heavy burden to show that the President has conducted impeachable offenses, and that the results of two elections should be overturned.

But I do know that if we fail to move forward today, we will not be serving the best interests of the President, or, much more importantly, of our nation.

Mr. KOLBE. Mr. Speaker, with a heavy heart but a clear conscience, I will vote today to authorize the House Judiciary Committee to proceed with a formal inquiry that could lead to the impeachment of President Clinton.

The President's personal indiscretions, which he himself has essentially acknowledged, are not at issue. What is at issue are allegations of perjury, conspiracy to commit perjury, and obstruction of justice, both in a sworn deposition in the Paula Jones sexual harassment lawsuit and in sworn testimony before a federal grand jury. Judge Starr has suggested that there are eleven instances in which there is substantial and credible evidence of perjury, subornation of perjury and obstruction of justice. The Judiciary Committee has suggested there may be as many as fifteen separate charges that warrant investigation. These are serious charges; the underlying behavior which may have led to these charges is important, but not central to the charges themselves. If proven true, these charges could constitute grounds for the President's impeachment and removal from office. In the meantime, Congress bears the burden of proof and the President is entitled to a presumption of innocence.

While I have not supported President Clinton politically in his election campaigns, I have always tried to work with him and his Administration in a bipartisan manner and for the good of the country. I hope we can all put aside partisanship, maintain the proper decorum and avoid a rush to judgment. Removing a President from office is the most serious step any Congress can ever take since it sets aside the decision made by the voters. It has never happened before in 220 years of our history, and it must never be done lightly.

However, ours is a nation governed by the rule of law, not the rule of men. No person may be above the law, including—or perhaps especially—the Chief Executive of our country. Congress must carry out its constitutional responsibilities in a fair and dignified manner. As a potential "grand juror" who may be required to vote on Articles of Impeachment, I will maintain the highest degree of objectivity and consider fairly all the evidence ultimately gathered by the Judiciary Committee.

Mr PACKARD. Mr. Speaker, I would like to encourage my Colleagues to vote in favor of proceedings to further investigate President Clinton on the charges brought against him.

Our entire system of law is based on a sound understanding that we must live by truth. Today we are casting a vote that defines every principal of which our Constitution was written; truth, justice, and equality.

This is not a vote for or against Bill Clinton. This is a vote for the truth. We must allow justice to be fairly served. I took an oath to defend the Constitution and ensure that no person is above the law, even if that person is the President. This is not a choice, it is a duty.

Mr. Speaker, this is a sad day for America. No one enjoys this. The President of the United States stands accused of committing serious felonies. Congress must fulfill its duty to fully investigate these charges, not just for the sake of reaching the truth, but for the sake of our country.

Ms. WATERS. Mr. Speaker and Members of Congress, the decision of the Republicans to limit the debate on this important resolution and to decide whether or not this body will move an inquiry to impeach President Clinton, is a continuation of the partisan, unfair, and inconsiderate actions that have dictated the management of this impeachment crisis ever since Independent Counsel Ken Starr dumped his referral in the laps of this Congress and the public.

This continuous, shameless, and reckless disregard for the Constitution and basic civil rights cannot be tolerated by the citizens of this country. This is a sad and painful day for all of us. The least we could do is handle this matter with dignity and fairness for everyone involved. Four-and-one-half years and $40 million later, unnecessary subpoenas of uninvolved individuals, Mr. Starr's close relationships with groups and individuals with demonstrated hatred for the President taints the Independent Counsel's investigation. This Congress does not need a protracted, open-ended witch-hunt, intimidation, embarrassment and harassment. The tawdry and trashy pages of hearsay, accusations, gossip, and stupid telephone chatter do not meet the standards of "high crimes and misdemeanors."

The President's actions in this matter are disappointing and unacceptable, BUT NOT IMPEACHABLE! Mr. Schippers, the General Counsel for the Majority on the House Judiciary Committee, extended the allegations in search of something—anything that may meet the constitutional standards for impeachment. However, even the extended and added allegations do not comport with the Constitutional standard for impeachment.

It is time to move on! Reprimand or condemn the President—but let us move on! These grossly unfair procedures will only tear this Congress and this nation apart. I ask my colleagues to vote down this open ended, unfair resolution presented today by the majority. It does not deserve the support of this House.

Mr. Speaker, Members of the Congressional Black Caucus have constantly warned this body about the dangers of a prosecutor run amuck. The Congressional Black Caucus has warned about the abuse of power by the Majority. We ask you to listen to us and we remind you of the history of our people who have struggled against injustice and unfairness.

Let us not march backwards. Let's be wise enough to move forward and spend our precious time working on the issues of education, health care, senior citizens issues, children's issues, and justice and opportunity for all Americans.

Mr. BORSKI. Mr. Speaker, I rise today in opposition to House Resolution #581, the Republican Impeachment Inquiry Resolution, in favor of the Alternative offered today. I cannot condone the behavior of the President; his actions have been profoundly disappointing to the country. But, I believe that the investigation of whether or not his conduct should be the subject of impeachment is one that must be concluded quickly and responsibly.

The resolution offered today will start an inquiry that is open-ended and not limited in any fashion, not even to the Referral by Independent Counsel Kenneth Starr. This inquiry has the potential to last many months, if not years, and into the next Congress. The American people have urged this House to come to a conclusion, and the resolution offered today ignores this plea. Instead of coming to a concise and thoughtful resolution, the Republican party has instead brought forth a plan that is illogical, without direction, and indefinite in length and scope.

Mr. Speaker, we need to heed the call of the American public and resolve this painful conflict as soon as possible. The basic tenent that we should focus on is do the facts brought to us by Independent Counsel Kenneth Starr demand impeachment? If we assume that Kenneth Starr is a competent attorney, and the evidence brought forth is fact, then we should get on with the business of examining that evidence in the light of the Constitution and what our founding fathers deemed impeachable.

I believe that the only way that we, as a body, can properly do this is by focusing the scope of the inquiry to the matter actually before us in the Referral from the Independent Counsel. This is precisely what the offered Alternative does. It would produce a proceeding that is fair, and one that would open with a consideration of the constitutional standard for impeachment. Once these standards are determined, the facts of the case would be examined and held in comparison.

Congress needs to return its focus and attention back to the business of the nation. This process should not stand between the problems facing this country and our ambition to solve them. There are many issues—such as saving Social Security, passing a Patient's Bill of Rights, saving our environment for future generations, and ensuring that all children attending school are given the tools to succeed—that are floundering by the wayside as we continue to focus our energies on this drawn out process. I believe that the only way we can return to work on these imperative issues is by bringing an expeditious conclusion to the inquiry by the end of the year.

An inquiry that is deliberate, grounded in the Constitution, and removed from partisan politics is the only way that we can bring this country the resolution that it craves. In the House of Representatives there is a process in place to deal with matters of presidential improprieties. As a Member of congress, I believe in this process and the importance of adhering to the appropriate steps. The charges against the President are serious, and they deserve serious consideration. Mr. Speaker, I rise in support of the Alternative to the Impeachment Inquiry Resolution because it is focused, fair, expeditious, and deliberate.

Ms. LEE. Mr. Speaker, I rise today to oppose H. Res. 581, the Republican resolution to begin impeachment proceedings regarding the President of the United States. People have stated overwhelmingly, in a loud, clear and unified voice, that the Congress must not proceed with a long, open-ended, and partisan impeachment proceeding.

I have not, nor will I condone the President's behavior. He was wrong, and he should never had lied about his relationship with Monica Lewinsky.

Nevertheless, the prosecutor's investigation and the Congress' discussions and hearings about the President's behavior have been unfair from the start. As a result, I oppose the continuation of independent counsel Kenneth Starr's investigation—which has been a four-year, partisan effort to discredit the President—as well as any related investigations and inquiries. It should be noted that, despite the length of the investigation and the intense scrutiny of the President and his friends, Prosecutor Starr and the Republicans have come up largely empty-handed, except with regard to the President's behavior in the Monica Lewinsky matter. When the Starr investigation produced a now-infamous and, at times, pornographic report, I voted against the release of the Starr report because I felt the material to be unfair and inappropriate, and because the President and his lawyers did not have a chance to review the report before it was released to the public on the internet, and in all of the newspapers.

And so today, I oppose the Republican resolution to begin Presidential impeachment hearings: I strongly oppose any form of impeachment inquiry because I firmly believe that lying about a sexual affair does not constitute an impeachable offense, and because the investigation and the hearings are yet another political effort to undermine the President.

The allegations against the President do not constitute high crimes and misdemeanors. They certainly are not comparable to high crimes and misdemeanors like treason or bribery. Even more, the resolution creates a political circus on the national stage, with no limitations in scope and length, no controls, no definitions, and no justice. And worse still, the process itself is an attempt to overthrow our Democratic agenda; in other words, we are witnessing an attempted coup d'etat.

Today is a sad day for the country. We can only hope now that, despite the past weeks and months, the Congress will proceed quickly with an investigation that is fair and, especially, limited in scope and length. The American people have stated that we must move quickly and get on with the work we were elected to do. The real immorality and scandal in this country is that, because of this partisan process, we have not been able to do the important work of preserving social security, protecting our environment, educating our children, or ensuring health care reform.

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today in strong opposition to House Resolution 581, the impeachment inquiry resolution being considered today by the House of Representatives.

On a matter of procedure, I find it very disturbing that as the House is considering an impeachment inquiry resolution, under one of the most important powers the House has, I was not afforded an opportunity to speak before the House during the debate. There is no question of the importance of the power of the House to send articles of impeachment to the Senate. Given the importance of this decision, there should have been adequate time provided for Members to debate the issue. That I must submit my statement for the record and not be given the opportunity to address my colleagues in person and my constituents via television speaks to the willingness of the majority to give this topic fair consideration.

I have read the independent counsel's report to the House of Representatives and found the conduct described by the allegations to be offensive and not what I expect from a President of the United States. However, I do not believe the conduct described, even if completely accurate, warrants impeachment. I nonetheless feel the House of Representatives needs to address the issue promptly.

Our country will not be well served by months of antagonistic debate, and I urge my

colleagues to address the issue in a forthright manner. I am saddened by the President's conduct; his actions were totally inappropriate and should not be condoned.

Extensive news coverage of discussions on impeachment have made it more difficult to address important national issues which need our attention. The independent counsel has spent over $40 million in investigating the President and has provided the House with tens of thousands of pages of materials. Much of the investigative work has been done and the facts are known.

We have the opportunity today to authorize an impeachment inquiry limited only by the voluminous records submitted to us and by the time constraints placed on our term of service by the U.S. constitution. Given the extensive investigation already conducted at taxpayer expense, the House now has a duty to act in a responsible manner, and I urge my colleagues to vote for the Democratic motion to recommit the resolution to the Judiciary Committee with instructions.

Mr. OLVER. Mr. Speaker, the President's personal behavior was morally wrong and deeply disappointing, but this investigation has gone too far and is hurting the country, our families and our children. Congress is getting nothing done and has now embarked on an open-ended fishing expedition. We should hold the President accountable for his personal conduct, but then we should get back to the work that American families care about.

Today, I am voting for a fair, focused and expeditious inquiry into the Kenneth Starr impeachment report. The process I support is specifically designed to focus on the Independent Counsel's report and any other referrals from Kenneth Starr. It would also ensure that this matter would be behind us by the end of the year, the end of this Congress.

The Republican impeachment inquiry is designed to produce an investigation without an end—to drag it out until the presidential election in November 2000, two years from now.

The stark difference between the two approaches is clear.

The Democratic amendment is reasonably focused. The Republican resolution is unlimited. The Democratic amendment is fair. It requires an initial determination regarding the standard for impeachment and the sufficiency of the evidence to meet that standard. The Republican proposal is arbitrary—it requires no preliminary determinations whatsoever. The Democratic amendment is expeditious. The Republican resolution is endless. And, finally, the Democratic amendment is deliberate. It is logical and removes partisanship from the process. The Republican resolution is totally political and reckless in nature.

Americans, by a large majority, are clearly saying they want the Congress to get back to issues like improving public education, protecting our social security system, guaranteeing patients' rights to quality health care, curbing teenage smoking, and reforming the way campaigns are financed.

We must get back to these critical issues, and we should do it as soon as possible.

Mr. UNDERWOOD. Mr. Speaker, I rise today to join my colleagues in expressing my concern about the allegation made by Kenneth Starr against the President of the United States. We are faced with an historical vote on whether to proceed with impeachment proceedings against the President.

While there is no doubt that the allegations against the President are serious, it is extremely necessary to examine them in a timely manner. The House Judiciary Committee should investigate the allegations, but should avoid extending the process beyond this Congress since stretching the time frame does not do justice to the President, unnecessarily drags the country through a painful process, and opens up the body to criticism that we are stretching this process out solely for political reasons.

Furthermore, this impeachment inquiry should be limited to the charges made by the independent counsel in his current report to the Congress. An open-ended inquiry, as proposed by the majority, is little more than a fishing expedition meant to dredge up more problems if they exist. As we all know, Kenneth Starr began this investigation about four and a half years ago with the Whitewater allegations, then moved on to the misuses of the FBI files, the firing of people in the Travel Office, the Paula Jones lawsuit and finally to the Monica Lewinsky matter. The Starr investigation over these years involved large amounts of time and money, and Starr's fishing expedition has resulted with his report to the Congress which is the subject of the resolution before us today.

As we embark on this journey, let us not forget that our predecessors have been down this path before. Over the course of American history, the House of Representatives has deliberated and in fact has impeached 15 individuals, including a President, 12 judges, a Senator, and a cabinet member. The process for impeachment, established by the Constitution of the United States, is a serious and wrenching one. It takes its toll on each and every one of us, as we undergo the accusation and finally the conviction procedures. President Andrew Johnson, the only President to have been impeached, was charged in 1867 with 11 articles of impeachment. President Johnson lost his case before the House; however, the Senate voted only three impeachment articles but failed to convict President Johnson by a razor-thin margin of one vote. Of the 15 individuals who were impeached by the House, only seven were convicted by the Senate. I raise this point only to stress the seriousness of the impeachment process and that we not turn the pending resolution on its head without equally serious debate on the merits of this case against President Clinton.

As a former teacher, I cannot resist the temptation of referring to the federalist papers in order to give us some insights as we decide on some form of sanction against the President. In the Federalist Paper, Number One, written by Alexander Hamilton in 1787, he reminded us that in a great national discussion of whether the nation should adopt or reject the constitution, and I quote: "A torrent of angry and malignant passions will be let loose." Hamilton warned us about "the stale bait for popularity at the expense of public good." And finally, Hamilton noted: ". . . it will be equally forgotten, that the vigor of Government is essential to the security of liberty; that, in the contemplation of a sound and well-informed judgment, their interest can never be separated." I believe that we can learn from these lessons as we contemplate our constitutional responsibility to handle the Starr allegations.

I urge my colleagues to heed the words of Alexander Hamilton, that we use caution as we proceed with this inquiry, and above all, that we be fair to all parties involved. Let us support the reasonable and reasoned Boucher proposal.

Mr. Speaker, the people of Guam elected me to work on the pressing issues which affect their daily lives, like educational opportunities, access to quality health care, as well as access to employment and economic opportunities. We have serious worldwide economic difficulties in Asia which demand our attention.

We should investigate these charges, but we should be mindful of our responsibilities. Let's rise above partisanship as we deliberate on the difficult discourse pending before the Congress, let's conclude this inquiry expeditiously, and let's meet the challenge of improving the lives of the people who elected us to represent them in the United States Congress.

Mr. DAVIS of Florida. Mr. Speaker, we can all agree that the President's improper relationship was immoral and inexcusable. His actions represent a tremendous lapse of judgement which deeply troubles me and which has caused immense pain for his family and our entire Nation. Compounding these actions, the president clearly misled the American people—an act which has further torn the already tattered bonds of trust between citizens and elected officials. This is perhaps the highest price we will all pay for the self-centered actions of one man.

Over the past months, our Nation has struggled to make sense of this scandal, to find a fitting punishment for the President's actions, and to move forward with important matters facing our country. While many Americans would simply like this whole issue to be dropped, we as Members of this House have a Constitutional duty to fulfill. Therefore, today's debate is not about whether we should move forward with an inquiry. Sadly, after a thorough review of the Referral from the Independent Council, I believe that the allegations of potentially impeachable offenses compels us to do so. The question instead is how we should move forward to ensure that we conduct an inquiry that is fair, timely, and focused and which minimizes the potential risks to our country as a whole.

The structure of the inquiry is integral to preserving the integrity of the process. No one will be served by a process that is perceived as simply a partisan attempt to undo the results of the last election. That is why I wrote a letter to our distinguished colleague, Chairman HENRY HYDE, which sought to forge a bipartisan commitment to a focused impartial inquiry. At this point I would like to submit this letter for the RECORD.

Hon. HENRY J. HYDE,
Chairman, Committee on the Judiciary,
Washington, DC October 7, 1998.

DEAR CHAIRMAN HYDE: You have repeatedly expressed your desire to conduct a fair and impartial inquiry into whether the House should impeach the President. I know that you want and need bipartisan support for your motion to proceed with inquiry to substantiate the creditability of the inquiry.

Based on my review of the Referral from the Independent Council and the evidence released by your Committee, I believe that the House should continue with a more thorough inquiry as to the matters raised in the Referral. Therefore, I support your decision to proceed with a formal inquiry as to those matters. Mindful of the enormous cost to our nation and of the potential impact on the stability of our federal government, I nevertheless support an inquiry because I believe that the Referral raises serious allegations that must be further investigated as to the facts and carefully considered in view of the constitutional standards for impeachment. I further believe that we should finish this inquiry as soon as possible in order to minimize these potential hazards to our nation and I will support you in your commitment to try to conclude the inquiry before the end of this year.

However, I am deeply troubled by the comments of House Speaker NEWT GINGRICH and Majority Leader DICK ARMEY that a formal inquiry as to the matters raised in the Referral should be expanded to include the allegations against the President based on the Whitewater matter investigated by the Independent Council and possible allegations surrounding the White House Travel Office and FBI files. I believe the decision of the Independent Counsel not to include any of these matters in his Referral after his lengthy and exhaustive investigation reflects his view that no substantial and credible basis exists to justify considering impeachment based on any of these matters. Therefore, I conclude that it would be irresponsible to include any of these matters in the formal inquiry. Broadening the scope would serve no useful purpose, significantly expand the duration of the inquiry to the detriment of our nation, and undermine the essential integrity of the process.

I am writing to urge you to clearly unequivocally, and publicly commit not to expand the formal inquiry to include matters other than those raised in the Referral without first obtaining majority approval of the Members of the House voting to expand the scope on the basis that substantial and credible evidence exists as to these matters. With this commitment on your part, I, and I believe other like-minded Democrats, will join you in voting for a motion to proceed with a formal inquiry as to the matters raised in the Referral. Without such a commitment, I cannot, in good conscience, support a formal inquiry likely to include Whitewater and other matter already reviewed and apparently resolve by the Independent Counsel.

Thank you in advance for addressing these concerns.

Yours Truly,

JIM DAVIS.

While some may consider today's vote as simply an inevitable step in this ongoing investigation, I firmly believe that each step down the path towards removing a duly-elected President from office must be measured and deliberate. As I stated in my letter to Chairman Hyde, absent a clear commitment to limit the scope of the inquiry to the Referral of the Independent Counsel, I am deeply concerned that it will devolve into a drawn-out, partisan investigation searching for possible impeachable offenses rather than an expedited, fair investigation examining the allegations presented to this body of possibly impeachable offenses.

For these reasons I rise in support of an impeachment inquiry as embodies in the Motion to Recommit and in opposition to the base resolution which is dangerously open-ended. Having consulted with Constitutional scholars, listened to the comments of my constituents, and search my conscience, I believe this is the course which best serves the interests of our Nation.

Mr. FAZIO of California. Mr. Speaker, today's proceeding is of such great historical importance, that it should be approached with a deep and abiding respect for the Congress, the Constitution and the Presidency.

We had the opportunity to develop a fair and responsible process that would protect not only the dignity of office of the Presidency, but create a precedent worth following. But the Republican majority has squandered it and by doing so has set in motion a process that is too much about partisanship and not enough about statesmanship.

It is more about election year defeat of political opponents than it is about what is right, just or fair.

The Republican proposal offers no limits on how long this partisan inquiry will go on, nor on how long Independent Counsel Kenneth Starr can drag up issues that he has had four years to bring to this House. Sadly there has been no willingness to limit the duration or scope of this resolution.

The Republican proposal moves ahead with an impeachment inquiry before the Judiciary Committee has even conducted a review of the facts and determined whether those facts constitute substantial and credible evidence. It lowers the threshold for which a President can be harassed and persecuted to the point of distraction from his Constitutional duties.

From now on, any Congress dissatisfied with the policies of a particular Administration or the personal behavior of any President, could simply conduct an ongoing, costly, and distracting inquiry designed to dilute the authority of the President.

But after the election when rationale behavior returns and cooler head can prevail, I urge us to forge a way to rise above the nasty politics that have clouded this body.

I will not be one of those of you who return to the next Congress. I leave hear after 20 years with my self respect in tact. I have reached across the lines within my own party and when necessary across the aisle to the other party to get things done for this country and make this House work.

I have fought partisan battles; I have stood my ground on issues that matter to my district. The American people expect that. But they also expect each of us to rise above the base political instincts that drive such a wedge through this House.

In the months ahead, we must find a way, my friends, to do what is right for America. Find a way to return this House to the people through a respect for law, for fairness and due process. In the end, we must do better than we will do today.

Mr. BEREUTER. Mr. Speaker, this Member would commend and ask his colleagues to consider carefully the following editorial from the October 8, 1998, edition of the Omaha World Herald, entitled "A Broad Inquiry the Better Course."

[From the Omaha World Herald, Oct. 8, 1998]

A BROAD INQUIRY THE BETTER COURSE

The fate of William Jefferson Clinton is not the only concern that the Kenneth Starr investigation has raised for Congress and the nation. There is also the matter of dealing with Clinton's misbehavior in a way that demonstrates respect for the rule of law.

Democrats have tried to narrow the impeachment inquiry. Abbe Lowell, counsel for the Democrats on the House Judiciary Committee, contends that any case for impeaching Clinton consists of one basic allegation: "The president was engaged in an improper relationship which he did not want disclosed."

The position is designed to minimize Clinton's deceptions by casting them in effect as little white lies. If the Democrats could convince the House and the nation that "it was just sex," Clinton's chances of avoiding impeachment might be greater.

The approach of the Republicans on the Judiciary Committee had much more to commend it. They voted to recommend to the full House an open-ended inquiry, possibly into allegations unconnected to the Lewinsky affair. Presumably, the broader inquiry might include the firing of the travel office staff, the illegal possession by the White House of FBI files, the finding of a job for Webb Hubbell, the mysterious disappearance and reappearance of billing records and even illegal campaign fund raising, even though it was not part of Starr's mandate.

The Republicans' main concern is not the sex, but the lying under oath about it, the memory lapses about it, the exploitation of government employees to cover it up. David Schippers, a lifelong Democrat who is counsel for the Republicans on the Judiciary Committee, explained why Americans ought to be concerned. Clinton took the position that the Paula Jones lawsuit was bogus, Schippers noted. But the law gives a defendant no right to combat a bogus lawsuit by lying under oath.

"The principle that every witness in every case must tell the truth, the whole truth and nothing but the truth is the foundation of the American system of justice, which is the envy of every civilized nation," he said. "The sanctity of the oath taken by a witness is the most essential bulwark of the truth-seeking function of a trial, which is the American method of ascertaining the facts."

Schippers said that if lying under oath is tolerated, "the integrity of this country's entire judicial process is fatally compromised and that process will inevitably collapse." He said the individual circumstances of the case didn't matter. "It is the oath itself that is sacred and must be enforced," he said.

Americans ought to consider the consequences of letting the president's lying go unpunished. This isn't just that lovable rascal, the Comeback Kid, trying to escape another jam. This is the president of the United States defying one of the most important principles of the legal system: that the truth must be told when a person is under oath.

Mr. SKAGGS. Mr. Speaker, the vote today on an impeachment inquiry requires each of us to do our best to address without partisanship a matter laced with partisanship. It calls on each of us to set aside the passions of the moment, to be patriots, to act in the long-term interests of the American democracy, to uphold the Constitution. I pray for the wisdom to do so.

President Clinton has committed serious offenses against the American people, against the dignity of the office of the President, against the truth, and, probably, against the law.

How does the House of Representatives meet its constitutional responsibility in this grave matter today?

We are at an early stage of these proceedings, but we already have a fairly clear picture of the facts. To consider rejecting an impeachment inquiry at this early stage, we are obliged to construe the facts against the President and then test the facts against reasonable constitutional standards for impeachment. That's what I've attempted to do.

It's proper, given the gravity of the remedy of impeachment of a President, to set the standard for impeachable behavior at a comparable level of gravity. The level of proof of that behavior should be set commensurately high. And, finally, given the extraordinary nature of the impeachment remedy, there should be a substantial burden placed on proponents to justify its use. In other words, when in doubt, don't.

As to the question of what is an impeachable offense, it is evident from the Constitution, and from the writings and commentaries at the time, that abuse of office is the crux of the matter. Such an offense must involve serious injury or threat of serious injury to the Republic, on account of the actions of the President in the conduct of his office, or at least seriously undermining his ability to conduct himself in office.

It's unclear where to draw the limits of conduct to be treated as private for purposes of impeachment. But it is clear that the Framers did not intend everything a President does to be viewed as public or official. In my view, the conduct of President Clinton in this case originated in the private sphere and then was drawn into the public sphere. That happened largely because of the extraordinary use of a grand jury by the independent counsel, elevating or transforming the private to the public. The grand jury and that transformation are a device and a result not available in the case of any regular citizen, and available here only because the case involved the President.

Therefore, after careful review of the provisions of the Constitution, the writings and debate of the Framers, the precedents in prior impeachments, and the analysis of constitutional scholars, I have concluded that impeachment is not warranted in this case. The assumed offenses simply do not undermine the State in the way or to the degree required to constitute impeachable offenses.

It is possible that Mr. Starr may come forward with new information about other conduct by the President which will change my conclusion about impeachment. However, it strikes me as somewhat suspect that he waited until the eve of today's vote to suggest that there's more to come.

Today's vote has to be based on what is known, and reasonably to be inferred from what is known, today. On that basis, for the reasons I've stated, I conclude that proceeding further with an impeachment inquiry would serve no useful purpose because the conduct of the President—deplorable as it was—does not warrant impeachment.

The President's behavior, however, does warrant punishment. The good order of the Republic and a proper respect for the law demand that he be held to account and receive appropriate punishment.

While the President might well be advised to leave office voluntarily, it would be a profound mistake to use the impeachment power to remove the President from office involuntarily. Absent a resignation, and rejecting impeachment, other alternatives exist. Although none is perfect, they would be preferable to impeachment. A formal censure of the President, delivered in person before a joint session of Congress, together with a significant monetary penalty, would be serious punishment. To vindicate the rule of law, the President would remain liable to prosecution after leaving office, if warranted by evidence of criminal conduct—the same sort of prosecution any citizen might face for similar conduct.

My conclusion that punishment but not impeachment is the right course is also affected by an understanding of impeachment's enormous costs to the country. Those costs would be paid first in terms of political divisiveness, prolonged distraction from critical national and international problems, and a waste of the most precious resources of the democracy—time and trust. Later, the cost would come due in the harmful precedent we'll have set and its damage to proper constitutional standards and order. Those costs are excessive.

Mr. HYDE. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER. The gentleman from Illinois (Mr. HYDE) is recognized for 4 minutes.

Mr. HYDE. Mr. Speaker, I am very sorry that the gentleman feels he is shortchanged in the debate. As the gentleman knows, under the rule and under the Rodino format, they were entitled to 1 hour. We doubled that. I did not think that was fair, but we could have gone on and on, and much of the same thing said over and over again. It would be too much for me to expect appreciation for doubling the time, but the hostility?

Let me suggest to Members who think this is going on like Tennyson's brook, just on and on and on, the 20th amendment to the Constitution says that "Congress shall assemble at least once in every year, and such meeting shall begin at noon on the third day of January."

□ 1415

We are out of business at the end of the year. Our money runs out. And if we are to continue, if there is anything to continue, we would have to reconstitute ourselves.

I do not want this to go one day longer than it has to. Believe me, this is very painful and I want it ended. We are not going to go on and on and on. But Mr. Rodino faced up to the problem of time limits and here is what he said. And why do you reject Mr. Rodino time and again in all of these issues? He is our model. He is the one we are following. And here is what he said:

> . . . the chairman recognizes, as the committee does, that to be locked in to such a date would be totally irresponsible and unwise; the committee would be in no position to state at this time whether our inquiry would be completed, would be thorough, so that we could make a fair and responsible judgment.

We are not flying by the seat of our pants. We are riding on Pete Rodino's shoulders. That is why we can see so far.

As far as standards are concerned, something that you have repeatedly brought up, let me quote from the wonderful report by the Rodino committee concerning the Nixon impeachment on the question of standards. Listen to Mr. Rodino:

> Similarly, the House does not engage in abstract advisory or hypothetical debates about the precise nature of conduct that calls for the exercise of its constitutional powers; rather, it must await full development of the facts and understanding of the events to which those facts relate.

That is what we want to do, develop the facts through an inquiry. On with Mr. Rodino:

> This memorandum offers no fixed standards for determining whether grounds for impeachment exist. The framers did not write a fixed standard. Instead, they adopted from English history a standard sufficiently general and flexible to meet future circumstances and events . . .

Thus spake Peter Rodino, and that is our model for this adventure, this excursion, this journey that we are on.

Now, look, this is not about sexual misconduct any more than Watergate was about a third-rate burglary. It was about the reaction of the Chief Executive to that event. Nixon covered it up and got in the direst of trouble.

The problem with the Clinton situation, President Clinton's situation, is a reaction which we believe and we want to find out, and if we do not get the information we will reject it, caused him to lie under oath. Now, lying under oath is either important or it is not. If some people can lie under oath and others cannot, let us find out. If some subjects are "lie-able" that is, you can lie about them, and others are not, let us fine tune our jurisprudence that way. But if the same law applies to everybody equally, that is the American tradition, and that is what we are looking at.

This has not anything to do with sex. It has a lot to do with suborning perjury, tampering with witnesses, obstructing justice, and perjury, all of which impact on our Constitution and on our system of justice and the kind of country we are.

The President of the United States is the trustee of the Nation's conscience. We are entitled to explore fairly, fully, and expeditiously the circumstances that have been alleged to compromise that position. We will do it quickly, we will do it fairly. We want to get this behind us and behind the country and move on.

But it is our duty, it is an onerous, miserable, rotten duty, but we have to do it or we break faith with the people who sent us here.

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

The previous question was ordered.

MOTION TO RECOMMIT OFFERED BY MR. BOUCHER

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

The SPEAKER. Is the gentleman opposed to the resolution?

Mr. BOUCHER. I am, Mr. Speaker.

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

The Clerk read as follows:

Mr. BOUCHER moves to recommit House Resolution 581 to the Committee on the Judiciary with instruction to report the same back to the House forthwith with the following amendment:

Strike the first section and insert the following:

That (a)(1) The House of Representatives authorizes and instructs the Committee on the Judiciary (in this Resolution referred to as the "Committee") to take the following steps within the time indicated in order, fully and fairly, to conduct an inquiry and, if appropriate, to act upon the Referral from the Independent Counsel (in this Resolution referred to as "the Referral") in a manner which ensures the faithful discharge of the Constitutional duty of the Congress and concludes the inquiry at the earliest possible time, and, consistent with chapter 40 of title 28, United States Code, to consider any subsequent referral made by the Independent Counsel under section 595(c) of such title 28.

(2) The Committee shall thoroughly and comprehensively review the constitutional standard for impeachment and determine if the facts presented in the Referral, if assumed to be true, could constitute grounds for the impeachment of the President.

(b) If the Committee determines that the facts stated in the Referral, if assumed to be true, could constitute grounds for impeachment, the Committee shall investigate fully and completely whether sufficient grounds exist for the House of Representatives to exercise its constitutional power to impeach the President.

(c) If the Committee finds that there are not sufficient grounds to impeach the President, it shall then be in order for the Committee to consider recommending to the House of Representatives alternative sanctions.

(d) Following the conclusion of its inquiry, the Committee shall consider any recommendation it may commend to the House, including—

(1) one or more articles of impeachment;

(2) alternative sanctions; or

(3) no action.

The Committee shall make such a recommendation sufficiently in advance of December 31, 1998, so that the House of Representatives may consider such recommendations as the Committee may make by that date.

(e) If the Committee is unable to complete its assignment within the time frame set out in subsection (d), a report to the House of Representatives may be made by the Committee requesting an extension of time.

The SPEAKER. Pursuant to the order of the House of today, the gentleman from Virginia (Mr. BOUCHER) and the gentleman from Wisconsin (Mr. SENSENBRENNER) each will control 5 minutes.

The Chair recognizes the gentleman from Virginia (Mr. BOUCHER).

Mr. BOUCHER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the motion to recommit that I am pleased to offer this afternoon is well tailored to the challenge that we have before us. It offers a framework for a full and a fair review by the House Committee on the Judiciary and a full and a fair review by the House of Representatives.

It assures that we give deference to the historical constitutional standard for impeachment, which has evolved to this House over two centuries. It assures ample time to consider carefully any of the facts that are contained in the referral sent to us by the Office of Independent Counsel, which rise to that constitutional standard.

It assures that the entire matter will be resolved promptly and that the Nation is not distracted by a prolonged inquiry.

Some Members, Mr. Speaker, would prefer that there be no review. Some would have us investigate, for more than a year, a wide range of matters. The resolution that we are offering through this motion to recommit steers a middle course, a careful review limited to the materials that are now before us.

With the rules we offer, the House will discharge its constitutional obligations in a manner that is both thorough and expeditious. I urge the approval of this motion to recommit.

Mr. Speaker, I yield 1 minute to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Speaker, the motion to recommit will correct several of the most egregious problems with this resolution. If the amendment is not accepted, we will be voting for an inquiry that cannot end. So long as people send allegations to the committee, the committee will inquire and go on and on and on.

The amendment establishes a reasoned approach by which we would consider the allegations before us and come to a conclusion. This amendment would add focus to the deliberations because some of the Starr allegations are not worth inquiring into. In fact, the Republican counsel found some of the allegations so flimsy that he did not even mention them during his presentation to our committee, and many constitutional scholars have already expressed the view that none of the allegations amount to impeachable offenses and the question is not even close.

Finally, Mr. Speaker, make no mistake about it. A vote for this amendment is not necessarily a vote for an inquiry, because some who are for an inquiry and others who are against any inquiry all agree that if we are going to have an inquiry, it ought to be fair.

Mr. BOUCHER. Mr. Speaker, I yield the balance of my time to the gentleman from Missouri (Mr. GEPHARDT), the democratic leader.

The SPEAKER. The gentleman from Missouri (Mr. GEPHARDT) is recognized for 3 minutes.

Mr. GEPHARDT. Mr. Speaker, it is almost a month to the day that we stood here and debated whether or not to release the materials that Ken Starr had sent to the Congress, and I tried to say at that time that this was a time of utmost importance, to us as a House of Representatives and to all of us as a people.

I said then and I repeat today that we are engaged now in what I believe to be a sacred process. We are considering whether or not to ultimately, if we get that far, overturn an election voted on by millions of Americans to decide who should be the chief executive officer of this country.

The last time we did this, Barbara Jordan, who I think really became the conscience of the period, said this, she said, "Common sense would be revolted if we engaged upon this process for petty reasons."

Congress has a lot to do. Pettiness cannot be allowed to stand in the face of such overwhelming problems.

She said, "So today we are not being petty. We are trying to be big, because the task before us is big."

I said the other day that this is a time to be bigger than we really are. We are all human. We all make mistakes. We all give in to pettiness and pride. We all give in to doing things wrong, for the wrong reasons. But this is a time when our Constitution and our people asked each of us to reach inside of ourselves, to be bigger and better than we really are.

In my view, we should not have two resolutions, or a resolution and an amendment out here today. I believe if we had succeeded in what we should be doing, we would have one resolution, agreed to by all 435 Members today.

The question is not whether to have an inquiry. The question today is what kind of inquiry will this be?

Our amendment is simple, and I think it is common sense. First, it says it must be focused. We operate under a statute that we passed from the independent counsel that said there could be referrals from the independent counsel on possible issues of impeachment, and we should take that up, and that is before us.

Our resolution says stick with those referrals. We listened to the complaints of the other side and we said, well, maybe there will be more referrals. So we have amended the language and we say if there are more referrals, we will deal with them as we should under the statute.

Second, it must be fair. The last time we had Watergate, the committee spent a good deal of time considering the standards and the history of impeachment so that all the members of

the committee and on the floor would understand the historic process that we are involved in. None of us do this often. We do not think about this very often, so it is vital and important that we all know what it is we are doing and whether or not the facts that are out there rise as a prima facie case. That has not been done in this case.

Third time, we say let us get it over by December 31, before the new Congress comes into session. Why do we say that? We say that because we believe deeply that for the good of the country and the good of our people, this must be done by the end of this year, before there is a new Congress.

Why do we say that? We say it because we live in a dangerous world. The world economy is in a shambles. Our own economy is threatened. Issues like education and health care and economics need to be on the front burner of this Congress. That is what we must be working on.

If we stay here for 3, 6, 9, 12 months, 2 years in suspended animation while we go over every charge that is out there, we will hurt our country and our people and our children.

□ 1430

Now, the gentleman from Illinois (Mr. HYDE) has said, and I believe him, that we should do this by the end of the year. But he also said New Year's promises sometimes get broken.

The gentleman from Illinois has said that we should not be on a fishing expedition, but others in the party, I have heard even leaders in the party, the Republican Party, say, well, we have to look at Travelgate, and we have to look at Filegate, and we have to look at campaign finance, and we have to look at the Chinese rocket sales.

And they say it again.

I really have thought a lot about this. I have really thought a lot about it. I have tried to think to myself, what is our problem, and I think I have identified it. Our problem is we do not trust one another.

The majority says that if they use our language, that we are not going to do what we say we are going to do; that we are going to drag it out; that we are going to try to frustrate the purpose of having this inquiry. And all I say is, we have put our words and our actions to follow that belief. We have said if there are other referrals, we will take them up. We have said that if we get to the end of the year and we need more time, that the majority can come to the floor and more time will be granted. The Republicans run the House.

But when we see the majority's resolution, we do not see trust. Because the words that we are looking for; that we are going to try to get this over by the end of the year; that we are going to try to stick with these referrals and not go into everything under the sun and drag it out for 2 years, and it will be a 2-year political fishing expedition, those words are not there.

Finally, let me say this. We are all profoundly hurt by what the President has done. He has deeply disappointed the American people and he has let us all down. But this investigation must be ended fairly and quickly. It has hurt our Nation and it has hurt our children. We must not compound the hurt.

I have asked every Democratic Member in these last days, I have asked every Member to search their heart and their conscience and to vote for what in their heart and their mind and their conscience they think is right. And I come to the floor today to ask every Republican Member to do the same.

This should not be a party vote today. This should be the attempt of every one of us, humble human beings, who come to this majestic place, where we settle our differences peacefully and not with violence, to say that I am voting for what in my heart and my mind is the best for the country and the best for the American people.

Mr. SENSENBRENNER. Mr. Speaker, I rise in opposition to the motion to recommit, and I yield 1 minute to the gentleman from Florida (Mr. CANADY).

Mr. CANADY of Florida. Mr. Speaker, I thank the gentleman for yielding me this time.

As we consider the motion to recommit, I would ask that the Members of the House on both sides of the aisle step back and consider the fact that what is proposed in the motion to recommit is without any precedent. There is no case in the 200-year history of the impeachment process in this country in which a process similar to the process which is proposed here has been followed. None at all. And I believe that is something that we should take very seriously.

I believe we also have to be aware that if we adopt the motion to recommit, we are setting a precedent today, and I believe it would be a terrible precedent, that would be fraught with the potential for harm stretching far into the future of our country.

Now, consider the process that this motion sets up: First, we are required to assume the truth of allegations, which the President and his lawyers vigorously deny. I do not think that is the right thing to do. We should find out what the truth is.

But while we are following this process, we put aside the weighing and the balancing of the facts and the judging of the credibility of witnesses. Having put aside our duty to weigh the facts and find the truth, we are then called on to make a solemn determination concerning whether impeachable offenses, committed in the assumed facts, which are denied by the President, are at some later point determined to be true.

This simply does not make sense. It will only cause delay. It has never been done before and it should not be done now.

I would ask the Members of the House to reject this contrived, ill-conceived procedure in the motion to recommit. We need to follow the precedent established in 1974, the precedent that the gentleman from Missouri has asked us to follow. We should support the resolution recommended by the Committee on the Judiciary.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, the question before us in this motion to recommit is whether we should make ourselves slaves to the clock or attempt to find out the truth. And let there be no mistake about it, nobody's conduct is under investigation here but that of the President of the United States. And if he had not committed those things that the allegations have sent forth to us by the Independent Counsel, we would not be faced with discharging our awesome constitutional responsibilities.

This should not be a race against the clock. And do not take my word for it, take the word of a respected senior Democratic Member on the other side of the aisle, the gentleman from Indiana (Mr. LEE HAMILTON), who said yesterday, "I have had a lot of experience with investigations. Time limits create large incentives for delay." Do not give anybody an incentive to delay and string this out by establishing an arbitrary time limit.

Now, my friends on the other side of the aisle have said that this will be a never-ending investigation. They have not read the twentieth amendment to the Constitution of the United States. The 105th Congress goes out of business on January 3, 1999. This resolution expires with the 105th Congress and would have to be renewed by a vote of the House on the opening day of the 106th Congress. So all of the arguments over here have been about just 3 days. I think that the gentleman from Illinois (Mr. HYDE), in following the Rodino precedent, and just almost adopting the Rodino resolution word for word, has done the right thing.

February 6, 1974, was the last time this House of Representatives had to do the sacred duty of commencing an impeachment inquiry. The gentleman from Illinois has patterned this resolution after the resolution introduced by Chairman Peter Rodino of New Jersey. There was bipartisanship on the Republican side of the aisle in commencing an impeachment inquiry along exactly the same lines against a Republican President. That vote was 404 to 4. I would ask my Democratic friends to be as bipartisan today as the Republicans were back in 1974 by rejecting the motion to recommit and joining with us to discharge our constitutional duty.

Mr. Speaker, I move the previous question.

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

There was no objection.

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

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

Mr. BOUCHER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 198, nays 236, not voting 1, as follows:

[Roll No. 497]

YEAS—198

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Farr
Fattah
Fazio
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NAYS—236

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Evans
Everett
Ewing
Fawell
Filner
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
Metcalf
Mica
Miller (FL)
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NOT VOTING—1

Pryce (OH)

□ 1455

Mr. WAXMAN changed his vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SENSENBRENNER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 258, noes 176, not voting 1, as follows:

[Roll No. 498]

AYES—258

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Evans
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
Kind (WI)
King (NY)
Kingston
Klug
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Maloney (CT)
Manzullo
McCarthy (NY)
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Minge
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stump
Sununu
Talent
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)

Thomas
Thornberry
Thune
Tiahrt
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NOES—176

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kleczka
Klink
LaFalce
Lantos
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Mink
Moakley
Mollohan
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Skaggs
Slaughter
Smith, Adam
Snyder
Stabenow
Stark
Stokes
Strickland
Stupak
Tanner
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Wise
Woolsey
Wynn
Yates

NOT VOTING—1

Pryce (OH)

□ 1512

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

NOTICE OF INTENTION TO OFFER RESOLUTION RAISING QUESTION OF PRIVILEGES OF THE HOUSE

Mr. VISCLOSKY. Mr. Speaker, Pursuant to House rule IX, clause 1, I rise to give notice of my intent to present a Question of Privilege to the House in the form and resolution as follows:

Mr. Speaker, the resolution reads as follows:

A resolution, in accordance with House Rule IX, clause 1, expressing the sense of the House that its integrity has been impugned because the antidumping provisions of the Trade and Tariff Act of 1930, (Subtitle B of Title VII) have not been expeditiously enforced;

Whereas the current financial crisis in Asia, Russia, and other regions have involved massive depreciation in the currencies of several key steel-producing and steel-consuming countries, along with a collapse in the domestic demand for steel in these countries;

Whereas the crises have generated and will continue to generate surges in United States imports of steel, both from the countries whose currencies have depreciated in the crisis and from steel-producing countries that are no longer able to export steel to the countries in economic crisis;

Whereas United States imports of finished steel mill products from Asian steel-producing countries, the People's Republic of China, Japan, Korea, India, Taiwan, Indonesia, Thailand, and Malaysia, have increased by 79 percent in the first 5 months of 1998 compared to the same period of 1997;

Whereas year-to-date imports of steel from Russia now exceed the record import levels of 1997, and steel imports from Russia and the Ukraine now approach 2,500,000 net tons;

Whereas foreign government trade restrictions and private restraints of trade distort international trade and investment patterns and result in burdens on United States commerce, including absorption of a disproportionate share of diverted steel trade;

Whereas the European Union, for example, despite also being a major economy, in 1997 imported only one-tenth as much finished steel products from Asian steel-producing countries as the United States did and has restricted imports of steel from the Commonwealth of Independent States, including Russia;

Whereas the United States is simultaneously facing a substantial increase in steel imports from countries within the Commonwealth of Independent States, including Russia, caused in part by the closure of Asian markets;

Whereas there is a well-recognized need for improvements in the enforcement of the United States trade laws to provide an effective responsibility to such situations:

Now, therefore, be it

Resolved by the House of Representatives, that the House of Representatives calls upon the President to:

(1) take all necessary measures to respond to the surge of steel imports resulting from the financial crises in Asia, Russia, and other regions, and for other purposes;

(2) pursue enhanced enforcement of United States trade laws with respect to the surge of steel imports into the United States, using all remedies available under those laws including offsetting duties, quantitative restraints, and other authorized remedial measures as appropriate;

(3) pursue with all tools at his disposal a more equitable sharing of the burden of accepting imports of finished steel products from Asia and the countries within the Commonwealth of Independent States;

(4) establish a task force within the executive branch with responsibility for closely monitoring United States imports of steel; and

(5) report to the Congress by no later than January 5, 1999, with a comprehensive plan for responding to this import surge, including ways of limiting its deleterious effects on employment, prices, and investment in the United States steel industry.

The SPEAKER pro tempore (Mr. LATOURETTE). Under rule IX, a resolution offered from the floor by a Member other than the majority leader or the minority leader as a question of the privileges of the House has immediate precedence only at a time or place designated by the Chair in the legislative schedule within 2 legislative days of its properly being noticed.

The Chair will announce the Chair's designation at a later time. The Chair's determination as to whether or not the resolution constitutes a question of privilege will be made at the time designated by the Chair for the consideration of the resolution.

Mr. VISCLOSKY. Mr. Speaker, I ask to be heard at the appropriate time on the question of whether this resolution constitutes a Question of Privilege.

The SPEAKER pro tempore. The gentleman shall be heard at the appropriate time.

Mr. VISCLOSKY. I thank the Speaker.

WAIVING ENROLLMENT REQUIREMENTS FOR REMAINDER OF 105TH CONGRESS WITH RESPECT TO ANY BILL OR JOINT RESOLUTION MAKING GENERAL OR CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1999

Mr. DIAZ-BALART. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 580 and ask for its immediate consideration.

The Clerk read the resolution, as follow:

H. RES. 580

Resolved, That upon adoption of this resolution it shall be in order to consider in the House the joint resolution (H.J. Res. 131) waiving certain enrollment requirements for the remainder of the One Hundred Fifth Congress with respect to any bill or joint resolution making general or continuing appropriations for fiscal year 1999. The joint resolution shall be considered as read for amendment. The previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except: (1) one hour of debate on the joint resolution equally divided and controlled by the Majority Leader and the Minority Leader or their designees; and (2) one motion to recommit.

The SPEAKER pro tempore. The gentleman from Florida (Mr. DIAZ-BALART) is recognized for 1 hour.

Mr. DIAZ-BALART. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Ohio (Mr. HALL), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for purpose of debate only.

House Resolution 580 provides for the consideration in the House of House Joint Resolution 131, waiving certain enrollment requirements with respect

to any bill or joint resolution making general or continuing appropriations for fiscal year 1999.

The rule provides 1 hour of debate on the joint resolution, equally divided and controlled by the majority leader or minority leader or their designees, and it provides for one motion to recommit.

For Members who may not recall, the law, sections 106 and 107 of Title I of the U.S. Code, requires enrolled bills, measures that have passed the House and Senate in the same form and require the President's signature to become law, it requires that these be sent to the President on parchment paper.

From what I understand, this is a very time-consuming effort, especially for measures as extensive as the anticipated appropriations measures. It is my understanding that to enroll these bills on parchment paper could take over a week on each one, on each piece of legislation, meaning the President would not be able to sign them for that period of time.

This type of joint resolution has usually been considered in the House in previous Congresses under a unanimous consent request. Unfortunately, attempts to reach a unanimous consent agreement were unlikely due to expected objections.

In fact, when we were in the minority, Mr. Speaker, in the 100th Congress, in 1987, during the consideration of the reconciliation legislation, Majority Leader Foley brought up an almost identical joint resolution waiving the parchment requirement for the enrollment of budget reconciliation and the full-year continuing resolution for fiscal year 1988.

Congressman Bob Walker, one of our parliamentary experts on our side of the aisle, asked Mr. Foley to explain if all the House was doing was to provide for the waiving of parchment copies, to which Mr. Foley responded in the affirmative. There was no objection from our side of the aisle, and the joint resolution was considered by unanimous consent.

However, because of possible anticipated objections certainly earlier in the week when we attempted to reach an agreement for unanimous consent, and because this type of joint resolution is not privileged, it requires a special rule to provide for its consideration.

Once these important bills have passed the House, enrollment on parchment paper will be the impediment keeping them from reaching the President's desk in a timely manner. Therefore, I would urge my colleagues to support this rule and the joint resolution so that these bills can be signed into law as soon as possible.

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

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

Mr. Speaker, I want to thank my colleague the gentleman from Florida (Mr. DIAZ-BALART) for yielding me the time.

This is a closed rule. It essentially reduces the printing requirements for the appropriation bills that are passed during the remainder of the Congress. It will speed up, though, getting these bills to the President for signature. It is necessary to make sure that the flow of money to the Federal agencies is not interrupted when the current funding expires.

As my colleague has described, this rule provides for 1 hour of debate equally divided and controlled by the majority leader and the minority leader or their designees.

Mr. Speaker, this is noncontroversial. It has been done before when we needed to speed the printing of completed bills. It was adopted by voice vote in the Committee on Rules, and I urge its adoption.

Mr. Speaker, I do not have any speakers.

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

Mr. DIAZ-BALART. Mr. Speaker, we as well have no further speakers.

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. THOMAS. Mr. Speaker, pursuant to House Resolution 580 just passed, I call up the joint resolution (H.J. Res. 131) waiving certain enrollment requirements for the remainder of the One Hundred Fifth Congress with respect to any bill or joint resolution making general or continuing appropriations for fiscal year 1999.

The Clerk read the title of the joint resolution.

The text of House Joint Resolution 131 is as follows:

H.J. RES. 131

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of sections 106 and 107 of title 1, United States Code, are waived for the remainder of the One Hundred Fifth Congress with respect to the printing (on parchment or otherwise) of the enrollment of any bill or joint resolution making general appropriations or continuing appropriations for the fiscal year ending September 30, 1999. The enrollment of any such bill or joint resolution shall be in such form as the Committee on House Oversight of the House of Representatives certifies to be a true enrollment.

The SPEAKER pro tempore. Pursuant to House Resolution 580, the gentleman from California (Mr. THOMAS) and the gentleman from Connecticut (Mr. GEJDENSON) each will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. THOMAS).

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

Mr. Speaker, as was just discussed, Mr. Speaker, this resolution allows us to, notwithstanding the law requiring enrollment bills on parchment, to enroll any bill or joint resolution in such form as the Committee on House Oversight of the House of Representatives certifies to be a true enrollment. That is the sum and substance of the bill.

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

Mr. GEJDENSON. Mr. Speaker, we have no objections to this particular proposition. It is part of the housekeeping efforts to keep us going and trying to get things done.

But, frankly, we are about to leave town, in my opinion, without getting some of the most important things we need to get done. There are seniors losing their HMO benefits across my State and much of the Nation. We are not addressing that issue. We are not addressing the issues of class size and the quality of education our kids get. We left campaign finance reform hanging around, lingering a slow death.

Mr. Speaker, some people said this is the least effective Congress in the history of this Union. I am not interested in rating the Congress. I am interested in dealing with these issues. Our seniors deserve to have a Congress that is engaged, and we should not be leaving until we deal with a couple of these critical issues. They are life-and-death issues.

Senator DODD and I had a meeting where one gentleman had a heart attack. He was so anxious about his health care policy and the company dropping him.

Mr. Speaker, again, we have no objection to this particular provision, but we do have an objection to the way this Congress has been run and the little it has done to deal with the needs of the American people.

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

Mr. THOMAS. Mr. Speaker, I will restrain myself and tell the gentleman I have no further speakers if he wishes to yield back the balance of his time.

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

Mr. THOMAS. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore. The gentleman from California (Mr. THOMAS) has 28 minutes remaining.

Mr. THOMAS. Mr. Speaker, I have 28 minutes, and they have yielded back the balance of their time.

The SPEAKER pro tempore. The gentleman is correct.

Mr. THOMAS. Mr. Speaker, let me indicate that I will yield back the balance of my time as well.

The SPEAKER pro tempore. All time for debate has expired.

The joint resolution is considered read for amendment.

Pursuant to House Resolution 580, the previous question is ordered.

The question is on engrossment and the third reading of the joint resolution.

The joint resolution 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.

ANNOUNCEMENT OF BILLS TO BE CONSIDERED UNDER SUSPENSION OF THE RULES ON TODAY

Mr. THOMAS. Pursuant to House Resolution 575, I announce the following suspensions to be considered today:

H.R. 2675, Federal Employees Life Insurance and S. 2561, Fair Credit Reporting.

□ 1530

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE). Pursuant to the provisions of clause 5 of rule 1, 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, shall be taken later in the day.

AUTHORIZING AWARD OF CONGRESSIONAL MEDAL OF HONOR TO THEODORE ROOSEVELT

Mr. BUYER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2263) to authorize and request the President to award the Congressional Medal of Honor posthumously to Theodore Roosevelt for his gallant and heroic actions in the attack on San Juan Heights, Cuba, during the Spanish-American War.

The Clerk read as follows:

H.R. 2263

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to award the congressional Medal of Honor posthumously to Theodore Roosevelt, of the State of New York, for his actions in the attack of San Juan Heights, Cuba, during the Spanish-American War on July 1, 1898. Such an award may be made without regard to the provisions of section 3744 of title 10, United States Code, and may be made in accordance with award criteria applicable at the time of the actions referred to in the first sentence.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana (Mr. BUYER) and the gentleman from Pennsylvania (Mr. MCHALE) each will control 20 minutes.

The Chair recognizes the gentleman from Indiana (Mr. BUYER).

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

Mr. Speaker, on September 28 I chaired a Subcommittee on Military Personnel hearing that examined the evidence supporting the award of the Medal of Honor to Theodore Roosevelt for his valor on July 1, 1898, during the Battle of San Juan Hill in the Spanish-American War.

During the hearing we heard compelling testimony about the courage and decisiveness of Theodore Roosevelt from two of our colleagues who studied his actions that day in great detail, the gentleman from New York (Mr. LAZIO) and the gentleman from Pennsylvania (Mr. MCHALE).

We learned the details of the military battle that day and the political battle that followed from the historians, Dr. John A. Gable, the executive director of the Theodore Roosevelt Association, and Mr. Nathan Miller, the author of the biography "Theodore Roosevelt, A Life."

Mr. Speaker, finally, we also heard from Mr. Tweed Roosevelt, the great-grandson of Theodore Roosevelt. We heard about the man Theodore Roosevelt, a man of immense energy and intelligence and a family man, a man of unwavering moral fiber, a man of immense stature in the history of this Nation, and the great impact that he had upon his four sons. Then we stop and think about the fact that this is a family that lost four sons in a uniform, three in World War I and one in World War II.

Mr. Speaker, we are honored today to have Mr. Tweed Roosevelt in the gallery to witness this historic celebration of an important moment in the life of his great-grandfather. On behalf of myself and the Committee on National Security and the House of Representatives, I would like to thank Mr. Roosevelt for being here today to represent his family and to share this moment with us.

We can talk about the greatness of the man in Theodore Roosevelt, about his fidelity and his honor and his integrity, and we recognize that these are attributes for which there is no disagreement on this House floor with regard to this President. But what we must focus on is not about the life of the man and how he led it and his impact upon not only his family and the Nation, we have to focus on what happened, as was documented by evidence that occurred at the Battle of San Juan Hill in San Juan Heights. It is his heroic performance, the documented evidence that it did meet the established standard for the award of the medal at the time.

I would like to summarize the evidence of Theodore Roosevelt's heroism that I found instructive. The extraordinary nature of his bravery was confirmed by superiors, subordinates and other eyewitnesses. His willingness to expose himself to the most extreme hazards of the battle, as evidenced by a number of people killed or wounded around him, and his decision to lead the charge on horseback, the only mounted man in the attack, demonstrated an utter and complete disregard for his own life. Such qualities at least equaled the selfless service of those who were awarded the Medal of Honor for service that day, most for rescuing wounded comrades under fire.

His raw courage and fearless, bold and decisive action in leading these two charges when other commanders and officers around him hesitated to do so saved lives. Not only did his actions save lives on that day, but his conspicuous action and valor changed the course of the battle and clearly set him apart from his contemporaries.

His recommendation for the Medal of Honor came from two officers: Major General William Shafter and Colonel Leonard Wood, who were most qualified to judge whether the extraordinary bravery and nature of Roosevelt's actions qualified for the award of the medal since previously both had been awarded the medal themselves.

Mr. Speaker, I, as chairman of the Subcommittee on Personnel, get many different requests to somehow reshape or change the course of history, whether some unit is entitled to this form of citation, or someone should have been promoted that was unjustly, or even overturned courts-martial is correct, and I am always very hesitant to take my judgments of the day and replace them for the judgments of those who are were there at the time.

What is clear to me about this case, about Theodore Roosevelt and the Medal of Honor, was that it was the military that recommended that he receive the Medal of Honor. That is what got my attention the most. And it was my dear friend, the gentleman from Pennsylvania (Mr. MCHALE), who sat me down and made me focus, and he pointed something out to me that was very intriguing, and it was to focus upon the individual of whom recommended and the individual of whom endorsed the Medal of Honor.

When I think of Colonel Leonard Wood, there is a fort named after Colonel Leonard Wood in Missouri. His rank, he was the assistant surgeon of the United States Army and he received the Medal of Honor himself, and he did that because voluntarily he carried out dispatches through the region infested at the time with hostile Indians, making a journey of 70 miles in one night and walking 30 miles the next day; also, for several weeks while in close pursuit of Geronimo's band, and constantly expecting an encounter, commanded an attachment of infantry which was then without an officer and to the command which he was assigned upon his own request.

The individual that endorsed the Medal of Honor was Major General William Shafter, who is a recipient of the

Medal of Honor himself. At that time during the Civil War, he was a lieutenant. He was engaged in a bridge construction, and he was not being needed, and then he returned with his men to engage with the enemy, participated in a charge across an open field that resulted in casualties to 18 out of 22 of his men. At the close of the battle, with his horse shot out from underneath him, and he was severely wounded, he remained on the field that day and stayed to fight the next day, only to have his wounds finally take him aside.

So when I think about where in our history have we ever had two individuals who were recipients of the Medal of Honor themselves recommend someone else receive the Medal of Honor. These are two individuals who understand what it means to be awarded the medal, and that is where I give the most credibility.

Mr. Speaker, in the absence of records, and to substantiate why the decoration was disapproved at the time, I believe there is credible evidence that politics and not an honest assessment of his valor was the prime consideration for the evaluation of Theodore Roosevelt's recommendation for the Medal of Honor. There is no doubt in my mind that then Secretary of War Russell Alger and the McKinley administration were acutely embarrassed by press reports generated by Roosevelt's criticism of Alger's decision not to return the troops home after the war because the administration feared a yellow fever epidemic in this country. When the troops were returned home shortly after the exposure of the issue to the press, it was painfully clear that Secretary Alger resented Theodore Roosevelt's involvement.

Mr. Speaker, the evidence supporting the award of the Medal of Honor to Theodore Roosevelt is overwhelming.

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

Mr. MCHALE. Mr. Speaker, I yield such time as he may consume to the gentleman from Mississippi (Mr. TAYLOR).

Mr. TAYLOR of Mississippi. Mr. Speaker, today we are considering H.R. 2263, a bill to authorize the President to award the Congressional Medal of Honor to Theodore Roosevelt for his historic charge during the Battle of San Juan Heights. I am pleased to join my colleague, who should have been Secretary of the Navy, the gentleman from Pennsylvania (Mr. MCHALE) in cosponsoring this legislation.

Teddy Roosevelt's charge up Kettle Hill at San Juan Heights is one of the most inspiring moments in our Nation's history. His bravery and gallantry demonstrates how one man's initiative can change the course of a battle. For his bravery he was nominated for the Congressional Medal of Honor. However, it was never bestowed by the Secretary of the Army.

Mr. Speaker, the Medal of Honor is the highest award our Nation can bestow, and, therefore, we should not confer this honor lightly. However, we must recognize the standards for awarding the medal at that time were not the same as the standards for awarding it now. We need the Department of Defense to examine this case on its merits in light of the others who won the Medal of Honor during that engagement.

The Subcommittee on Military Personnel recently held a hearing on the case for awarding the Medal of Honor, the award that Colonel Roosevelt valued so highly and that his superiors so clearly wanted to give him. While I was unable to attend this hearing because of the hurricane that was in south Mississippi last Monday, I understand that witnesses unanimously reaffirmed the case for awarding the medal. I hope this legislation will give the Department the chance to do the same.

Mr. Speaker, while I have the chance, I would like to take this opportunity to commend the bill's author, the gentleman from Pennsylvania (Mr. MCHALE). PAUL has not been a Member of Congress as long as some others, but he has served this body extremely well. He was asked by the President to serve as the Secretary of the Navy and declined, and was one of a very few people on this side of the aisle who felt that the best thing for our country, regardless of partisan politics, was to ask the same man who offered him the job of Secretary of the Navy to resign.

I think the gentleman from Pennsylvania (Mr. MCHALE) is the kind of people that we need more of in Congress. I regret his departure, and I am honored to have cosponsored this bill with him.

Mr. BUYER. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from New York (Mr. SOLOMON), the chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank the great American from Indiana, and I also want to commend another great American from Pennsylvania (Mr. MCHALE). I praise him for a different reason. He was a good marine, he is still a good marine, and that is why I salute him and admire him so much.

Mr. Speaker, I really am pleased to rise in strong support of this bill. Theodore Roosevelt is universally recognized as one of the most popular and significant public figures in American history, and we New Yorkers are particularly proud of him as the greatest Republican in the history of our State.

He was a man who devoted his life to fighting for what he called a "square deal," my colleagues remember that, for every American. His name is synonymous with the principles of fairness, justice, love of nature and the highest standards of morality and ethics, standards that he maintained both in public and private life.

So it is a proud moment for me to endorse his receiving the Medal of Honor. This bill will correct the miscarriage of justice which denied him the Medal of Honor during his own lifetime, despite the strong recommendations on his behalf by superior officers and others with whom he served in the Spanish-American War.

Mr. Speaker, not only have I had the privilege of representing the home of Franklin Delano Roosevelt in Hyde Park, New York, but I also represent the Adirondack Mountains where President Theodore Roosevelt spent much of his time. I would like to take just the rest of my time to tell a little-known story about the circumstances that surrounded Theodore Roosevelt's accession to the Presidency.

When President McKinley was shot in Buffalo, New York, then-Vice President Roosevelt rushed to the scene. Upon being assured by doctors that the President was out of danger, Roosevelt joined his family for a camping and hiking trip in the Adirondack Mountains up where I live, and, Mr. Speaker, on the afternoon of September 13, 1901, Roosevelt and several hiking companions were descending from Mount Marcy, one of the most beautiful mountains in the Adirondacks, when word came that the President's condition had taken an unexpected turn for the worse.

They then hiked 12 miles in 3 hours and 15 minutes through the woods to reach a lodge where Mrs. Roosevelt was staying and they could await developments. And at 10 p.m., word came the President was sinking rapidly.

Roosevelt set out from there in a single horse-drawn carriage on a breakneck ride through the night in a thickly-forested area to reach the railroad station at North Creek, New York. The horse and driver were changed twice en route, and Roosevelt covered 34 miles in a little over 6 hours. In the final relay, he covered 16 miles in just one hour and 41 minutes, and I challenge anybody to do that. Upon his arrival at North Creek just after dawn on September 4, 1901, Theodore Roosevelt was informed that he was the 26th President of the United States of America. It was exactly 43 days before his 43rd birthday. He then boarded the train for Buffalo and was formally sworn in later that day.

Today, in my congressional district, there is a plaque that marks the approximate spot where Roosevelt was in his mad dash through the night at the moment that McKinley died. It was at that moment in that spot that he became the President of the United States of America.

Mr. Speaker, let me just conclude by making one more point. Theodore Roosevelt's wartime exploits are well-known. Perhaps less well-known today

is the fact that he was the very first American person to receive the Noble Peace Prize. He was awarded that singular honor in 1906 in recognition of his successful effort to negotiate settlement in the Russo-Japanese War. Roosevelt's role as a peacemaker provides a very interesting counterpart to his role as a soldier.

□ 1545

It is for that later role that we give him this due recognition today in awarding him that Medal of Honor. I just commend my good friend and former marine, the gentleman from Pennsylvania (Mr. PAUL MCHALE) for bringing this badly needed legislation to the floor, finally.

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

Let me first of all thank the gentleman from New York (Mr. SOLOMON) for his very nice remarks. I would point out to the gentleman from New York that the carriage to which he made reference is today on display in the Adirondack Museum at Blue Mountain Lake. My family and I had the opportunity to view that carriage a few years ago.

Let me also thank the gentleman from Mississippi (Mr. TAYLOR) for the kind personal remarks that he directed toward me. In the interest of complete truth, I want to make it clear that I withdrew my name for consideration as Secretary of the Navy before the President had made any final decision, and before any offer had been made to me.

Moving on to what is truly important, the combat record of Theodore Roosevelt, I rise to recommend to the membership of the House that the Medal of Honor be granted to former President Theodore Roosevelt.

On July 1, 1898, Lt. Col. Theodore Roosevelt of the 1st Volunteer Cavalry led an extraordinary charge on San Juan Heights, located on the island of Cuba during the Spanish-American War. Eyewitness accounts indicate that Colonel Roosevelt distinguished himself by, and I quote, "displaying the greatest bravery, and placing his life in extreme jeopardy by unavoidable danger to severe fire."

I have had conversations in recent days with the Acting Secretary of the Army and the Secretary of the Army, where a position was presented to me that although Theodore Roosevelt had been brave on that day, they indicated it did not appear, based on the Army's analysis of the recommendation, that the courage shown by Theodore Roosevelt was extraordinary by comparison to other officers of similar rank and responsibility.

Mr. Speaker, I have been a Member of this Congress for 6 years. I have been a United States Marine for 26 years. I would like to state in the strongest possible personal terms that the valor displayed by Theodore Roosevelt that day, July 1, 1898, was absolutely extraordinary, breathtaking. If anything, history has not credited to Theodore Roosevelt the full measure of courage that he showed under fire.

I respectfully submit, for reasons that I find inexplicable, the Army has failed to appreciate his leadership at that time and place. I believe, however, the record of contemporaneous correspondence captures full well the point that I am making.

As I read these accounts of men with him during the battle, I ask Members to determine whether or not the courage that Theodore Roosevelt showed that day was extraordinary, and whether or not, in light of observations of those who were there, he did indeed earn the Medal of Honor.

July 6, 1898, just 5 days after the battle, to the Adjutant General, Washington, D.C.:

Sir, I have the honor to recommend Colonel Theodore Roosevelt, 1st U.S. Voluntary Cavalry, for the Medal of Honor for distinguished gallantry in leading a charge on one of the entrenched hills to the east of the Spanish position in the suburbs of Santiago de Cuba July 1, 1898, very respectfully, Leonard Wood, Colonel U.S. 1st Volunteer.

First endorsement, 3 days later, July 9, 1898:

Earnestly recommended, Joseph Wheeler, General, U.S. Volunteers, commanding, a gentleman who returned to active duty as a commanding officer from this very body where he was at that time serving as a member of the United States House of Representatives.

Second endorsement, July 9, 1898, Respectfully forwarded to the Adjutant General of the Army:

Approved; William R. Shafter, U.S. Volunteers, commanding.

The recommendation, Mr. Speaker, then went to Secretary of War Alger. From that point forward, what was purely a military recommendation, based on extraordinary courage under fire, became mired in unrelated tangential and unfortunate politics.

Let me read the firsthand observations of those who witnessed Theodore Roosevelt's courage:

Headquarters, United States Military Academy, April 5, 1899.

My duties on July 1st, 1898, brought me in constant observation of and contact with Colonel Roosevelt from early morning until shortly before the climax of the assault of the Cavalry Division on the San Juan Hill, the so-called Kettle Hill. During this time, while under the enemy's artillery fire from El Poso and while on the March from El Poso to San Juan fjord, to the point from which his regiment moved to the assault about 2 miles, the greater part under fire, Colonel Roosevelt was conspicuous above any others I observed in his regiment in zealous performance of duty, in total disregard of his personal danger, and in his eagerness to meet the enemy.

At El Poso, when the enemy opened on that place with artillery fire, a shrapnel bullet grazed one of Colonel Roosevelt's wrists. The incident did not lessen his exposure under fire, but he continued so exposed until he had placed his command under cover.

In moving to the assault of San Juan, Colonel Roosevelt was most conspicuously brave, gallant, and indifferent to his own safety. He, in the open, led his regiment. No officer could have set a more striking example to his men or displayed greater intrepedity.

Very respectfully, your obedient servant, Colonel, U.S. Army, Superintendent of West Point.

The second piece of correspondence, December 17, 1898:

I hereby certify that on July 1, 1898, Colonel, then Lieutenant Colonel, Theodore Roosevelt, 1st Volunteer Cavalry, distinguished himself throughout the action, and on two occasions during the battle when I was an eyewitness to his conduct, was most conspicuous and clearly distinguished above other men as follows:

Number one, at the base of San Juan, or first hill there was a strong wire fence or entanglement in which the line hesitated under grueling fire and where the losses were severe.

Mr. Speaker, I would insert parenthetically that Roosevelt's unit that day sustained higher casualties than any other unit engaged in the battle.

Returning to the text:

Colonel Roosevelt jumped through the fence, and by his enthusiasm, his example and courage, succeeded in leading to the crest of the hill a line sufficiently strong to capture it.

In this charge, the cavalry division suffered its greatest loss, and the Colonel's life was placed in extreme jeopardy owing to the conspicuous position he took in leading the line and being the first to reach the crest of that hill while under heavy fire of the enemy at close range.

Number two, at the extreme advance position occupied by our lines, Colonel Roosevelt found himself the senior, and under instructions from General Sumner to hold that position, he displayed the greatest bravery and placed his life in extreme jeopardy by unavoidable exposure to severe fire while adjusting and strengthening the line, placing the men in positions which afforded best protection; and his conduct and example steadied the men by severe but necessary measures to prevent a small detachment from stampeding to the require.

He displayed the most conspicuous gallantry, courage, and coolness in performing extraordinarily hazardous duty. Captain, 1st Lieutenant, U.S. Cavalry.

December 30, 1898:

I have the honor to recommend that Theodore Roosevelt, late Colonel of the 1st Volunteers, U.S. Cavalry, receive the Medal of Honor as a reward for conspicuous gallantry on July 1st, 1898. Colonel Roosevelt, by his example and fearlessness, inspired his men at both Kettle Hill and the ridge known as San Juan. He led his command in person, and I witnessed Colonel Roosevelt's action.

I hereby certify that on July 1st, 1898, at the Battle of San Juan, Cuba, I witnessed Colonel Roosevelt, then Lt. Col. Roosevelt, First Volunteer Cavalry, United States Army Mounted, leading his regiment in the charge on San Juan. By his gallantry and strong personality, he contributed most materially to the success of the charge of the Cavalry Division up San Juan Hill.

Mr. Speaker, I have further eyewitness documentation, but in the interests of time, let me simply conclude by speaking extemporaneously.

Those who served with Theodore Roosevelt never doubted his courage. The men who went up the hill with him that day for the rest of his life and for the rest of their own, remembered a man of extraordinary courage who, in time of battle, displayed himself to enemy fire with absolute fearlessness.

There is absolutely no historic doubt that after being recommended by his commanding officer, as pointed out by the gentleman from Indiana (Mr. BUYER), himself a recipient of the Medal of Honor, and the two senior officers next in the chain of command, Theodore Roosevelt was denied the Congressional Medal of Honor because he was then publicly engaged in an unrelated political dispute with the Secretary of War, who never quite found time to sign the recommendation that had been fully endorsed by the military chain of command.

After Theodore Roosevelt died, his widow, Edith, said that having been recommended for the Congressional Medal of Honor and having not received it was one of the most significant disappointments of Roosevelt's' life.

Let me conclude with this, Mr. Speaker, if I may. I admire Theodore Roosevelt, the President, tremendously, but after 26 years as a United States Marine, I would not recommend any man, including Theodore Roosevelt, for the Congressional Medal of Honor unless I believed deep in my heart that he had, through the display of valor, earned that decoration in battle. Mr. Speaker, I am absolutely convinced that that was the case.

Because of political intervention, a man who later became President of the United States but who on that day was simply a very, very brave lieutenant colonel was denied the medal for which he had been properly recommended.

It has been 100 years. Mr. Speaker, we today, in the memory of a great President and perhaps an even greater warrior, we have the opportunity to reverse a century of injustice by granting to Theodore Roosevelt, not President Roosevelt but Lt. Col. Theodore Roosevelt, the medal that he earned in battle.

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

Mr. BUYER. Mr. Speaker, I yield 4 minutes to the gentleman from Long Island, New York (Mr. LAZIO), who has worked very hard on this, along with the gentleman from Pennsylvania (Mr. MCHALE).

Mr. LAZIO of New York. Mr. Speaker, I want to begin by thanking the gentleman from Indiana (Mr. BUYER) for his leadership in bringing this to the floor. I also would like to acknowledge the great work of many different people who are not here in the Chamber, but who were instrumental in giving us the factual basis for this, including the Theodore Roosevelt Association, Tweed Roosevelt, James Roosevelt, and many others.

I rise in strong support of this bill to authorize the President to award the Medal of Honor to that great Long Islander, Theodore Roosevelt. Teddy Roosevelt was a man of honor, a man who held tightly to his ideals and stayed true to them in the face of adversity. The gentleman from Pennsylvania (Mr. PAUL MCHALE) too is such a man, and I cannot think of a more fitting tribute before he leaves this House than to pass this bill and to have it signed into law.

Theodore Roosevelt is a personal hero of mine. His leadership at the Santiago Heights is one of the reasons I admire him so. There were legions of men on the battlefield that day, and Teddy Roosevelt was just one, but unique among many, he seized the moment, cast aside all regard for personal safety, and he made history. He made history because of a choice he made in the face of danger, in the face of death. While we generally do not have to guard our lives because of the decisions we make here, we do have to guard our honor. I look to Theodore Roosevelt as an inspiration.

As has been remarked earlier, Roosevelt was a great President and a great statesman, a Nobel Peace Prize winner, an author, a conservationist, a reformer, a trustbuster, a great Commissioner of Police in New York City, a great Governor of the State of New York.

But for none of those reasons are we here today, as the gentleman from Pennsylvania (Mr. MCHALE) said. It is because of what he did on that fateful day on July 1, one hundred years ago.

We speak more and more about role models in our society. Roosevelt was a role model of the first order. He told the truth. He did what he promised to do. He was an acknowledged inspiration to another Roosevelt, Franklin Delano. He remains a role model for all Americans.

The same character that made Theodore Roosevelt a role model also made him a hero. America could use some of that character right now. Today we have the marvelous opportunity to correct an injustice and complete the historical record. We have an opportunity to help grant Theodore Roosevelt the Medal of Honor that he so richly deserved 100 years ago. He does not deserve it because of what we say now in this Chamber, but because the historians and his contemporaries tell us he does.

Roosevelt's heroism on July 1 of 1898 has been documented. With his cavalry pinned down and taking heavy casualties, he fearlessly, on horseback, charged Kettle Hill, armed only with a revolver, knowing that his men would follow. The Rough Riders' heroic assault, with the brave Buffalo Soldiers and others, assured a quick victory, seized the high ground, and saved many lives.

Despite being recommended for the Medal of Honor by his superiors and subordinates alike, including those that have been referenced who have won the Medal of Honor themselves, the Secretary of War, Russell Alger, denied the medal out of personal dislike for Roosevelt.

Many others disagreed about this, but it was clear the medal was not denied on the merits; some say it was because Roosevelt called to have his troops brought back so they would not face further losses as a result of yellow fever, some because they felt Roosevelt was so exuberant, some because Roosevelt was simply a volunteer. But it was not based on the merit.

The Medal of Honor citation for Lt. Col. Wendell Neville during the Mexican Campaign of 1915 could easily be inserted in a citation for Theodore Roosevelt. It reads as follows:

> His duties required him to be at points of great danger in directing his officers and men, and he exhibited conspicuous courage, coolness, and skill in his conduct of the fighting. Upon his courage and skill depended, in great measure, success or failure. His responsibilities were great and he met them in a manner worthy of commendation.

In the modern age, individual cases of heroism occur, but the weapons of today open opportunities for unprecedented individual achievements in combat.

In the formal application I have submitted to the Army I cite the action of a Platoon Sergeant McLeery during the Vietnam War. McLeery singlehandedly assaulted a hilltop Vietnamese bunker complex, firing his machine gun from the hip and tossing grenades at the enemy. Upon reaching the top of the hill, McLeery shouted encouragement to his platoon, who then joined him in the assault. McLeery then began a lateral assault on the bunker line.

□ 1600

His modern weapons made possible the damage; however, his success was due to his leadership and his courage. The Medal of Honor is not made of machine guns, grenades, or killed enemies, but of uncommon valor, of courage, and of leadership. Strip away the weaponry, and Roosevelt's leadership and courage at Santiago is of the same caliber.

A hundred years ago an error was made. It is time to right this wrong. It is time to give Theodore Roosevelt the medal he earned in the closing years of the last century. It is time for justice.

Mr. BUYER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California (Mr. COX) the chairman of the policy committee.

Mr. COX of California. Mr. Speaker, I rise in support of this resolution to recognize Theodore Roosevelt with the Medal of Honor, and in support of the

two veterans of the armed services, the gentleman from Indiana (Mr. BUYER) and the gentleman from Pennsylvania (Mr. MCHALE) who have dignified us with this effort to bring it to the floor.

Mr. Speaker, I want in particular to recognize one of those two sponsors, because he is going to be leaving us at the end of this Congress which is close upon us. I listened the gentleman from Pennsylvania read about Teddy Roosevelt and describe to us the qualities that he possessed and the very reasons that he should receive this honor.

Mr. Speaker, during the gentleman's tenure in Congress, he has been exposed to severe fire, metaphorically, but nonetheless truly. He has led his colleagues and his countrymen by his conduct and his example.

I came to work with the gentleman from Pennsylvania when the President was preparing to send troops to Bosnia, and I know the gentleman from Indiana (Mr. BUYER) did as well. In meetings with him, with the President, the Vice President, the Secretary of State, and other Members of the administration, the gentleman from Pennsylvania was always enormously well prepared, always articulate, and always made his points with compelling logic.

His patriotism has always been evident. Upon his retirement, we can do no less than to honor him by passing this bill and by recognizing that the extraordinary qualities that Teddy Roosevelt displayed are qualities that the gentleman also possesses.

Mr. MCHALE. Mr. Speaker, I thank the gentleman from California for his kind words.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from California (Mr. ROHRABACHER), a dangerous proposition in this case.

Mr. ROHRABACHER. Mr. Speaker, I find myself on this side of the aisle in order to honor the gentleman from Pennsylvania (Mr. PAUL MCHALE) and thank him very much. I would like to associate myself with the remarks of the gentleman from California (Mr. COX). I think that he summed up the admiration that all of us have for the gentleman from Pennsylvania and an admiration that will go with him in the years ahead.

Mr. Speaker, it was 100 years ago this year that Teddy Roosevelt led his Rough Riders in the Battle of San Juan Hill, which was a decisive battle of the Spanish-American War. History has long overlooked the significance of that battle and the significance of that war, as well as the heroism of Colonel Teddy Roosevelt.

Had the battle of San Juan Hill been lost, America's expeditionary force would likely have been stuck into a no-win conflict, mired down with thinning ranks, troops being thinned, yes, from disease and from lack of competence on the part of our own country in terms of the art of fighting a war.

In fact, at that time we did not know how to transport our troops. We did not know how to supply our troops. And many more of those people who volunteered, those young heroes who volunteered during the Spanish-American War died of eating tainted meat than they did from enemy bullets, because our country did not have the expertise. And if it had not been for the determination and the courage and the gallantry of men like Theodore Roosevelt, that war would have turned out differently.

We need to ask ourselves as Americans, as we look back on this long forgotten war in the last century, what would the America that we know have been like had we lost that war? Most certainly had we lost that small war, America's attitude towards involvement in the world would have been totally different. The American "can do" consciousness that was so much a part of the 20th century would not have been a part of the decision-making process of our leaders and of our people when the great threats to all mankind emerged in the 20th century. That of Naziism, Fascism, Japanese militarism, and communism.

Instead, America faced the 20th century with a positive sense of destiny; that we were meant to be a positive force in the world. This can be tied back to the success of that small war, that forgotten war, the Spanish-American War and Teddy Roosevelt's pivotal moment in American history.

Teddy Roosevelt, in leading his troops up San Juan Hill, showed as much gallantry, and we have heard the evidence today, as our Medal of Honor winners. He exposed himself to the withering fire of the enemy and literally led his troops on horseback and making a target out of himself.

Yes, Teddy Roosevelt deserved the Nation's highest award and politics, as we heard, got in the way. Let us today pay this long overdue honor to this American President and this American hero.

Mr. Speaker, I would like to thank the gentleman from Indiana (Mr. BUYER), and also like to say thanks to my good friend and colleague the gentleman from Pennsylvania (Mr. MCHALE) who is going to be leaving this House, but he will be with us. Thanks to his efforts, we are expressing the appreciation in this long overdue tribute.

Teddy Roosevelt's courage and leadership in this battle, and his indomitable spirit, did much to shape the American character. We are giving him thanks today. It has also been stated by another friend who is also leaving, the gentleman from New York (Mr. SOLOMON) that Teddy Roosevelt was also the winner of the Nobel Prize. And if we succeed today, and I hope we do and I hope this goes through the legislative process, Teddy Roosevelt will be the only individual in history to have earned both the Medal of Honor and the Nobel Peace Prize. I think that is a fitting tribute for a man who represented so much and did so much to shape the 20th century, the American century.

Mr. Speaker, I rise in support of this resolution.

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

Mr. Speaker, as I reviewed this case, a list of words come to mind. I want to share them. They are words that come to mind with regard to Teddy Roosevelt and his gallantry. They are virtues and ideals and values that we can all admire. I think about valor, bravery, gallantry, courage. He was audacious. He was bold. He was dauntless, fearless, gutsy. He had intrepid character. He was valiant, stalwart, steadfast. Yes, venturesome and daring.

And then I add three more: Bold-hearted, brave-hearted and lionhearted.

Those words, yes, apply to Teddy Roosevelt and his conspicuous valor and gallantry on that day, and that is why I believe this House should overwhelmingly pass this resolution to authorize the President of the United States to award the Medal of Honor to one of our great presidents, Theodore Roosevelt.

Let me conclude and say to my very dear friend, as you go home to your family, this Congress will miss you, the country will miss you, but more importantly, I am going to miss you, my friend.

When I think about bold-hearted and brave-hearted and lion-hearted, I think of PAUL MCHALE, because your heart is in the right place, my friend. Godspeed to you, and that phone is two-way. Do you hear me?

Mr. MCHALE. I do.

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

Mr. MCHALE. Mr. Speaker, I yield myself such time as I may consume for concluding remarks.

Mr. Speaker, is it too late to announce my reelection campaign? Had all these nice things been said about me a year ago I might have run again.

Mr. Speaker, Mr. Roosevelt, Tweed Roosevelt, I am delighted and honored that you are here with us today. Throughout the entire presidency of Theodore Roosevelt our forces were never ordered into battle. Theodore Roosevelt understood that the ultimate purpose of military power is to deter conflict and he, in fact, achieved that goal during his presidency.

I have had the opportunity on a number of occasions to go to the Roosevelt Room at the White House, where the Nobel Prize awarded to Theodore Roosevelt for his efforts in negotiating a peace in the Russo-Japanese War remains on display.

I can think of nothing more fitting for Theodore Roosevelt and in fact I

can think of nothing more emblematic of our Nation than one day, following this action, to have the Congressional Medal of Honor on that mantle for display immediately adjacent to the Nobel Peace Prize.

We are a nation that reveres peace. We do all that we can to achieve peace, and we are prepared to go to war only in those cases when necessary to defend the fundamental interests and liberty of the citizens of our Nation.

We abhor war. We strive for peace. Those two medals, side-by-side, on display in the Roosevelt Room, would capture much of Theodore Roosevelt and all that is good in our Nation.

Mr. Speaker, in a couple of moments, when it is procedurally proper, I am going to call for a recorded vote. We have little time remaining in this Congress. It is imperative that the other body act within the next 24 to 48 hours. In order to impress upon the other body the sincere, overwhelming support of the membership of this House, I will call for a recorded vote so that the transmittal of that voting tally may, on the other side of the Capitol, provide an incentive for prompt consideration in the other body.

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

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE). Before putting the question, the Chair would remind all Members that pursuant to clause 8 of rule XIV it is not in order to recognize or call to the attention of the House any occupant in the gallery.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (Mr. BUYER) that the House suspend the rules and pass the bill, H.R. 2263.

The question was taken.

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

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

FURTHER PROVIDING FOR CONSIDERATION OF H.R. 4274, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 105–798) on the resolution (H. Res. 584) further providing for consideration of the bill (H.R. 4274) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1999, and for other purposes, which was referred to the House Calendar and ordered printed.

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 584 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 584

Resolved, That during consideration of the bill (H.R. 4274) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1999, and for other purposes, in the Committee of the Whole House on the state of the Union pursuant to House Resolution 564—

(1) general debate shall not exceed one hour; and

(2) amendments numbered 2 and 3 in House Report 105–762 shall be in order before consideration of any other amendment.

The SPEAKER pro tempore. The gentleman from California (Mr. DREIER) is recognized for one hour.

Mr. DREIER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to my friend from Fairport, the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded will be for purposes of debate only.

Mr. Speaker, this rule provides for further consideration of the bill H.R. 4274, the Departments of Labor, Health and Human Services and Education appropriations bill for 1999, pursuant to H. Res. 564.

The bill will afford 60 minutes of general debate divided equally between the chairman and the ranking minority member of the Committee on Appropriations.

This rule makes in order, before consideration of any other amendments, the amendments numbered 2 and 3 that were printed in the report of the Committee on Rules that accompanied H. Res. 564.

Mr. Speaker, the House last week passed a rule to provide for consideration of this appropriations bill, the single largest appropriations bill that comes before the Congress. The health care, medical research, education and job training programs provided for in the bill touch the lives of tens of millions of American families. For that reason alone, the bill deserves consideration on the floor of the People's House.

Mr. Speaker, we all know that this bill is immersed in highly charged social issues and is very controversial. Some may be uncomfortable with those debates but they are a fact of life when Federal Government programs impose on areas of daily life which for so long were outside the purview of Washington, D.C.

When that happens, deep and often emotional questions about values will be raised. We can expect nothing less. I applaud the work of my friend from Wilmette, the gentleman from Illinois (Mr. PORTER), for tackling the challenges put before his committee in as commendable a fashion as possible. His bill deserves a fair hearing on the House floor.

□ 1615

This rule, that was already approved by the House, along with this modification, will allow us to engage in what will certainly be a spirited debate that is worth having. I urge Members on both sides of the aisle to recognize that fact and support this rule.

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

Ms. SLAUGHTER. Mr. Speaker, I thank my colleague, the gentleman from California (Mr. DREIER), for yielding me the customary half-hour, and I yield myself such time as I may consume.

Mr. Speaker, this rule is unprecedented. The House has already passed an open rule for the consideration of the Labor-HHS and Education bills. The second rule we are being asked to approve tonight is a rule that will block any real consideration of that bill.

Instead, this rule's extraordinary procedure is designed to give a single special interest group a vote that it wishes to use in a voter scorecard before the election. Once we take that vote, the appropriations bill will be pulled from the floor.

Subverting the House's legislative process for this cynical political ploy typifies the majority's actions this entire session. The do-nothing majority continues to put its own special interest politics before the public good. We have seen bill after bill manipulated for partisan purposes, forcing Members to take votes for purely partisan political reasons. We knew these bills would never be enacted into law, but each provided a sound bite for some special agenda.

In the meantime, this majority has failed in its most basic responsibility. For the first time since the Congressional Budget Act was passed 24 years ago, Congress has not passed a budget resolution. The law requires action on a concurrent budget resolution by April 15. That is many months ago. Six months later, the majority has still failed to pass a resolution.

Today, 8 days into the new fiscal year, only one of the thirteen appropriations bills has been signed into law, and only three other appropriations bills have even been sent to the President. On October 8, with nine appropriations bills still in the legislative process, and with only 2 remaining scheduled legislative days, the House is being asked to again ignore its statutory responsibilities.

Today, we are not taking up the Labor-HHS-Education bill in order to

move the process to a conclusion. A rump "conference committee" has been working on this bill for several days and this version is no longer the basis for further action. This new rule is designed solely to force a House vote on two contentious legislative amendments that amend a portion of the bill containing legislative language that does not even belong in the bill.

The rule would enable the House to proceed directly to a vote on a controversial provision in the second title of the bill, directly leaping over the Labor Department provisions and ignoring a number of important issues and amendments that deserve a full and fair debate in this chamber. Instead, the House would debate immediately an amendment offered by the gentleman from Pennsylvania (Mr. GREENWOOD) and a substitute to be offered by the gentleman from Oklahoma (Mr. ISTOOK) regarding parental consent for title X contraceptives distributed to minors.

Now, why is it so vital the House single out those two particular controversial amendments? There is only one reason. The majority has promised its far-right allies this vote to provide campaign fodder for the November election.

This is hardly a new issue. The House has voted on parental consent issues many times, most recently on last year's Labor-HHS-Education appropriations bill. Our positions are all clear on this matter. Yet the majority is kowtowing once again to another element, handing them a politically attractive vote a mere 25 days before the election.

Mr. Speaker, I have been proud to support Labor-HHS appropriations bills in the past, and I have enormous respect for its chairman, the gentleman from Illinois (Mr. PORTER), who is one of the finest persons I have served with in the House of Representatives. Nevertheless, this rule will not provide for real consideration of this most important bill.

This rule represents the most egregious example yet of the majority using its powers for partisan gain. I urge my colleagues to reject this ruse. This institution should be better than this procedural farce. With the Nation's business to do, we should not be pandering to a single interest group. Please vote against this rule.

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

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume to simply respond to the words of my friend from Fairport, and what I would say is that we have already considered this rule. We had a vote that took place on the rule. This is simply making what is really a minor modification to ensure that amendments numbered 2 and 3 are going to be considered under the constraints that were included in the rule that did pass the House.

There are many Members who have indicated that they want to have a full and fair debate on those issues, which I admit are controversial. Frankly, we have the responsibility of dealing with tough public policy questions, and they are among them.

And so with that, I would say that we can continue to hear charges of the do-nothing Congress and all of this sort of stuff that was used back in 1948; we can hear all sorts of name-calling, which we heard earlier during the debate, but I would just underscore again that this rule passed the House earlier this week. We have considered this issue. We have a couple of amendments that many of our Members want to have brought to the forefront, and I think that those Members have a right to be heard.

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

Ms. SLAUGHTER. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts (Mr. MOAKLEY).

Mr. MOAKLEY. Mr. Speaker, I thank my dear colleague and friend, the gentlewoman from New York (Ms. SLAUGHTER).

Mr. Speaker, today I am standing here on behalf of the thousands upon thousands of Americans who rely on the LIHEAP program to help heat their homes in the winter and cool them in the summer. As we celebrate an end to the budget deficit for the first time in years, these people are still wondering how they will keep their children warm this winter, and that, Mr. Speaker, is just plain wrong.

It is wrong to force people to choose between putting food on the table and heating their homes when the temperature outside is below zero. And it is not only limited to the cold climate, Mr. Speaker. During the heat wave that swept through the south this summer, over $100 million in LIHEAP funds were released to help the most vulnerable people suffering from those high temperatures.

Given how important this program is, given that it saves so many lives, and given the benefits that stretch from Maine to Mississippi, I am very disappointed that the Committee on Appropriations has decided to eliminate this program entirely.

Mr. Speaker, the people who this program helps are not the well-off people. Two-thirds of the people that this program is aimed at make less than $8,000 a year. And during periods of extreme cold or extreme heat they have to choose between paying their utility bills and paying their grocery bills.

Let me give my colleagues an example. I have here a letter from a retired veteran who lives in South Boston. He is a veteran of the Korean War. And he explained in this letter that he gets by on about $100 a week. I would just like to read part of this letter. It says:

> Joe, why would anyone want to cut this heating program? It really helps us veterans in the winter. Sometimes you can't afford to heat your room and eat at the same time. What's the matter with the politicians when they want to destroy us veterans and the elderly?

Mr. Speaker, to tell the truth, I do not know how to answer this letter, and I suspect many of my colleagues feel the same way when they get similar letters.

Mr. Speaker, because the LIHEAP program has always received bipartisan support, my Republican colleague, the gentleman from New York (Mr. JACK QUINN), and I have sent a letter to the chairman of the Committee on Appropriations asking for full funding of LIHEAP. This letter was signed by over 200 Members of the House, Democrats and Republicans alike, in a true bipartisan movement. And until this appropriations bill contains funding for the LIHEAP program, I urge those 200 Members to join me in opposing this rule.

With the budget finally in the black, with prosperity affecting millions upon millions of Americans, now is not the time to forget about the elderly. Now is not the time to forget about the poor.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume. I have the highest regard for my friend from South Boston, and I would say to him, as we consider debate on this rule, which again is simply a modification of the rule that already passed the House, I think it is important to note that the LIHEAP program is something that I understand has actually had an increase in funding in the manager's amendment; and the next thing would be in order under this rule, following consideration of amendments numbered 2 and 3, would, in fact, be the manager's amendment, which would include that increase.

I do not want to get into a big debate on the LIHEAP program itself, but I will say that if we look at the program that was put into place in the mid 1970s, at the height of the energy crisis, it was done so, in large part, to deal with that very serious need that was out there. Today, taking inflation into consideration, it is very clear that the cost of energy is substantially lower than it was even in those days in the 1970s. And the LIHEAP program was established, in large part, to provide reimbursement to the States, many of which had very, very serious deficit problems themselves at that point, and now most States are, in fact, running a surplus.

So I would say that I think my friend raises some very interesting questions about the LIHEAP program, and I would argue that those could, in fact, be considered following the consideration of this rule when they move ahead with the Labor-HHS appropriations bill. And, again, the manager's amendment would, in fact, be the next thing in order.

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

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. MOAKLEY).

Mr. MOAKLEY. Mr. Speaker, is the gentleman saying that this matter is dealt with in the manager's amendment in this rule?

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

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

Mr. DREIER. Mr. Speaker, I would say to the gentleman that it is my understanding that the manager's amendment, that would be next to be considered after passage of this rule, after we consider the amendments numbered 2 and 3, the manager's amendment would be in order. And it is my understanding there is, in fact, an increase in funding for the LIHEAP funding. Am I wrong?

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

Mr. MOAKLEY. I yield to the gentleman from Wisconsin.

Mr. OBEY. Let me say, Mr. Speaker, there is not an increase in the LIHEAP program in the manager's amendment. There is an increase from zero. But the program level last year was over a billion dollars. So it is an 85 percent reduction. Thanks for small favors.

Mr. DREIER. Mr. Speaker, If the gentleman will continue to yield. I was correct, then, an increase from zero. There is, in fact, an increase in that.

Mr. MOAKLEY. Reclaiming my time, Mr. Speaker, I would just tell the gentleman that that increase still represents about a half a billion dollar decrease.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I rise in opposition to this astonishing rule. The Labor-HHS bill has often been described by both Democrats and Republicans as the people's bill. It reflects our priorities as a Nation, the health, the education and employment of our children and our families.

What, then, does this rule reveal as Republican priorities? Will we debate full funding for the Low Income Home Energy Assistance Program, which helps poor seniors and families with children heat their homes without sacrificing prescriptions or food? No, we are not going to do that.

Will we debate the elimination of the summer jobs program, which provides summer employment for nearly half a million teens who would otherwise be employed in this country? No, we are not going to do that.

Will we debate the $2 billion shortfall in education funding in this bill? The need for modern schools, so that our children can learn the skills that they need to get the good jobs of the 21st century? The need to reduce class size, train more teachers, ensure that every child gets the attention and the discipline that he or she needs in order to be able to learn? No, we are not going to do that.

Will we debate funding for child care, to ensure that children have safe places to learn while their parents are at work? Will we debate after-school care, to keep kids off our streets and out of trouble in the hours after school ends and before mom and dad get home? No, we are not going to debate that.

What, then, will we debate? What is the Republican right wing's highest priority? Legislation requiring parental consent for birth control, which will violate State laws, frighten teens away from receiving the counseling and screening for sexually transmitted diseases that they need to stay healthy, and increase teenage pregnancy and abortions.

Certainly, this is an important issue. I believe teens should talk to their parents before making these decisions. But it is not more important than all of the priorities represented in this bill.

□ 1630

I urge my colleagues to vote against this rule.

Mr. DREIER. Mr. Speaker, yielding myself such time as I may consume, I would just again tell my colleagues that this is fascinating to continue the debate that we had earlier on a virtually identical rule. We look forward to addressing all of these questions, if we can proceed. I would reserve the balance of my time in hopes that we could move ahead, have a vote on the rule and then move ahead with the work on the appropriations bill so that LIHEAP and everything else can be debated.

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

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise to speak against this rule. Members heard the arguments on LIHEAP and they have heard the arguments on the elimination of summer jobs. But I also want to point out one other area, and that is the President's education initiatives that have been eliminated by $2 billion. We sit here and talk about tax breaks and we have passed a bill to remove the cap to increase persons coming in, immigrants, for jobs because we do not have them prepared, but yet we are gutting the part of this budget that would prepare our young people for the future. We have gutted Goals 2000 which brings our parents much more involved into the education planning for our students. The technology literacy challenge fund has been eliminated, the Eisenhower professional development grants being eliminated, title I grants and safe and drug-free schools.

We have heard arguments all year long about the increase of drug usage of our students. Yet we are eliminating those dollars that can help eliminate the drug use to educate and treat young people who have gotten involved in drugs.

I do not understand the logic of why we are making tax breaks and immigration more of a priority than preparing our own young people for the future. It does not make sense. I ask my colleagues to vote against this rule.

Ms. SLAUGHTER. Mr. Speaker, I yield 6½ minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, I would like to ask a simple question. What in God's name are we doing bringing up this bill at this point? The authority for the government to remain open expires in 1 day. We still have seven major appropriation bills, funding more than half the government, that have still not been acted upon. And if they are not, a whole lot of government will not be operating two days from now. Yet we are about to debate a bill which is going nowhere.

Now, we have been trying to get together to resolve the remaining differences on the seven major appropriation bills that have still to be disposed of so that we can finish our work, keep the government open and go home. We have some rather major problems. If anybody has noticed what has been happening today and yesterday with the stock market and NASDAQ, you have a huge collapse on your hands. And it is probably going to get a lot worse. We are trying to figure out how to reach agreement on things as controversial as the IMF. We have been trying to get to a meeting since 10 o'clock this morning between the principal conferees on the labor-health-education budget, and we have a wide variety of other disputes that are preventing us from finishing our work.

I would point out that while the press seems to be under the impression that there are only five or six items that still are in dispute, we have over 300 open issues that are still highly controversial that must be resolved before tomorrow night. Yet we are being asked now to begin debate on a bill which we know is going nowhere.

This bill is so extreme that the Republican majority in the Senate has shoved it aside and produced an entirely different bill. We have yet to finish action on the Labor-Health bill, the Transportation bill, the State-Justice-Commerce bill, the Foreign Operations bill, the District of Columbia bill, the Ag bill is being vetoed so we have to deal with that one again. We have the Interior bill that still is not passed. Yet what is happening? This Congress is being tied up on bill after bill on one issue, sex. On the Treasury-Post Office

bill, that bill has been hung up and still remains at issue because of resistance to insurance coverage on contraception on the part of some members of the majority party. The Agriculture bill was held up for many weeks because of a strong feeling on the part of some members of the majority party that the FDA ought to impose a ban on another birth control device. The State-Justice-Commerce bill is being held up on an issue relating to abortions in prison. The Foreign Operations bill, which is our basic foreign policy document in the appropriations area, is being held up because you have a small group of persons in the majority party who insist that if they do not get their way on the international family planning issue, the entire bill will be held hostage. And now we are asked to bring this bill up and debate the issue of family planning services once again. That issue is being brought up not to resolve anything on the House floor but to resolve a difference within the Republican Caucus between a group that calls themselves moderates and a group that calls themselves conservatives.

I just want to say, sometime, sometime it would be nice if this Congress stops being bogged down on this issue, if we could quit debating bills that are not going anywhere so that we can get in the rooms and work out the differences on bills that are going somewhere and must go somewhere so that we can finish our work on time. This debate does nothing but satisfy political problems within the majority party caucus on a bill that is going nowhere.

MOTION TO ADJOURN

Mr. OBEY. I think that is a terribly destructive waste of time, and that is why, Mr. Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore (Mr. LATOURETTE). Does the gentleman yield back the time to the gentlewoman from New York before making his motion?

Mr. OBEY. Yes, Mr. Speaker.

The SPEAKER pro tempore (Mr. LATOURETTE). The question is on the motion to adjourn offered by the gentleman from Wisconsin (Mr. OBEY).

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

Mr. OBEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 58, nays 349, not voting 27, as follows:

[Roll No. 499]

YEAS—58

Ackerman
Allen
Andrews
Becerra
Brown (CA)
Clayton
Conyers
DeFazio
Delahunt
DeLauro
Dicks
Evans
Farr
Fazio
Filner
Frank (MA)
Furse
Gephardt
Hall (OH)
Hastings (FL)
Hefner
Hinchey
Jackson-Lee (TX)
Johnson (WI)
Johnson, E. B.
Kilpatrick
LaFalce
Lee
Lewis (GA)
Lowey
Maloney (NY)
Manton
Martinez
Matsui
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Miller (CA)
Mink
Moakley
Obey
Olver
Owens
Pastor
Pelosi
Rodriguez
Sabo
Scott
Slaughter
Spratt
Stark
Strickland
Towns
Waters
Woolsey
Yates

NAYS—349

Aderholt
Archer
Armey
Bachus
Baker
Baldacci
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
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 (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Clay
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
DeLay
Deutsch
Diaz-Balart
Dickey
Dingell
Dixon
Doggett
Dooley
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Everett
Ewing
Fattah
Foley
Forbes
Ford
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Gutierrez
Gutknecht
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hunter
Hyde
Inglis
Istook
Jackson (IL)
Jefferson
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lucas
Luther
Maloney (CT)
Manzullo
Markey
Mascara
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Minge
Mollohan
Moran (KS)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Northup
Norwood
Nussle
Oberstar
Ortiz
Packard
Pallone
Pappas
Parker
Pascrell
Paul
Paxon
Payne
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Salmon
Sánchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Stabenow
Stearns
Stenholm
Stokes
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
Wicker
Wilson
Wolf
Wynn
Young (AK)
Young (FL)

NOT VOTING—27

Abercrombie
Baesler
Barr
Buyer
Christensen
Cunningham
Doyle
Ensign
Fawell
Fossella
Greenwood
Harman
Hulshof
Hutchinson
Kennedy (RI)
Kennelly
Moran (VA)
Ney
Oxley
Pickering
Poshard
Pryce (OH)
Ryun
Wamp
White
Whitfield
Wise

□ 1659

Messrs. STUMP, ETHERIDGE and KENNEDY of Massachusetts changed their vote from "yea" to "nay."

Mr. YATES and Mr. CONYERS changed their vote from "nay" to "yea."

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. ABERCROMBIE. Mr. Speaker, earlier this afternoon, when the House voted on a motion to adjourn, I was unavoidably detained. I was conducting a satellite teleconference with the Deputy Assistant Secretary of the Treasury to constituents in Honolulu discussing the financial crisis in East Asia and the International Monetary Fund. Had I been present, I would have voted no.

FURTHER PROVIDING FOR CONSIDERATION OF H.R. 4274, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The SPEAKER pro tempore (Mr. LATOURETTE). The Chair would advise that the gentleman from California (Mr. DREIER) has 24½ minutes remaining, and the gentlewoman from New

York (Ms. SLAUGHTER) has 12 minutes remaining in the debate on the rule.

Mr. DREIER. Mr. Speaker, moving right along in an expeditious manner, as we have been trying to throughout the day on most of the questions we have faced here, I yield 4 minutes to the distinguished gentleman from Oklahoma City, Oklahoma (Mr. ISTOOK), a member on the Committee on Appropriations.

Mr. ISTOOK. Mr. Speaker, I rise in support of the rule regarding the appropriations measure on Labor, Health and Human Services, and Education.

There has been a lot of work, of course, that has gone with this bill, as there always is, this being one of the largest spending bills each year that comes before the House.

I especially want to compliment the chairman of the Subcommittee of Labor, Health and Human Services, and Education, the gentleman from Illinois (Mr. PORTER). This is always a very difficult bill, bringing together, as it does, so many different issues, so much major funding. The gentleman from Illinois (Mr. PORTER) has gone to great pains to work with a large number of Members who had concerns over this measure.

I know the gentleman is personally very pleased with the additional funding for medical research through the National Institute of Health, which are in this bill, the efforts to increase the efficiency of the money that actually reaches the classroom through Federal funding for education, whether it be through different block grants and things such as impact aid. I know the gentleman from Illinois (Mr. PORTER) has been very diligent in that.

Mr. Speaker, there is one particular portion of the bill, however, that I want to make sure that I mention. A part of this bill each year involves Federal family planning funds under title 10 as it is called. In the Federal Family Planning Program of title 10, within the bill, is a measure which was adopted in the Committee on Appropriations in consultation, of course, with the authorizing committee involved to make a major reform in that particular program.

Mr. Speaker, 1½ million teenagers each year receive services under the title 10 Family Planning Program. Some of it is treatment for sexually transmitted diseases. Some of it is providing contraceptives and counseling to young people.

Since this program has been in place since 1971, however, which provides a mechanism for Federal dollars to provide contraceptives to teenagers with neither the knowledge nor consent of their parents, since that time, Mr. Speaker, the out-of-wedlock pregnancy rate among teenagers in America has doubled.

We hear a lot of talk about family involvement in major issues of our times, and certainly the rate of teenage pregnancy is one of those.

The measure adopted by the Committee on Appropriations has been desired by a great many American families for a great number of years. It says, in most simple terms, that an unemancipated minor, a teenager who is still dependent upon their parents, should not be provided contraceptives at Federal taxpayers' expense unless their parents are notified.

This does not apply to any particular other types of services. This does not, for example, say that parents have to be notified if it is some sort of emergency medical care. But if taxpayers' money is to be used to pay for future sexual activity by a teenager, this simply says that the parent ought to be notified.

As the parent of teenagers myself, Mr. Speaker, I know that they cannot receive pierced ears without parents being notified. They cannot go on field trips or get aspirins at school without parents being notified.

Yet Federal taxpayers' dollars are used to provide contraceptives to teenagers and the parents are never told. If my child were picked up for using drugs or using alcohol, I would expect to be notified.

The real tragedy is that there is not even notification for children who are below the age of consent. We have laws on the books in this State on statutory rape, contributing to the delinquency of a minor, taking indecent liberties with a minor, and so forth, and the title 10 clinics ignore those laws. They neither report violations of them to the parents nor to law enforcement authorities.

This bill has reforms in it that says they will provide notification in both of those instances. It is a very important measure to try to get parents involved in monitoring and helping with the life and the problems and the circumstances of their youth.

This measure needs to be preserved in this bill. We will have debate on measures to take it out. It is important that we keep it in.

Mr. Speaker, I urge adoption of the rule.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. KENNEDY).

Mr. KENNEDY of Massachusetts. Mr. Speaker, I rise in strong opposition to this rule, and I do so because I recognize that, while there is a political purpose being served by the use of the marshal law tactic to go in and select out one particular provision of the Labor-HHS bill and to use this chamber to then debate just that particular provision for the next few hours, what we are doing, and for political purposes because the Republicans feel they can win on that issue, but what they do not talk about are the other provisions that are hidden in this bill, provisions like eliminating the Federal Fuel Assistance Program, eliminating the program to provide summer youth jobs to hundreds of thousands of children all across our country who in the middle of summer need to go to work.

What we are not seeing is a debate about whether or not we believe as a Congress, whether the Republicans agree in the Congress, that what we ought to do is go out and cut the Federal Fuel Assistance Program, cut a program that millions of Americans count on and will count on this winter to make sure that they stay warm.

We are in a situation where we read in the newspaper about how well America is doing and how much money the wealthy in our country have made and how the unemployment rate is down and the inflation rate is down and the stock market up, until the last month or so used to be up.

But what we do not read about are the millions and millions of very poor people. We do not read about the hundreds of thousands of senior citizens that every winter hang blankets across parts of their houses because they simply cannot afford to keep those houses warm, that have to choose between having a hot meal or staying warm in their beds at night.

How many times do we have to have our elderly people suffer because they do not get enough money in Social Security? Then we turn around in this bill and cut a billion dollars out of the money, the Federal tax monies to go into this program.

My colleagues say, well, we do not have the billion dollars. I will tell them something. The money is in this bill. There is plenty of money in this bill to pay for fuel assistance. The fuel assistance program was paid for years ago.

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

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, this Labor-HHS appropriations bill makes me believe that some of my colleagues in the majority party would benefit from spending time back in the classroom. The numbers in this appropriations bill simply do not add up.

From Head Start through higher education and into the workplace, this bill shortchanges the vast majority of Americans.

I am most concerned about the damage done to American school children in this bill. The funds for education do not make the grade. Those of us who have done our homework know that overcrowded classrooms are one of the biggest obstacles to improving education for our children.

What parents and teachers already know is that smaller class size makes for better learning experiences and results in better grades. In fact, even the

very Republican governor of my home State of California has made smaller classes a priority in our State.

But it costs money, Mr. Speaker. It costs money to reduce class size, because smaller classes mean more training and more teachers that need to be hired. Smaller classes mean building more classrooms.

This bill does nothing to help schools reduce class size. It cheats our students out of funds they need to get a good education. It deserves to fail.

This bill particularly fails teenagers. This Republican effort, Mr. Speaker, is designed to give the right wing "score card" information before the November 3 election and, in doing so, force young women to risk unwanted pregnancy and sexually transmitted disease.

Mr. DREIER. Mr. Speaker, I am happy to yield 1 minute to my very good friend, the gentleman from Illinois (Mr. MANZULLO).

Mr. MANZULLO. Mr. Speaker, I rise in favor of the rule. It is important we pass this rule because we will have on the floor a very interesting story of a 37-year-old schoolteacher who repeatedly statutorily raped his 13-year-old student, brought her to a title 10 clinic, which gave her birth control devices, a shot of Depo-Provera in the arm which led to very serious medical consequences on her part.

□ 1715

This will be an opportunity for Members of Congress to keep language that allows parents the right to be notified whenever their little girls are being given contraceptive devices.

The language that we will be asking people to support is the Istook-Barcia-Manzullo language, which is a perfecting amendment to the Castle-Greenwood amendment that will be offered on the floor.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Speaker, I thank the gentlewoman for yielding me this time and for her leadership. I rise in opposition to the rule on the Labor-HHS-Education appropriations bill.

This is a bill that should attend to the urgent human needs and lay the building blocks for our children's and our Nation's future. But this Republican-designed bill fails on both counts.

The rule proposed today is an example of the misplaced priorities of the Republican leadership. In an effort again to appease their radical right wing, the Republican leadership is proposing a rule that caters to those who would undermine family planning and ignores all of the critical priorities contained in this bill.

Mr. Speaker, when on earth will we be awakened to what should be our priorities in this legislation and in this Congress? When we get a report that over 1 in 5 children in America lives in poverty, when we know that tens of millions of individuals cannot afford health insurance, when we see that class sizes are too large and children are struggling to learn in schools that are in need of repair, workers deserve adequate safeguards to protect them from needless injury, and what are we talking about once again on this floor? Stopping funding for family planning.

It should be the mission of this House to attend to the urgent needs of the American people and to answer the call to address inequities in education, health care and worker safety. And it is through the Labor-HHS bill that we can do this to share the benefits of prosperity with those in need.

This bill abandons our children by slashing the administration's education initiatives, including education for the disadvantaged, Head Start, and Safe and Drug-Free Schools. It abandons workers by cutting OSHA workplace safety enforcement and mine safety. It deserts young people by eliminating or severely cutting the Summer Jobs Program and Out of School Youth Opportunities. It disregards the needs of the poor by eliminating or slashing home energy assistance, LIHEAP.

Mr. Speaker, this rule and this bill is bad policy and fails to attend to today's priorities. I urge my colleagues to vote "no."

Mr. DREIER. Mr. Speaker, I yield 2 minutes to the gentleman from Wilmington, Delaware (Mr. CASTLE), my very good friend.

Mr. CASTLE. Mr. Speaker, I thank the distinguished gentleman from California for yielding because he knows I am in opposition to this rule, and I am very, very strongly in opposition to it. Let me explain why I am opposed.

This has been a very controversial piece of legislation. Labor-HHS has had a lot of different aspects to it, all the way from LIHEAP to summer jobs, and a lot of people have questioned and have wanted to change it one way or another. Probably the most controversial of these items is what we are debating right here which is the amendments with regard to parental notification with respect to contraceptive drugs or devices.

As I understand it, and somebody correct me if I am wrong, essentially we are debating this rule and we are going to debate this bill, and then we are going to consider these two amendments, and we are not going to consider the rest of this bill, which is going to end up in the omnibus bill anyhow, so we are essentially down to setting up a mechanism by which we are going to vote on two very difficult amendments, and I happen to be a cosponsor of one of them, with a strong belief that it is the right way to go.

This is a heck of a way to legislate. This is a piece of legislation which has waited until little over 24 hours away the time that we are supposed to leave here and that probably would have taken 3 or 4 days on the floor if it had been done correctly, and here we are with a very truncated rule process in order to move forward on it. My judgment is it has little to do with being prochoice or prolife or anything of those things, it is a process question that we have here.

I hope that everybody in this Congress will step forward and oppose this rule. This simply is not a good way to do business. It is what happens at the end of sessions such as this, and this is a shining example of the wrong way to proceed.

So I would encourage each and every one of us, when the time comes for this vote, to come over here and to vote "no" on this rule, end this bill, and let happen what is going to happen, and that is it will be rolled into the omnibus bill and the appropriations which have to be done, hopefully will be done, that way.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentlewoman from New York for yielding me this time.

This is always a very difficult decision or decisions, plural, because this bill deals with Americans who are in pain. It deals with senior citizens, it deals with the mentally disabled, it deals with teenagers who are sexually abused by a parent or loved one and who are looking for relief if out of that sexual abuse comes an impregnation.

Yet now we come to the floor with the most acrimonious and destructive rule that I could imagine in these last waning hours of this Congress.

Today I engaged in a very painful debate, because it was my job. I came back from that debate and voted to adjourn this House, something that I rarely do. And I did so because my constituents in Texas, some 32 of them died this summer in the most intense heat we had ever been impacted by or felt.

This rule would eliminate the dollars used to help air-condition or heat the homes of poor senior citizens, those of my constituents in Texas who would have died if not for that money. This devastates the LIHEAP monies for senior citizens and the infirm.

This as well devastates the kind of work we have done to keep teenagers off the streets in the hot summer and takes summer jobs money away from hardworking, deserving teenagers who use that money to supplement their family's income, and then it takes Goals 2000, a program that goes into rural and inner-city schools and slashes it 50 percent, schools that depend upon these matching dollars to lift their scores and give incentives to their children that come many times from broken homes.

This is an abuse of power. This is an offensive rule, and it should be defeated.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GREEN).

Mr. GREEN. Mr. Speaker, I thank the gentlewoman from New York for allowing me to rise in opposition to this bill and the rule.

This appropriations bill grossly underfunds our national priority of providing the best public education for each and every child. There is not enough time left in this 105th Congress to talk about how bad this bill is. Let me just try to hit some of the highlights.

Goals 2000, an education program that started with President Bush and continued under this President, is cut 50 percent from last year's funding level. The School-to-Work program is cut by $250 million. The America Reads program is eliminated. In addition to these extremist cuts, my Republican colleagues want to deny initial funding to many other important education programs.

Funds for Title I grants are frozen, cutting the administration's request by $437 million, denying over a half a million students in high poverty communities the extra help they need to master the basic courses. Funding for College Work Study is cut by $50 million below the administration's request, denying 57,000 needy students college work study awards. Head Start is cut by $160 million below the administration's request, denying slots to 25,000 low-income children.

Mr. Speaker, we have worked hard in Houston to ensure that we have the best Head Start program possible. We have three new providers now, and by collaborating with our public schools, we can truly give our children a real head start on life, but we cannot by short-circuiting and not providing the funding. We have made great strides, but additional funds are needed to meet the overwhelming need in the Head Start program.

The Republican approach to education is a wrong approach, and I think it is an approach that the American people do not want. That is why I urge my colleagues to vote down this shortsighted bill.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, last year I was proud to stand on the House floor and work hard with our distinguished chairman and good friend, the gentleman from Illinois (Mr. PORTER), to pass a bipartisan Labor-HHS-Education spending bill. I frankly am sad and disgusted that today we are called here at the last minute to debate a phoney rule on the same bill designed by the Republican leadership simply as a pre-election gift to their right wing.

This rule is a sham designed for one purpose and one purpose only: to give opponents of family planning a procedural advantage in a vote on their provision which was defeated on the House floor 2 years in a row.

It is my understanding that after the gentleman from Oklahoma (Mr. ISTOOK) gets his antifamily planning vote, we will simply rise and discontinue debate on this important bill with its key education and health care programs.

I strongly urge my colleagues to vote down this bogus rule. Because the Republican leadership could not get an agreement to bring up the bill under a fair rule, the bill did not come up. Week after week went by and still no Labor-HHS appropriations bill. Now, 1 day before target adjournment, the bill is brought up suddenly and under a fake rule that is not about policy, but about election year politics.

If the rule does pass, then I urge my colleagues to support the Greenwood-Castle substitute and oppose the Istook second degree amendment.

The Istook second degree contains the same language restricting teenagers' access to Title X family planning services which was defeated on the House floor just last year. This parental consent restriction will deny vulnerable teens the contraceptive services they need to avoid pregnancy, HIV and STDs.

Last year's attack on the Title X program failed because a majority of Members understood that denying teens access to family planning does not promote abstinence. I only wish it were that simple. Instead, Members understand that the Istook language will increase STDs and HIV infections, unintended pregnancies and abortions.

I urge my colleagues to support the Greenwood-Castle substitute, it takes the responsible, sensible route, and defeat this sham rule.

Mr. DREIER. Mr. Speaker, may I inquire of the Chair how much time is remaining on both sides?

The SPEAKER pro tempore. The gentleman from California (Mr. DREIER) has 17½ minutes remaining; the gentlewoman from New York (Ms. SLAUGHTER) has 30 seconds remaining.

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

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

I would urge my colleagues to vote in favor of this rule. We have already voted on the rule itself. This is a minor modification that was made to consider those two amendments numbered 2 and 3. There are a number of Members on our side who hope very much to have a debate on that question. We will be proceeding with funding in a wide range of other areas, and so I hope that we can proceed with this as quickly as possible and get to this appropriations work.

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

The SPEAKER pro tempore. The question is on ordering the previous question.

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

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

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

The Sergeant at Arms will notify absent Members.

Pursuant to clause 5 of rule XV, the Chair will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of agreeing to the resolution.

The vote was taken by electronic device, and there were—yeas 224, nays 201, not voting 9, as follows:

[Roll No. 500]

YEAS—224

Aderholt	Diaz-Balart	Inglis
Archer	Dickey	Istook
Armey	Doolittle	Jenkins
Bachus	Dreier	Johnson (CT)
Baker	Duncan	Johnson, Sam
Ballenger	Dunn	Jones
Barr	Ehlers	Kasich
Barrett (NE)	Ehrlich	Kelly
Bartlett	Emerson	Kim
Barton	English	King (NY)
Bass	Ensign	Kingston
Bateman	Everett	Klug
Bereuter	Ewing	Knollenberg
Bilbray	Fawell	Kolbe
Bilirakis	Foley	LaHood
Bliley	Forbes	Largent
Blunt	Fossella	Latham
Boehlert	Fowler	LaTourette
Boehner	Fox	Lazio
Bonilla	Franks (NJ)	Leach
Bono	Frelinghuysen	Lewis (CA)
Brady (TX)	Furse	Lewis (KY)
Bryant	Gallegly	Linder
Bunning	Ganske	Lipinski
Burr	Gekas	Livingston
Burton	Gibbons	LoBiondo
Callahan	Gilchrest	Lucas
Calvert	Gillmor	Manzullo
Camp	Gilman	McCollum
Campbell	Goodlatte	McCrery
Canady	Goodling	McHugh
Cannon	Goss	McInnis
Castle	Graham	McIntosh
Chabot	Granger	McKeon
Chambliss	Greenwood	Metcalf
Chenoweth	Gutknecht	Mica
Christensen	Hansen	Miller (FL)
Coble	Hastert	Mollohan
Coburn	Hastings (WA)	Moran (KS)
Collins	Hayworth	Morella
Combest	Hefley	Myrick
Cook	Herger	Nethercutt
Cooksey	Hill	Neumann
Costello	Hilleary	Ney
Cox	Hobson	Northup
Crane	Hoekstra	Norwood
Crapo	Hostettler	Nussle
Cubin	Houghton	Oxley
Cunningham	Hulshof	Packard
Davis (VA)	Hunter	Pappas
Deal	Hutchinson	Parker
DeLay	Hyde	Paul

Paxon
Pease
Peterson (PA)
Petri
Pitts
Pombo
Porter
Portman
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NAYS—201

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fazio
Filner
Ford
Frank (MA)
Frost
Gejdenson
Gephardt
Gonzalez
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—9

Buyer
Fattah
Horn
Kennelly
McDade
Pickering
Pryce (OH)
Scarborough
Whitfield

□ 1748

Mr. ACKERMAN changed his vote from "yea" to "nay."

Mr. EHRLICH and Mr. ARMEY changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

MOTION TO RECONSIDER THE VOTE OFFERED BY MS. FURSE

Ms. FURSE. Mr. Speaker, I move to reconsider the vote on the previous question.

The SPEAKER pro tempore (Mr. LATOURETTE). Did the gentlewoman from Oregon vote on the prevailing side in ordering the previous question?

Ms. FURSE. Yes, Mr. Speaker.

The SPEAKER pro tempore. The gentlewoman qualifies.

MOTION TO TABLE OFFERED BY MR. DELAY

Mr. DELAY. Mr. Speaker, I move to table the motion offered by the gentlewoman from Oregon (Ms. FURSE).

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. DELAY) to table the motion to reconsider the vote offered by the gentlewoman from Oregon (Ms. FURSE).

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

RECORDED VOTE

Ms. FURSE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 15-minute vote, followed by a 5-minute vote on passage of the resolution.

The vote was taken by electronic device, and there were—ayes 231, noes 197, not voting 6, as follows:

[Roll No. 501]

AYES—231

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Billey
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Burton
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Costello
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Poshard
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NOES—197

Abercrombie
Ackerman
Allen
Baesler
Baldacci
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha

Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—6

Andrews
Buyer
Kennelly
McDade
Pryce (OH)
Whitfield

□ 1806

Mr. BARR of Georgia changed his vote from "no" to "aye."

So the motion to table the motion to reconsider was agreed to.

The result of the vote was announced as above recorded.

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

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

RECORDED VOTE

Mr. OBEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 214, noes 209, answered "present" 1, not voting 11, as follows:

[Roll No. 502]

AYES—214

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Bereuter
Bilirakis
Bliley
Blunt
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Burton
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Frelinghuysen
Gallegly
Gekas
Gibbons
Gillmor
Gingrich
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson, Sam
Jones
Kasich
Kelly
Kildee
Kim
King (NY)
Kingston
Knollenberg
LaHood
Largent
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McInnis
McIntosh
McKeon
Metcalf
Mica
Moran (KS)
Murtha
Myrick
Nethercutt
Neumann
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Quinn
Radanovich
Rahall
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NOES—209

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barrett (WI)
Bass
Becerra
Bentsen
Berman
Berry
Bilbray
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Castle
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Edwards
Ehrlich
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Franks (NJ)
Frost
Furse
Ganske
Gejdenson
Gephardt
Gilchrest
Gilman
Gonzalez
Gordon
Green
Gutierrez
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Horn
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kilpatrick
Kind (WI)
Kleczka
Klink
Klug
Kolbe
Kucinich
LaFalce
Lampson
Lazio
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McHugh
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Nadler
Neal
Ney
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pickett
Pomeroy
Poshard
Price (NC)
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Shays
Sherman
Sisisky
Skaggs
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn

ANSWERED "PRESENT"—1

Walsh

NOT VOTING—11

Buyer
Cox
Dooley
Fazio
Kennelly
Lantos
Lowey
Martinez
McDade
Pryce (OH)
Yates

□ 1820

Mr. MOLLOHAN and Mr. HOLDEN changed their vote from "aye" to "no."

Messrs. LIVINGSTON, PORTER and BONILLA, Mrs. KELLY and Mr. SHAW changed their vote from "present" to "aye."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LATOURETTE). Without objection, the motion to reconsider is laid on the table.

Mr. OBEY. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

MOTION TO RECONSIDER THE VOTE OFFERED BY MR. DREIER

Mr. DREIER. Mr. Speaker, I move to reconsider the vote.

MOTION TO TABLE OFFERED BY MR. PORTMAN

Mr. PORTMAN. Mr. Speaker, I move to lay on the table the motion to reconsider.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. PORTMAN) to table the motion to reconsider the vote offered by the gentleman from California (Mr. DREIER).

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

RECORDED VOTE

Mr. OBEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 230, noes 192, not voting 12, as follows:

[Roll No. 503]

AYES—230

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Burton
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot

Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Jones
Kasich
Kelly
Kildee
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NOES—192

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Gordon
Green
Gutierrez
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn

NOT VOTING—12

Buyer
Diaz-Balart
Dooley
Fawell
Fazio
Harman
Johnson, Sam
Kennelly
Martinez
McDade
Pryce (OH)
Yates

□ 1841

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate agrees to the report of the Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2281) "An Act 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."

The message also announced that the Senate agrees to the report of the Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3694) "An Act to authorize appropriations for fiscal year 1999 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.".

The message also announced that the Senate agrees to the report of the Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4194) "An Act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1999, and for other purposes.".

The message also announced that the Senate agrees to the report of the Committee of Conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2206) "An Act to amend the Head Start Act, the Low-Income Home Energy Assistance Act of 1981, and the Community Services Block Grant Act to reauthorize and make improvements to those Acts, to establish demonstration projects that provide an opportunity for persons with limited means to accumulate assets, and for other purposes.".

REMOVAL OF NAMES OF MEMBERS AS COSPONSORS OF H.R. 4567

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that on H.R. 4567, because of clerical error, the names of gentleman from Maine (Mr. ALLEN), the gentleman from Minnesota (Mr. OBERSTAR), and the gentleman from Michigan (Mr. STUPAK) be removed as cosponsors.

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

There was no objection.

LIMITATION OF TIME FOR DEBATE ON CERTAIN AMENDMENTS TO H.R. 4274, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that during consideration of H.R. 4274 that debate time allotted to amendments numbered 2 and 3 in House Report 105–762, pursuant to H. Res. 584, be limited to 16 minutes each, equally divided.

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

Mr. OBEY. Reserving the right to object, Mr. Speaker, I just want to make certain that I understand what the last two words mean.

It is my understanding that if the time is equally divided, that means that each party will have 8 minutes of time on each amendment.

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

Mr. OBEY. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. As I understand it, there are 2 amendments. Each amendment would be divided equally between the majority and the minority or in some such fashion according to the proponent and the opposition. The proponent would get 8 minutes, the opposition would get 8 minutes on each amendment; so, for a total of 16 minutes on each amendment.

Mr. OBEY. But the question, Mr. Speaker, is will the minority party have 8 minutes on each amendment? On each proposition, I mean.

Mr. LIVINGSTON. If the gentleman would continue to yield, I would suggest to the gentleman that the way that the amendment has been propounded that that would be up to the managers of the amendment and the manager in opposition to the amendment.

Mr. OBEY. Mr. Speaker, I just need to have the assurance, and I want to cooperate on this, but I need to have the assurance that our side will be yielded 50 percent of the time on each of the two propositions.

□ 1845

Mr. LIVINGSTON. Mr. Speaker, if the gentleman will yield further, I understand that there is no certain way to guarantee that it is equally divided on each side of the aisle. However, I understand that there appears to be no opposition from the gentleman from Pennsylvania (Mr. GREENWOOD), who would be one of the proponents of an amendment.

Mr. OBEY. Mr. Speaker, further reserving my right to object, that means that we would only have 4 minutes out of all of the debate time.

Mr. LIVINGSTON. Mr. Speaker, if the gentleman will yield, I do not think that that is the case.

If the gentleman will yield further, would he tell me who would claim time in opposition to the Istook amendment?

Mr. OBEY. Mr. Speaker, further reserving my right to object, as the gentleman knows, I am trying to get to a meeting to help facilitate the moving of the budget forward, so what I would like to do is have the gentleman from Ohio (Mr. STOKES) on this side manage the time for the entire bill, including the two amendments.

Mr. LIVINGSTON. Mr. Speaker, if the gentleman will yield, if the gentleman would advise us that the gentleman from Ohio (Mr. STOKES) would rise in opposition to the amendment, it would be the intention of the gentleman from Oklahoma (Mr. ISTOOK) to yield 8 minutes for the gentleman from Ohio (Mr. STOKES) to control on the Istook amendment.

Mr. OBEY. We would also have 8 minutes on the Greenwood proposition.

Mr. COBURN. Mr. Speaker, reserving the right to object.

Mr. LIVINGSTON. Mr. Speaker, the gentleman reserves the right to object.

The SPEAKER pro tempore (Mr. LATOURETTE). The reservation is presently held by the gentleman from Wisconsin (Mr. OBEY). The gentleman from Wisconsin (Mr. OBEY) may yield on his reservation if he so chooses.

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

Mr. OBEY. I yield to the gentleman from Oklahoma.

Mr. COBURN. Mr. Speaker, I thank the gentleman for yielding to me. We have two issues before us, one which the gentleman from Oklahoma (Mr. ISTOOK) supports, one which many people oppose; and we have the amendment of the gentleman from Pennsylvania (Mr. GREENWOOD) which he supports, but many on our side oppose. If we divide the time as the gentleman has suggested, those equally opposing each amendment will not have equal share of the time.

Mr. OBEY. Mr. Speaker, reclaiming my time, I do not want to do that.

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

Mr. OBEY. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, I would like to amend my unanimous consent request which apparently was unclear and unintentionally unclear.

Mr. Speaker, I ask unanimous consent that, on each amendment, those in favor of the amendment be allotted 8 minutes, and those opposed be allotted 8 minutes and that, to as great a degree as possible, the time in each instance be shared on both sides.

It may well be that nobody on the gentleman's side of the aisle would like to claim time in one of those categories or another, but at least people will have the opportunity within that time frame to make their comments and be heard.

Mr. OBEY. Well, continuing under my reservation, Mr. Speaker, I am still trying to figure out what that means. We are not trying to hold anybody up. There are people on this side who want to speak as well. We just want to make certain that we will have an equal amount of time that will be yielded on both propositions. That is all.

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield further?

Mr. OBEY. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, we have two amendments. We have the Istook amendment, and we have the Greenwood amendment. According to my unanimous consent request, I have asked that, on each, there be 8 minutes allotted for and 8 minutes allotted against.

I guess it would be a little bit simpler if we simply decided right now within the context of this unanimous consent who will represent those for and who will represent those against on each amendment.

In the instance of the Greenwood amendment, the gentleman from Pennsylvania (Mr. GREENWOOD) would have the time for 8 minutes. I am asking the gentleman's statements, I assume that the gentleman from Oklahoma (Mr. COBURN) could be recognized in opposition to the Greenwood amendment.

Mr. OBEY. Mr. Speaker, continuing under my reservation, let me explain to the gentleman, I am sure that, on our side of the aisle, the preponderance of the speakers will be against the Istook amendment. I do not want us to have all the time against the Istook amendment.

I think that, if there are 8 minutes against the Istook amendment, 4 minutes ought to be reserved for the majority party if they want them. If they do not want them, I do not think we ought to have them anyway.

But we would like at least 4 minutes on the Istook amendment and 4 minutes on the Greenwood amendment. If the gentleman do that, I do not care how he works out the time.

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield further?

Mr. OBEY. Absolutely. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, I would like my unanimous consent request to be amended so that, on the Greenwood amendment, the gentleman from Pennsylvania (Mr. GREENWOOD) be allotted 8 minutes to be divided as he sees fit.

Mr. OBEY. That is fine so far.

Mr. LIVINGSTON. That 8 minutes be allotted to the gentleman from Oklahoma (Mr. COBURN) to be divided as he sees fit.

Mr. COBURN. Mr. Speaker, if the gentleman from Wisconsin will yield, which I would be happy to share with those who feel that position from your side of the aisle.

Mr. OBEY. Mr. Speaker, so what the gentleman is saying, the gentleman from Oklahoma (Mr. COBURN) will have 8 minutes and the gentleman from Pennsylvania (Mr. GREENWOOD) will have 8 minutes, and he has agreed to yield 4 minutes of it to us.

Mr. LIVINGSTON. Mr. Speaker, if the gentleman will yield, that is on Greenwood.

Mr. OBEY. On Greenwood.

Mr. LIVINGSTON. Mr. Speaker, if the gentleman will further yield, on Istook, that the gentleman from Oklahoma (Mr. ISTOOK) will be allotted 8 minutes to be divided as he sees fit, and that the gentleman from Ohio (Mr. STOKES) will be allotted 8 minutes in opposition to be divided as he sees fit.

Mr. OBEY. Mr. Speaker, further reserving my right to object, we would agree that the time of gentleman from Ohio (Mr. STOKES) would be split evenly between the parties if there are persons on the gentleman's side who want to argue against that amendment.

Mr. LIVINGSTON. Correct.

Mr. OBEY. Mr. Speaker, with that understanding, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request by the gentleman from Louisiana?

There was no objection.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The CHAIRMAN. Pursuant to House Resolution 564 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4274.

□ 1952

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4274) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1999, and for other purposes, with Mr. BEREUTER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to House Resolution 564, the bill is considered as having been read the first time.

Pursuant to House Resolution 584, the gentleman from Illinois (Mr. PORTER) and the gentleman from Wisconsin (Mr. OBEY) each will control 30 minutes.

The Chair recognizes the gentleman from Illinois (Mr. Porter).

Mr. PORTER. Mr. Chairman, I yield back the balance of my time.

Mr. ENGEL. Mr. Chairman, today we take a vote on the future of our children. Day in and day out the Members of the 105th Congress come to the floor and express their concerns for ensuring opportunities for the next generation. H.R. 4274, "the Labor-HHS-Education Appropriations bill," is one piece of legislation that goes to the heart of our collective concerns. However, despite our desire to assist our children we instead embark on a bill that politicizes their future. Instead of providing opportunities, this bill guts national education funding for short term political gain. This bill eliminates funding for technology in the classroom in low-income school districts, it eliminates funding for teacher training, and it even eliminates funding to ensure that our children can read before the end of the third grade.

However, to just discuss the inadequacies of this bill on our elementary school aged children would not be a fair summarization of the destructive nature of this piece of legislation. This appropriations bill attempts at its very essence, to provide budget cuts off the backs of the poor, the immigrant and the laborer. H.R. 4274 if passed would eliminate federal subsidized funding for 4.4 million of the poorest households to pay for their heat during the winter months; this bill if passed would cut federal funding for bilingual education by $25 million which would reduce funding for adequate teacher training; this bill if passed would even cut OSHA workplace safety enforcement by $12 million which would result in 4,000 fewer workplace safety inspections in 1999.

The role of government is debated each day on the floor of this House, in our committee rooms, and in our districts but we all can agree that our mandate is to serve the people. It is paramount that as a national body we focus not on partisan political goals but rather on what is in the best interest of our constituents. Members would then understand that this appropriation bill is too unfair, too detrimental to our national educational policy and too damaging to the poor. I urge my colleagues on both sides of the aisle to join me in opposing H.R. 4274 and vote no on this bill.

Mr. PORTER. Mr. Chairman, Mr. GREENWOOD's amendment protects a good program, a program that Members should support.

One of our priorities in this bill is public health programs that help expand access to care for the underserved. Title X—as George Bush and Richard Nixon recognized—is such a program.

1. It supports a broad range of reproductive services to women—including assistance for women who are having trouble conceiving children—as well as screening for breast and cervical cancer, sexually transmitted infections and hypertension. These are life saving, life giving, life enhancing services.

2. In 1996, 4.3 million clients were served—83 percent with incomes below 150 percent of the federal poverty level. Everyone above the poverty line pays something for their care on a sliding scale. For many working poor, Title X provides their only access to the health care system.

3. The law has always barred Title X from paying for any abortion under any circumstances. This is not an abortion issue.

Title X is really an anti-abortion program: roughly half of all unintended pregnancies end in abortion. It is estimated that, in 1994, one million unintended pregnancies were averted as a result of services received at Title X projects. Title X prevents the unintended pregnancies that lead to abortions and that lead to low-birthweight babies.

Title X improves maternal and child health, it lowers the incidence of unintended pregnancy and abortion and it lowers rates of STDs.

It is a good program, it is a wise investment, and we should be very careful about adopting amendments that undermine the program's effectiveness.

I urge all Members to support Mr. GREENWOOD's amendment and oppose Mr. ISTOOK's substitute.

Mr. STARK. Mr. Chairman, I oppose the Labor, Health and Human Services and Education Appropriations (Labor—HHS) Bill considered in the House today.

EDUCATION SUFFERS UNDER THIS BILL

This bill would have devastating effects on students and our education system and I strongly urge my colleagues to reject this bill.

My colleagues on the other side of the aisle have been busy with their education agenda this year. We've debated a Constitutional Amendment to allow for prayer in schools and we've tried to eliminate affirmative action programs for minority students. We've also tried to provide public dollars for private schools—not once, but twice, and to eliminate public dollars to be used for the purposes of educating our bilingual students. Lucky for our students, parents and teachers, Democrats have an education agenda, too.

The Democratic plan will improve public education. We want to reduce the average class size in the early grades by helping local school districts hire 100,000 new qualified teachers. We want to provide federal tax credits to pay the interest on $22 billion in bonds for the modernization and construction of more than 5,000 schools. We want to make sure that schoolchildren have somewhere to go after school instead of hanging out on the streets. We are promoting after school learning opportunities for students. We support expanding resources for educational technology in order to ensure that every classroom and school library is connected to the Internet by 2001.

The Democratic ideas will work; they will provide more opportunities for out kids. Nobody denies that public education is in bad shape. But the majority's solution is to cut funding and eliminate programs and to determine what choices are made available to school districts and teachers. This does not make good sense or good policy.

This Education Appropriations bill fails to fund a single one of the Administration's initiatives to modernize schools and build new schools. it is no secret that schools are overcrowded. Schoolteachers in my district are conducting classes in portables, school lunchrooms and even in hallways. The majority, by not addressing this problem in their bill, are putting a bag over their head and hoping the problem goes away.

This Education Appropriations bill does not fund the President's Literacy Initiatives and eliminates funding for the America Reads Challenge. Furthermore, the bill cuts funding for the Safe and Drug Free Schools initiative, and does not fund the President's plan to target funds to districts and schools with the largest drug and violence programs.

This bill also incorporates the text of a bill that was defeated by the House earlier this year and with regard to bilingual education. This bill would limit the amount of bilingual education a student could receive to a maximum of two years. Reputable research proves that children take between four to seven years to master academic English necessary for higher education success. This bill provides no academic safety net for students who fail to master English in two years. It does not make sense to shove children arbitrarily from an environment where they are learning to one where they are predetemined to fail.

The House has already soundly defeated this idea. Why does this bill pander to an extreme minority who has already lost this fight?

This bill also prevents students from achieving success in the new millennium by cutting funds for GOALS 2000 by 50%. How does cutting funding for this program help students? I would ask the majority leadership to answer this question.

This bill also prevents any funds from being spent to adopt a national testing standard for

our kids. These tests have nothing to do with content and would test fourth graders for reading comprehensive and eighth graders for math ability. I support national testing standards. These voluntary tests will have no effect on home schooling or parochial education interests. Testing gives states, local communities and parents one more tool to measure how well their curriculum prepares students in basic reading and math skills. If we are to spend taxpayer money on public schools, we must know that we are getting measurable results.

It is clear that my colleagues on the other side of the aisle do not think the same way about education as we do. Their attacks on our basic fundamental obligation to provide a public education for every child in America will have a devastating effect on schoolchildren and our Country's future.

A real stand for education is a vote against this terrible bill.

CUTS HURT THE MOST VULNERABLE

H.R. 4274 is a confrontational bill—the product of a majority leadership decision to cave to demands from the right wing of its own conference. It does nothing to heal the economic and social divisions within our society. Instead it resembles a blueprint for the reelection of the House Republican leadership.

H.R. 4274 is the direct result of the majority's decision to kill tobacco legislation. Instead of using tobacco company revenues to fund a set of fairly balanced domestic priorities, the majority has decided to offset their spending priorities by cutting the programs that benefit the most vulnerable members of our society.

H.R. 4274 eliminates funding for LIHEAP. I oppose this provision. There is no programmatic or economic rationale to justify eliminating a program that helps 4.4 million low-income households pay their heating and cooling bills. About 1.5 million of these households have elderly members, 1.3 million have disabled members, and 2.1 million have children in poverty. Two-thirds of LIHEAP recipients earn less than $8,000 per year. Energy prices constitute a significant expense for poorer households whose incomes have not kept up with inflation.

I also strongly oppose the bill's prohibitions on Title X funding. Title X family planning clinics offer a wide range of critical services including contraception, screening and treatment for sexually transmitted diseases, HIV screening, routine gynecological exams, and breast and cervical cancer screening. If minors are required to comply with parental consent or notification laws for contraceptive services, not only will they avoid seeking family planning services, they will avoid seeking any of the services at a Title X clinic. Without these services, the authors of this bill can soon take credit for an increase in abortions and sexually transmitted diseases. I oppose this bill for its blatant disregard for the reproductive health, safety, and constitutional rights of America's women.

Supporters argue that H.R. 4274 eliminates excessive and burdensome federal regulation and provide enhanced discretion to state and local officials. Yet, the bill prohibits the use of Title X funds by any entity unless it certifies that it encourages family participation in the decision of minors to seek family planning services. It also prohibits a state or locality's contribution of Medicaid matching funds to pay for any abortion or to pay for health benefits coverage offered by a managed care provider that includes coverage of abortion.

THIS BILL PLAYS POLITICS WITH ORGAN DONATIONS

Every day 10 people die in this country waiting for an organ transplant. There is no disagreement about the problem—there aren't enough organs to meet the needs of patients.

In March, the Department of Health and Human Services issued proposed regulations to equalize large discrepancies in waiting times for transplant patients around the country and help guide the transplant community to create a fairer transplant system.

Now the House Labor-HHS bill includes two riders, which would prohibit the implementation of these regulations and prevent the HHS Secretary from working to increase the number of available organs.

The first rider would prevent the Secretary from requiring hospitals to report patient deaths to regional Organ Procurement Organizations. This simple requirement is in effect in Maryland and Pennsylvania and both states report additional organ donations as a direct result. Preventing this regulation from going forward will make more patients die waiting for other organs. This is a matter of life and death and this rider should be removed from the bill.

The second rider puts a moratorium on the Secretary's organ allocation plan to make the distribution of organs more fair for patients. The Secretary's organ allocation plan is urgently needed by patients across the country. Patients in the Bay Area wait an average of over 300 days for a transplant, while patients in Tennessee wait 21 days. This isn't fair.

The Secretary has proposed to let medical people make medical decisions about the best way to allocate the limited number of donated organs. The Appropriations Committee should allow these regulations to be implemented without further delay.

This rider is being pushed by a group of Louisiana transplant surgeons who believe that organs should be hoarded for their own state use. Over 30% of Louisianans needing a transplant leave the state to find better care in other hospitals or because they have been turned down for transplants in Louisiana. The state has recently passed an "organ hoarding" law to prevent organs that are made available for transplant in Louisiana from leaving the state. The state has also filed a lawsuit against the Secretary for issuing national regulations, despite the fact that the National Organ Transplant Act specifically requires that the Secretary do so.

Fairness is half of this fight; Quality is the other part. There is a lot of money to be made in organ transplants. Too many centers have been opened to increase the prestige and the profits of a local hospital—and not because they do a good job. In fact, in general the lower volume small transplant centers have poorer outcomes than the high volume transplant centers. The fact is that having a transplant center has become the equivalent of health pork. Many of these centers are like the excess projects in the recently-passed highway bill: centers without a justification. But unlike highway pork, these centers sometimes end up killing patients because they do not do as good a job as the high volume centers. I really think it is immoral for centers that have a lower success rate than the high volume centers to be fighting the Department's regulation. Their actions are a disgrace to the Hippocratic Oath.

The proliferation of poor quality transplant centers not only wastes lives, it wastes money. The United States has 289 hospitals doing tranplants—and that is an enormous commitment of capital. I have read that a hospital has to invest about $10 million to be able to do heart transplants.

These proliferating costs are part of what drives health inflation in the United States and part of what places such huge budget pressures on Medicare. Concentrating transplants in fewer, high-quality, life-saving centers would allow us to save hundreds of millions of dollars in the years to come. The Department's regulation gives us the potential to focus on Centers of Excellence where we not only save lives, but can obtain economies of scale necessary to preserve the Medicare program.

If my colleagues are serious about putting patients first, what is so onerous about a system that proposes to base transplant decisions on common medical criteria on a medical need list—not geography, not income, not even levels of insurance coverage—just pure professional medical opinion and medical need.

This issue is about putting patients first—not putting transplant bureaucracies first. I can think of no better way to put patients first than to make the system fair for all. I urge my colleagues to support the Department's regulations and to vote against the Labor-HHS bill.

THE BILL IS BAD FOR WORKING FAMILIES

This bill would have devastating effects on working families and I strongly urge my colleagues to reject this bill.

America's working families deserve a break. After a few years of record profits for Wall Street and the Fortune 500 companies, it is time to help out the working men and women responsible for this productivity. Instead, some of my colleagues, in their quest to please corporate shareholders, have launched an assault upon the basic protections that working families count on and enjoy.

I've heard from numerous young people in my district about the importance of the Summer Youth Employment Training Program (SYETP). They tell me that they have learned the value of a dollar and the importance of being accountable and responsible because of their summer jobs. I've heard from Mayors and School Districts about the need for this program. The Castro Valley Unified School District wrote to me to tell me that "SYETP is one of those programs that addresses the needs of a segment of our student population and does so with a high degree of success." I've included this letter for the CONGRESSIONAL RECORD to accompany my statement.

What has the Majority done in response to this support for the Summer Youth Employment Training Program? They have eliminated all of the funding for it.

The Summer Youth Employment Training Program works. It give young people the tools, skills and experience they need to succeed in the workplace after they are finished with school. Eliminating this program is not an investment in our future.

This Labor–HHS bill cuts funding for Job Training Partnership Act by $1.5 billion from the President's request. The bill also cuts School-to-work programs by 62 percent from last year's appropriation. The message to young workers is clear: if you stuck in a low paying job or lack a graduate degree, the government will not help you obtain the skills you need to provide for your family. This is the wrong direction for our country to be going.

One of the largest roles for government to protect working families is through the Occupational Safety and Health Administration (OSHA). OSHA offers guidelines for employers to provide employees with safe workplaces and enforces safety standards to ensure that the likelihood of injury or death on the job is reduced. OSHA is the safety cop on the beat for working families, and deserves our support.

This Labor–HHS bill cuts OSHA funding by $18 million from the Administration's request. Furthermore, the bill includes provisions to require peer-review of the scientific data on which OSHA standards are based. The bill specifically permits a person with a financial interest in the outcome of the standard to set on the pear review panel. I question how many true labor protection standards will make it out of the regulatory process with employers and financial backers making the final decisions about what workers safety standards are really needed.

The majority's labor record is clear. Working families should take a back seat to corporate interests and employer decisions. I don't share this view.

I believe that working families deserve strong protections at the workplace, should be able to organize and advocate for their common interests and should not have to work in an environment of indentured servitude to guarantee a paycheck.

If my colleagues were serious about help out working men and women, they would work to pass a real minimum wage increase and link it to a cost of living adjustment to provide a real working wage for working families. Making investments in people is the highest priority for me. Cutting funding out of programs to provide job skills and job security does not lead to an economically stable society.

I urge my colleagues to vote for working families and for worker protections and to vote against this bill.

BOARD OF EDUCATION, CASTRO VALLEY UNIFIED SCHOOL DISTRICT

Castro Valley, CA, September 14, 1998.

Hon. FORTNEY "PETE" STARK,
Fremont, CA.

DEAR REPRESENTATIVE STARK: The purpose of this letter is to urge you to support the continuation of the Summer Youth Employment Training Program (SYETP). This program has been a valuable one over the years over the Castro Valley Unified School District as it has provided opportunities for students from low income families to be successful in a work experience environment.

Our responsibility as educators is to provide programs and strategies that are diverse in nature in order to address the diversity within our student population. SYETP is one of those programs that addresses the needs of a segment of our student population and does so with a high degree of success.

There is no doubt that the elimination of this program will be a major loss for us in the district and the Regional Occupational Program in general. Judging by the information that I have received, the elimination of SYETP nationally would result in approximately 400,000 young people not having an opportunity for work and educational assistance in 1999. This is staggering and unacceptable! We cannot afford to ignore the needs of any of our students and specifically with regard to SYETP, the needs of students who have potential to be productive members of our society when they reach adulthood.

Thank you in advance for your support and assistance.

Sincerely,

GEORGE GRANGER,
President.

Ms. JACKSON-LEE of Texas. Mr. Chairman, thank you for the opportunity to speak on this bill tonight, and this amendment, the Istook/Barcia/Manzullo Amendment to the Labor HHS bill. Mr. Chairman, for the first time EVER, the House Appropriations Committee voted to impose a restrictive provision in this bill which will require that minors require five business days' parental notice or parental consent before a minor can obtain contraceptive services at a Title X clinic.

I have consistently opposed mandatory parental consent requirements for young people seeking family planning services, and I am not alone. The American Medical Association, the American Academy of Pediatrics, the American Academy of Physicians, and the American Medical Women's Association are just a number of the organizations that also oppose this restriction. The reason is because such restrictions are dangerous to our country's young people.

There is no question that recent declines in the teen pregnancy and teen abortion rates have been attributed to increased use of birth control. The vast majority of young people who seek contraceptive and family planning services are already sexually active. In one recent study of over 1,200 teenagers in 31 family planning clinics, only 14 percent of the teens came in for family planning services prior to initiating sexual activity. In fact, over ⅓ of these teens (36 percent) sought services ONLY because they suspected they were pregnant. This legislation will only make it worse. In general, teens are sexually active for 11.5 months prior to seeking clinic services! This provision will not persuade our young people to have sex, it will ensure that the rates of unintended pregnancies, abortion and STDs including HIV increase! Currently 78 percent of teen pregnancies are unintended, half of which end in abortion. Approximately 3 million teenagers acquire an STD each year! I am sure that no Member of Congress wants these numbers to increase, yet making it more difficult for teenagers to seek reproductive health services will do just this.

Title X counselors are already required to encourage family participation for teen clients. However, Congress, despite, its wishes cannot mandate open family communication. Title X clinics encourage their teenage clients to discuss their needs with parents or family members they can trust. Confidential access to family planning is crucial in helping teenagers obtain timely medical advice and appropriate medical care.

Our children are our most important resource. We must do whatever we can to make sure that our children remain safe and healthy. I am voting against this amendment because I want our children to have a childhood and to keep our teenagers from becoming parents.

Mr. CASTLE. Mr. Chairman, as you know, Title X of the Public Health Service Act, the National Family Planning Program, sponsored by then-Congressman George Bush, was enacted in 1970. It was signed into law by President Nixon. The program provides grants to public and private non-profit agencies to support projects which provide a broad range of family planning and reproductive services, as well as screening for breast and cervical cancer, sexually-transmitted infections and high blood pressure. Title X also supports training providers, an information and education program, and a research program that focuses on family planning service delivery improvements. The Title X program has provided services to millions of American women, many of whom have no other access to health care services. By law, none of the funds provided may be used for abortions.

Today, we are considering a bill that includes a provision requiring parental consent or advanced notification in order for a minor to receive contraceptive drugs or devices. Ideally, we would like all teens to abstain from premature sexual relationships. Ideally, we would like to think that all teenagers have a wonderful relationship with a loving parent. Unfortunately, the reality is that for many, many teens neither is the case. There are young people who are scared to death of their parents. There are young people who do not have parents. And, the unfortunate reality is that there are young people who would rush out and have unprotected sex if they knew practicing safe sex would come at the price of having their parents find out. This is what the mandatory parental consent and advanced parental notification provision does.

In many cases such a provision would actually increase the chances of teenagers engaging in unprotected, nondiscriminatory or unsafe sex, thereby increasing the rates of pregnancy, sexually-transmitted diseases, and abortions. 56% of women and 73% of men are sexually active before the age of 18. 86% of teenagers using or seeking Title X services for the first time were already sexually active for nearly a year. In addition, studies show that about 55% of adolescents already inform parents of their use of reproductive health services. For those who do not or cannot discuss family planning with their parents, mandatory parental consent and advanced parental notification are not likely to convince them otherwise. In fact, an overwhelming number of teens who do not involve their parents in such decisions reported that they would not seek clinic care if their parents had to be notified. Let me repeat—they would not seek clinic care. This means that they are left to make decisions on their own, and those decisions will most likely lead to unprotected sex, higher rates of pregnancy and higher rates of abortion.

Let me give you an example. In my home state, as scary as this is, there are kids who have reported that they cannot tell their parents about the use of family planning services because they are afraid they will be hurt physically. We also had a case where parents of

a 15 year old girl refused to bring her to get family planning services until she was 16 years old and had her drivers license. Well, she turned 16, she got her drivers license and she was already pregnant. If she had the services a year before, she wouldn't be in this predicament. Now, I'm not saying this is the norm. What I am saying is that we need to take situations like this into consideration before we start mandating policies as far reaching as this one. If parents and guardians are unable to help these teenagers, for whatever reason. I believe health professionals should help.

I also want to note that the Greenwood/Castle amendment does not in anyway discourage parental involvement. It simply strikes the mandatory parental notification clause and inserts strong language requiring Title X providers to take a strong stand on abstinence, by expressly informing all minors that abstinence is the only certain way to avoid pregnancy, sexually transmitted diseases, and HIV. Our language ensures that all Title X counselors receive training on how to help minors abstain from sexual activity, avoid coercive relationships, and involve their parents in the decision to receive family planning services.

We support family involvement, and if we believe that mandating parental consent or notification was in the best interest of teens, than we would support that as well. But, we do not. There are too many facts that demonstrate that mandating parental consent will hurt teens considerably more than it could ever help them.

Congressmen ISTOOK and MANZULLO will offer a second degree amendment to our amendment inserting the parental consent or notification language back into the bill. I urge my colleagues to vote against their amendment and for the Greenwood/Castle amendment. Mandated parental consent or notification would scare teens into doing something stupid—like having unprotected sex in secret rather than having their parents find out that they wanted to be safe and responsible.

Mr. PAUL. Mr. Chairman, I am sorry that under the rule my amendment to the Labor-HHS-Education Appropriations bill is not permitted. This simple amendment forbids the Department of Health and Human Services from spending any funds to implement those sections of the Health Insurance Portability and Accountability Act of 1996 authorizing the establishment of a "standard unique health care identifier" for all Americans. This identifier would then be used to create a national database containing the medical history of all Americans. Establishment of such an identifier would allow federal bureaucrats to track every citizen's medical history from cradle to grave. Furthermore, it is possible that every medical professional, hospital, and Health Maintenance Organization (HMO) in the country would be able to access an individual citizen's record simply by entering the patient's identifier into the national database.

My amendment was drafted to ensure that the administration cannot take any steps toward developing or implementing a medical ID. This approach is necessary because if the administration is allowed to work on developing a medical ID it is likely to attempt to implement the ID on at least a "trial" basis. I would remind my colleagues of our experience with national testing. In 1997 Congress forbade the Department of Education from implementing a national test, however it allowed work toward developing national tests. The administration has used this "development loophole" to defy congressional intent by taking steps toward implementation of a national test. It seems clear that only a complete ban forbidding any work on health identifiers will stop all work toward implementation.

Allowing the federal government to establish a National Health ID not only threatens privacy but also will undermine effective health care. As an OB/GYN with more than 30 years experience in private practice, I know better than most the importance of preserving the sanctity of the physician-patient relationship. Oftentimes, effective treatment depends on a patient's ability to place absolute trust in his or her doctor. What will happen to that trust when patients know that any and all information given their doctor will be placed in a data base accessible by anyone who knows the patient's "unique personal identifier?"

I ask my colleagues, how comfortable would you be confiding any emotional problem, or even an embarrassing physical problem like impotence, to your doctor if you knew that this information could be easily accessed by friend, foe, possible employers, coworkers, HMOs, and government agents?

Mr. Chairman, the Clinton administration has even come out in favor of allowing law enforcement officials access to health care information, in complete disregard of the fifth amendment. It is bitterly ironic that the same administration that has proven so inventive at protecting its privacy has so little respect for physician-patient confidentiality.

My amendment forbids the federal government from creating federal IDs for doctors and employers as well as for individuals. Contrary to the claims of some, federal-ID numbers for doctors and employers threaten American liberty every bit as much as individual medical IDs.

The National Provider ID will force physicians who use technologies such as e-mail in their practices to record all health care transactions with the government. This will allow the government to track and monitor the treatment of all patients under that doctor's care. Government agents may pull up the medical records of a patient with no more justification than a suspicion the provider is involved in fraudulent activity unrelated to that patient's care!

The National Standard Employer Identifier will require employers to record employees' private health transactions in a database. This will allow coworkers, hackers, government agents and other unscrupulous persons to access the health transactions of every employee in a company simply by typing the company's identifier into their PC!

Many of my colleagues admit that the American people have good reason to fear a government-mandated health ID card, but they will claim such problems can be "fixed" by additional legislation restricting the use of the identifier and forbidding all but certain designated persons to access those records.

This argument has two flaws. First of all, history has shown that attempts to protect the privacy of information collected by, or at the command, of the government are ineffective at protecting citizens from the prying eyes of government officials. I ask my colleagues to think of the numerous cases of IRS abuses that were brought to our attention in the past few months, the history of abuse of FBI files, and the case of a Medicaid clerk in Maryland who accessed a computerized database and sold patient names to an HMO. These are just some of many examples that show that the only effective way to protect privacy is to forbid the government from assigning a unique number to any citizen.

Even the process by which the National Identifier is being developed shows disdain for the rights of the American people. The National Committee on Vital and Health Statistics, which is developing the national identifier, attempted to keep important documents hidden from the public in violation of federal law. In fact, one of the members of the NCVHS panel working on the medical ID chastised his colleagues for developing the medical ID "in an aura of secrecy."

Last September, NCVHS proposed guidelines for the development of the medical ID. Those guidelines required that all predecisional documents "should be kept in strict confidence and not be shared or discussed," This is a direct violation of the Federal Advisory Committee Act, which requires all working documents to be made public. Although NCVHS, succumbing to public pressure and possible legal action against it, recently indicated it will make its pre-decisional documents available in compliance with federal law, I hope my colleagues on the Rules Committee agree that the NCVHS attempt to evade the will of Congress and keep its work secret does not bode well for any future attempts to protect the medical ID from abuse by government officials.

The most important reason, legislation "protecting" the unique health identifier is insufficient is that the federal government lacks any constitutional authority to force citizens to adopt a universal health identifier, regardless of any attached "privacy protections." Any federal action that oversteps constitutional limitations violates liberty for it ratifies the principle that the federal government, not the Constitution, is the ultimate arbitrator of its own jurisdiction over the people. The only effective protection of the rights of citizens is for Congress and the American people to follow Thomas Jefferson's advice and "bind (the federal government) down with the chains of the Constitution."

For those who claim that this amendment would interfere with the plans to "simplify" and "streamline" the health care system, under the Constitution, the rights of people should never take a backseat to the convenience of the government or politically powerful industries like HMOs.

Mr. Chairman, all I ask is that Congress by given the change to correct the mistake made in 1996 when they authorized the National Health ID as part of the Kennedy-Kasebaum bill. The federal government has no authority to endanger the privacy of personal medical information by forcing all citizens to adopt a uniform health identifier for use in a national data base. A uniform health ID endangers the

constitutional liberties, threatens the doctor-patient relationships, and could allow federal officials access to deeply personal medical information. There can be no justification for risking the rights of private citizens. I therefore urge the Rules Committee to take the first step toward protecting Americans from a medical ID by ruling my amendment to the Labor-HHS–Education Appropriations bill in order.

Mrs. CLAYTON. The Labor-HHS-Education Appropriations Bill is one about priorities. Cutting successful and extremely important education and labor programs is not a priority for me.

Mr. Chairman, I am very disturbed about the number of programs that have been left out of this bill.

Strong employment and training programs for youth and adults would help mitigate problems arising from people who do not have the skills or the intent to be good employees. Yet, this Labor HHS and Education Appropriations bill decimates funding for these very programs. This bill eliminates funding for effective programs such as School-to-Work, Summer Jobs, and Job Corps.

By eliminating the Summer Jobs program, the bill denies jobs to a half-million of our most disadvantaged youth. Without these funds, ¾ of the young people currently participating in this program would be without a job next year. Are these not the same youth who concern us because of their potential for gang affiliation, violence and crime?

The bill, in its original form, eliminated the Low-Income Home Energy Assistance Program (LIHEAP)—a program that helps 4.4 million low-income households pay their heating and cooling bills. However, the manager's amendment may appropriate money for LIHEAP, but it will only be a fraction of the 1.1 billion appropriated in advance last year for use in FY 1999. 1.5 million of the 4.4 million households have elderly members. 1.3 million have disabled members. And 2.1 million have children in poverty. Who, out of the 4.4 million households, will receive the benefit of this insufficient amount of money?

This bill also cuts funding for the Goals 2000 education reform program by 50% below current levels. And, it cuts OSHA workplace safety enforcement by 9% below the administration's request. It's ironic. How can you eliminate so many programs and claim to improve and support opportunities for employment, and the good health and education of the people of our country?

We must restore these programs and remain committed to initiatives that allow the disadvantaged to survive. We must remain devoted to programs that educate our youth and dedicated to providing our youth with opportunities that prepare them for the world of work.

Mr. Speaker, this is a bill about priorities. This is a bill about values. It is not my priority to eliminate necessary programs. And it definitely is not a priority for the disadvantaged individuals in our society.

However, it is my priority to ensure that our youth and those who are disadvantaged are treated fairly and are given the opportunity to be productive citizens. So I ask you * * * honestly is this your priority? If it is, then vote no to the Labor-HHS-Education Appropriations Bill.

Mr. PORTER. Mr. Chairman, I rise in opposition to the Istook substitute.

The Istook amendment is unwise and should be opposed.

A. First, because it overturns the considered judgment of many states.

1. Virtually all states have laws providing for some degree of confidentiality in the provision of such services to minors.

2. In Illinois, statute provides that physicians may give birth control services and information to minors under a number of circumstances—including when the minor is already married, is already a parent, or when failure to do so would create a serious health hazard.

3. This amendment would overturn the considered judgment of the state of Illinois in enacting these provisions—and you might find that it poses similar problems in your state. And I do not recommend abrogating a law that empowers physicians to act to address serious health hazards.

4. In fact, there are presently twenty-three states that explicitly ensure minors' access to confidential family planning services. The amendment directly contravenes these state's judgments.

5. If we are going to set up this Congress as a super State Legislature, it seems to me that, at a bare minimum, we should look at these state laws carefully and incorporate the learning of the states on this subject?

B. Second, the Istook amendment is premised on the false logic that, if minors had to tell their parents they were getting contraceptive services, they would abstain from sexual activity. That sounds good, but unfortunately its wrong.

1. The truth is that most minors who go to Title X projects have already been sexually active for about a year. They go to a Title X project when they fear they have contracted a disease, become pregnant, or they decide they need contraceptives.

2. When they enter the door, they receive counseling by professionals who attempt to ascertain the nature of the relationship, including potential sexual abuse, encourage the minor to consider abstinence and to involve their parents in their decision making, and educate them on how to resist coercive sexual activity.

3. If these minors who are already sexually active know that they will not be able to receive contraceptives, they will not go to the project. They will not receive abstinence counseling or other protective assistance. They will continue to have sex, contract STDs, become pregnant and, statistics tell us, over half will have abortions.

4. And minors from dysfunctional families who may suffer abuse at home and be surrounded by drug and alcohol abuse and crime may have many valid reasons for wishing to not involve their parents. Categorically mandating that involvement, in the absence of a court order is neither wise nor realistic.

5. This is why so many states expressly protect confidential services for minors.

6. And this is why medical organizations—the provider organizations that know the realities better than anyone in this room—support confidential services.

a. As the American Medical Association has told us, AMA policy opposes mandatory parental notification when prescription contraceptives are provided to minors through federally funded programs since it creates a breach of confidentiality in the physician-patient relationship.

b. The American Public Health Association and American Nurses Association are similarly opposed.

We should heed this judgment and support the substitute.

Mr. CLAY. Mr. Chairman, I rise in opposition to the H.R. 4274, the Labor/HHS Appropriations bill, because through it the House Republicans propose to make drastic cuts in many programs that are vitally important to all Americans, but especially to those most in need whose very survival and growth depends upon the assistance they receive from their government. Fortunately, however, this destructive bill is going nowhere and every Member of this body knows it for the sham that it is. The Republican leadership recognizes they don't have the votes to pass it and are negotiating to include another version of this measure in the Omnibus spending bill.

The funding levels in the bill, as reported, fall $2 billion short of what democrats believe is needed to improve our schools and prepare our children for the 21st Century. There are no funds for America Reads, which helps endure that all children can read well when they complete the third grade. There are no funds to help communities hire 100,000 new teachers and reduce class size so that students can have a better chance to learn. There are no funds to help communities modernize and build schools that provide safe and appropriate learning environments. Clearly, there is nothing in this bill that reflects any investment in the future of public education. In fact, this bill grossly underfunds existing and proven educational programs upon which we have long relied.

Later today, this body will consider a bipartisan conference report reauthorizing the Head Start program, yet this appropriations bill would provide $160 million less than what the President has requested to run Head Start next year. A second bipartisan conference report to be taken up today extending child nutrition programs, would authorize new funds for meal supplements to induce greater participation in after-school programs. This appropriations bill, however, would provide $140 million less than what the President requested to operate these very same after-school programs. I can't imagine how any Member who would vote today to reauthorize our Head Start and nutrition programs could, in good conscience, support these devastating cuts.

Regrettably, Mr. Speaker, the cuts don't stop here, there are many many more. For example, funding for Title I, bilingual education, Safe and Drug Free Schools, Work-Study, and School to Work are all cut. Without the assistance there programs, provide, thousands of disadvantaged students will be deprived of both the educational and career opportunities they need to succeed in life.

Our nation's labor force also suffers under this appropriations bill. It cuts funding for critical worker protection programs run by the Occupational Safety and Health Administration, and the Mine Safety and Health Administration. Several regulatory riders are attached

that compromise these agencies' effectiveness. In addition, the bill undermines efforts to help our youth enter the workforce by completely defunding the Summer Jobs Program and the President's Youth Opportunity Areas Initiative.

Finally, Mr. Chairman, this bill eliminates funding for the Low Income Energy Assistance Program which provides heating and cooling assistance for over 5.5 million low and fixed-income households. With winter approaching, many of those who have relied on this program may soon be forced to choose between heating their homes and feeding their families. That should be totally unacceptable in a nation as prosperous as ours. But rather than meet this urgent need, Republicans would rather squander available dollars on tax cuts for the wealthy.

Mr. Chairman, this is a bad bill that hurts students, working families, and our most neediest families. I strongly urge Members to oppose it.

Mr. OBEY. Mr. Chairman, because I think this is a colossal waste of time, I, too, yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the House Resolution 564, the bill shall be considered for amendment under the 5-minute rule.

Pursuant to that resolution, Amendment No. 1 printed in House Report 105–762 may be offered only at the appropriate point in the reading of the bill. Pursuant to House Resolution 584, Amendments No. 2 and 3 shall be in order before the consideration of any other amendment.

The Amendments No. 2 and 3 printed in the report may be offered only by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the order of the House today, equally divided and controlled by the gentleman from Pennsylvania (Mr. GREENWOOD) for 8 minutes, the gentleman from Oklahoma (Mr. COBURN) for 8 minutes, the gentleman from Oklahoma (Mr. ISTOOK) for 8 minutes, and the gentleman from Ohio (Mr. STOKES) for 8 minutes, shall not be subject to amendment except as specified in the report, and shall not be subject to a demand for division of the question.

The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1999, and for other purposes, namely:

AMENDMENT NO. 2 OFFERED BY MR. GREENWOOD

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

(The portion of the bill to which the amendment relates is as follows:)

SEC. 220. (a) Notwithstanding any other provision of law, no provider of services under title X of the Public Health Service Act shall be exempt from any State law requiring notification or the reporting of child abuse, child molestation, sexual abuse, rape, or incest.

(b) None of the funds appropriated in this or any other Act for any fiscal year for carrying out title X of the Public Health Service Act may be made available to any family planning project under section 1001 of such title if any provider of services in the project knowingly provides contraceptive drugs or devices to a minor, unless—

(1) the minor is emancipated under applicable State law;

(2) the minor has the written consent of a custodial parent or custodial legal guardian to receive the drugs or devices;

(3) a court of competent jurisdiction has directed that the minor may receive the drugs or devices; or

(4) such provider of services has given actual written notice to a custodial parent or custodial legal guardian of the minor, notifying the parent or legal guardian of the intent to provide the drugs or devices, at least five business days before providing the drugs or devices.

(c) Each provider of services under title X of the Public Health Service Act shall each year certify to the Secretary of Health and Human Services compliance with this section. Such Secretary shall prescribe such regulations as may be necessary to effectuate this section.

This title may be cited as the "Department of Health and Human Services Appropriations Act, 1999".

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 printed in the House Report Number 105–762 offered by Mr. GREENWOOD:

Page 52, strike line 8 and all that follows through page 53, line 8, and insert the following:

(b)(1) The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall require that each family planning project under section 1001 of title X of the Public Health Service Act—

(A) expressly inform all minors who seek the services of the project that abstinence is the only certain way to avoid pregnancy, sexually transmitted diseases, and infection with the human immunodeficiency virus; and

(B) ensure that all individuals who provide counseling services to minors through the project are trained to provide to minors counseling that encourages the minors—

(i) to abstain from sexual activity;

(ii) to avoid being coerced into engaging in sexual activities; and

(iii) to involve their parents in the decision to seek family planning services.

(2) The Secretary, acting through the Deputy Assistant Secretary for Population Affairs, shall carry out the following with respect to family planning projects referred to in paragraph (1):

(A) The Secretary shall develop and disseminate to the projects protocols for providing the counseling described in paragraph (1)(B), including protocols for training individuals to provide the counseling.

(B) The Secretary shall ensure that such protocols include protocols specific to younger adolescents.

(C) In developing protocols under subparagraphs (A) and (B), the Secretary shall consider the results of research under title XX of the Public Health Service Act.

3. A SUBSTITUTE AMENDMENT OFFERED BY REPRESENTATIVE ISTOOK OF OKLAHOMA OR HIS DESIGNEE TO THE AMENDMENT NUMBERED 2 OFFERED BY REPRESENTATIVE GREENWOOD OF PENNSYLVANIA OR HIS DESIGNEE

Strike section 220 (page 52, line 3, and all that follows through page 53, line 8) and insert the following:

SEC. 220. (a) Notwithstanding any other provision of law, no provider of services under title X of the Public Health Service Act shall be exempt from any State law requiring notification or the reporting of child abuse, child molestation, sexual abuse, rape, or incest.

(b) None of the funds appropriated in this or any other Act for any fiscal year for carrying out title X of the Public Health Service Act may be made available to any family planning project under section 1001 of such title if any provider of services in the project knowingly provides contraceptive drugs or devices to a minor, unless—

(1) such provider of services has given actual written notice to a custodial parent or custodial legal guardian of the minor, notifying the parent or legal guardian of the intent to provide the drugs or devices, at least five business days before providing the drugs or devices; or

(2) the minor has the written consent of a custodial parent or custodial legal guardian to receive the drugs or devices; or

(3) the minor is emancipated under applicable State law; or

(4) a court of competent jurisdiction has directed that the minor may receive the drugs or devices.

(c)(1) The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall require that each family planning project under section 1001 of title X of the Public Health Service Act—

(A) expressly inform all minors who seek the services of the project that abstinence is the only certain way to avoid pregnancy, sexually transmitted diseases, and infection with the human immunodeficiency virus; and

(B) ensure that all individuals who provide counseling services to minors through the project are trained to provide to minors counseling that encourages the minors—

(i) to abstain from sexual activity;

(ii) to avoid being coerced into engaging in sexual activities; and

(iii) to involve their parents in the decision to seek family planning services.

(2) The Secretary, acting through the Deputy Assistant Secretary for Population Affairs, shall carry out the following with respect to family planning projects referred to in paragraph (1):

(A) The Secretary shall develop and disseminate to the projects protocols for providing the counseling described in paragraph (1)(B), including protocols for training individuals to provide the counseling.

(B) The Secretary shall ensure that such protocols include protocols specific to younger adolescents.

(C) In developing protocols under subparagraphs (A) and (B), the Secretary shall consider the results of research under title XX of the Public Health Service Act.

The CHAIRMAN. Pursuant to the order of the House today, the gentleman from Pennsylvania (Mr. GREENWOOD) and a Member opposed, the gentleman from Oklahoma (Mr. COBURN) each will control 8 minutes.

AMENDMENT NO. 3 OFFERED BY MR. ISTOOK AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. GREENWOOD

Mr. ISTOOK. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The CHAIRMAN. The Clerk will designate the amendment offered as a substitute for the amendment.

The text of the amendment offered as a substitute for the amendment is as follows:

Amendment No. 3 printed in House Report 105-762 offered by Mr. ISTOOK as a substitute for the Amendment No. 2 offered by Mr. GREENWOOD:

Strike section 220 (page 52, line 3, and all that follows through page 53, line 8) and insert the following:

SEC. 220. (a) Notwithstanding any other provision of law, no provider of services under title X of the Public Health Service Act shall be exempt from any State law requiring notification or the reporting of child abuse, child molestation, sexual abuse, rape, or incest.

(b) None of the funds appropriated in this or any other Act for any fiscal year for carrying out title X of the Public Health Service Act may be made available to any family planning project under section 1001 of such title if any provider of services in the project knowingly provides contraceptive drugs or devices to a minor, unless—

(1) such provider of services has given actual written notice to a custodial parent or custodial legal guardian of the minor, notifying the parent or legal guardian of the intent to provide the drugs or devices, at least five business days before providing the drugs or devices; or

(2) the minor has the written consent of a custodial parent or custodial legal guardian to receive the drugs or devices; or

(3) the minor is emancipated under applicable State law; or

(4) a court of competent jurisdiction has directed that the minor may receive the drugs or devices.

(c)(1) The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall require that each family planning project under section 1001 of title X of the Public Health Service Act—

(A) expressly inform all minors who seek the services of the project that abstinence is the only certain way to avoid pregnancy, sexually transmitted diseases, and infection with the human immunodeficiency virus; and

(B) ensure that all individuals who provide counseling services to minors through the project are trained to provide to minors counseling that encourages the minors—

(i) to abstain from sexual activity;

(ii) to avoid being coerced into engaging in sexual activities; and

(iii) to involve their parents in the decision to seek family planning services.

(2) The Secretary, acting through the Deputy Assistant Secretary for Population Affairs, shall carry out the following with respect to family planning projects referred to in paragraph (1):

(A) The Secretary shall develop and disseminate to the projects protocols for providing the counseling described in paragraph (1)(B), including protocols for training individuals to provide the counseling.

(B) The Secretary shall ensure that such protocols include protocols specific to younger adolescents.

(C) In developing protocols under subparagraphs (A) and (B), the Secretary shall consider the results of research under title XX of the Public Health Service Act.

(d) Each provider of services under section 1001 of title X of the Public Health Service Act shall each year certify to the Secretary of Health and Human Services compliance with this section. Such Secretary shall prescribe such regulations as may be necessary to effectuate this section.

The CHAIRMAN. Pursuant to the order of the House today, the gentleman from Oklahoma (Mr. ISTOOK) and a Member opposed, the gentleman from Ohio (Mr. STOKES) each will control 8 minutes.

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

Mr. GREENWOOD. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, this is a virtual reality debate as we know. This bill is not going to go anywhere. This is a debate that should have occurred months ago, and the opponents of free debate on the floor held us up for months, but now we will have the debate. I think we can and should do it in a civilized way.

This is the issue. The gentleman from Oklahoma (Mr. ISTOOK) in the Committee on Appropriations inserted language into the title 10 program, the program that provides family planning services to Americans, to lower income Americans, so that they can avoid pregnancy and provide services so that they can avoid sexually transmitted diseases.

The language of the gentleman from Oklahoma (Mr. ISTOOK) says that, when a minor, a 17-year-old teenager who has been sexually active for a long time, as is usually the case, comes into a clinic. The clinic counselor must send a letter to the parents and the child. The minor cannot receive services for 5 additional days.

I understand the gentleman's intent. I am a parent. But it is wrong-headed. The result of that language, the result of that policy is that if young people do not go into centers and clinics, they do not get the services they need, they become pregnant, and they get diseases.

Our language makes it clear that every family counselor, every family planning counselor has to encourage family involvement in the decision of minors to seek family planning services and provide counseling to minors on how to resist coercive sexual relations.

It requires them to expressly inform all minors that abstinence is the only certain way to avoid pregnancy, sexually transmitted diseases, including HIV.

It requires further that every counselor have state of the art training to encourage, to learn how, and teach kids to involve their parents with these decisions and to abstain from sexual activity.

I urge a "no" vote on the Istook amendment and a "yes" vote on the underlying Greenwood amendment.

Mr. ISTOOK. Mr. Chairman, I yield myself 1 minute and 15 seconds.

Mr. Chairman, the Committee on Appropriations has sought to reform a Federal program that has not been revised or reviewed by the Congress in a great number of years, that being Federal Family Planning.

It is not a matter of 17 years olds, it is a matter of children of any age whatsoever, Mr. Chairman. It is not a matter of just low income persons because the effect of not having parental notice is to say that any child is considered to be a child of poverty and, therefore, at taxpayers' expense, can receive, among other things, taxpayer financed contraceptives, condoms, birth control pills, IUDs, diaphragms, with neither the knowledge or consent of their parents.

Now, Mr. Chairman, if the government were enabling children to be involved with drugs or alcohol or were aware that they were involved, parents would be notified. There is no other circumstance like this where parents are cut out.

The issue is to vote that parents have a right to know, to be involved with the morals and the life and the activities of their children. That is simply why we encourage a vote for the Istook substitute to provide for parental notice, which is sadly lacking today.

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Mr. GREENWOOD. Mr. Chairman, I yield 4 minutes to the gentleman from Ohio (Mr. STOKES) for purposes of control.

The CHAIRMAN. Without objection, the gentleman from Ohio (Mr. STOKES) will control 4 minutes.

There was no objection.

Mr. STOKES. Mr. Chairman, I thank the gentleman for yielding to me. Mr. Chairman, I yield the 4 minutes to the distinguished gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. Mr. Chairman, I thank my distinguished good friend and ranking minority member, the gentleman from Ohio, (Mr. STOKES).

My colleagues, the Istook provision represents the latest attack by family planning opponents against our Nation's flagship program. Three years ago, family planning opponents tried to zero out funds for the Title X program. They failed. Two years ago, family planning opponents led by the gentleman from Oklahoma (Mr. ISTOOK) offered a parental consent amendment, and it failed. Last year the gentleman from Oklahoma (Mr. ISTOOK) offered language nearly identical to that which he is offering today. That amendment also failed.

These attacks on the Title X program have failed because a majority of Members in this body, pro-life and pro-choice, understand that denying teens access to family planning does not promote abstinence. I only wish it were that simple.

Contrary to what we will hear today, the Istook language does not promote

family values or protect the authority of parents over their teenagers. As a mother of 3 and a grandmother of 2, I can vouch for that. And instead, cutting off family planning services to teens simply increases STDs and HIV infections, unintended pregnancies and abortions.

The Istook provision would deny contraception to minors unless they have the consent of their parents or waited 5 days after their parents were notified before obtaining contraception. Some of my colleagues are making a distinction between notification and consent, but who is kidding who? The 5-day waiting period before contraception can be obtained is no different than parental consent. The AMA, the American Academy of Pediatricians, Child Welfare League, Public Health Association, Social Workers and Nurses Association all oppose the mandatory parental notification restrictions in the Istook amendment.

Of course, we would prefer that all teens consult with their parents about important life decisions such as using contraception. We would prefer that teens abstain from having sex altogether. But unfortunately, we know that teens will not change their behavior just because Congress passes a law. Instead, teens will forego contraception rather than facing their parents.

In fact, studies show that over 80 percent of teens seeking family planning services have already been sexually active for nearly a year. By denying contraceptive services to tens of thousands of teens, the Istook language will simply result in higher rates of STDs, more unintended pregnancies and more abortions. If teens are required to obtain parental consent for contraceptive services, they will also avoid STD and HIV screening and routine gynecological exams.

Our Nation already leads the western world in teen pregnancies. Millions of teens have some kind of STD, and the incident of AIDS among teens is, frankly, alarming.

Mr. Chairman, we need to address these problems, but not by making Title X services more difficult to obtain. My colleagues, we have a teen pregnancy crisis in the country, and the Istook provision, in my judgment, will only make it worse. By contrast, the Greenwood-Castle substitute before us today promotes sensible policies for teens. It promotes the values we all share: abstinence for teens and parental involvement. However, it does not threaten the health of teens by withdrawing contraceptive services from our most vulnerable teens who simply have nowhere else to turn.

Please, I say to my colleagues, think carefully. Let us protect the health and well-being of our teenagers, reduce the teen pregnancies which lead to abortion, support the Greenwood-Castle substitute, and oppose the Istook second degree amendment.

Mr. ISTOOK. Mr. Chairman, we have 3 cosponsors of the amendment: myself, the gentleman from Michigan (Mr. BARCIA), and the gentleman from Illinois (Mr. MANZULLO).

Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. MANZULLO).

Mr. MANZULLO. Mr. Chairman, the reason for the Istook-Barcia-Manzullo amendment is simple. In McHenry County, Illinois, which I represent, a 37-year-old teacher was raping a 13-year-old student of his over and over and over again. He took her to the Title X-funded McHenry Tri-County Health Clinic. She was injected on 3 different occasions with Depo-Provera, which is a harsh chemical. In fact, the chemical of choice for chemical castration by convicts.

Her parents had no idea that she was getting these shots. In America today, children as young as 12 years old are being injected, implanted, and given prescriptive medication without their parents even knowing.

Our bill does something very simple. It adopts the language of the gentleman from Oklahoma (Mr. ISTOOK) that Title X health care providers are required to counsel all minors regarding abstinence. It adopts the gentlewoman from New York (Mrs. LOWEY's) problem with this bill that says that children are getting STDs because our bill still allows them to get STDs. In fact, the clinic is still open. Kids can get all the information they want.

What we are simply saying here is this: Allow the parents in this Nation to be put in charge of the sexuality of their children. It is just that simple. We talk about 17 year olds, the gentleman from Pennsylvania (Mr. GREENWOOD) talks about. I wonder at what age he would allow young women to get these injections. In Winnebago County, we understand it is 12 years old. Winnebago County, Illinois.

So vote for the Istook-Barcia amendment that does 3 things. Parents are given actual notice that their children are about to receive prescriptive drugs. It provides for judicial bypass. The amendment does not require parental notification for a minor to receive information, counseling and treatment of STDs. A very modest request.

JAMA, Journal of American Medical Association, in a study done in September of 1997 would agree with this position.

Mr. GREENWOOD. Mr. Chairman, I yield myself 15 seconds.

In response to the previous speaker, one cannot conduct this debate by using the most exaggerated, extreme cases. In the real world, it is 16- and 17-year-old kids who have no parent at home to talk to, who will have no counseling unless the Greenwood amendment is adopted.

Mr. Chairman, I yield 1 minute to the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Chairman, I rise in support of the Greenwood amendment and in opposition to the Istook amendment.

I would like to explain to everybody, this is not pro-life and pro-choice. We need to understand what is going on. Mr. Chairman, 55 percent of all teenagers consult with their parents before they do anything. Eighty-six percent of the teenagers that go into these clinics looking for contraceptive devices or other help are already sexually active.

In a perfect world we would have no sexual activity among teenagers, but we do. And when they come in there, they are looking for help, and the help they are getting hopefully will help them prevent STD or pregnancy and abortion. It is my personal view that if we are able to give them the help, even though we may not prefer that they be involved with a sexual activity, but if we give them that help that they are going to in that way be able to prevent getting sexual diseases, prevent pregnancy, and therefore, prevent the abortion.

I love the idea of mandatory parental notification. That is the difference between our bills, because everything else is provided for in the Greenwood-Castle bill, except for the mandatory parental notification, but if we do that, we are not going to have these kids go in and get the help they need. Please support the Greenwood bill.

Mr. ISTOOK. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, I think it is crucial to understand that we are not talking about the past when a child goes into a Title X clinic, we are talking about the future. We are talking about enabling the future conduct with a program that spends $200 million of taxpayers' money a year and gives these to 1½ million teenagers without the knowledge of their parents.

Mr. COBURN. Mr. Chairman, I yield 1 minute and 15 seconds to the gentlewoman from Idaho (Mrs. CHENOWETH).

Mrs. CHENOWETH. Mr. Chairman, I thank the gentleman for yielding me this time.

I just simply wanted to say that I rise in great support of the Istook amendment.

Mr. Chairman, the tendency in these days is to interfere with that very precious relationship between parents and children, and yes, children are going to do what young people do. But nevertheless, the parents are still primarily responsible for their children, and we as lawmakers must do all that we can to make sure that relationship stays strong and the parents remain responsible.

In a recent Gallup poll of over 500 teenagers between the ages of 15 and 17, fully 66 percent of those polled said that they believed that parental consent, which is a stronger standard than we are asking for in the Istook amendment, parental consent should be required. This is what teenagers said.

Also, in another recent poll it also said that 47 percent of all unintended pregnancies in the United States occur when women are on contraceptives. We need more than just contraceptives. We need good parental relationships, and we need to encourage that.

Mr. GREENWOOD. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, the gentlewoman who just spoke said that we need more than contraceptives. That is why the Greenwood language is so focused on abstinence, abstinence counseling. That is why we are so focused on getting the families in. The problem is that not every kid has the right parent to do that.

Mr. Chairman, I yield 2 minutes to the gentlewoman from Maryland (Mrs. MORELLA).

Mrs. MORELLA. Mr. Chairman, I rise in very strong support of the Greenwood-Castle amendment and in opposition to the Istook amendment.

This current language in the bill requiring parental consent or notification would really do great harm to our efforts to lower the number of unintended pregnancies and abortions, and to our efforts to reduce the incidence of sexually transmitted diseases, including HIV and AIDS.

On the face of it it sounds very reasonable, but it really ignores the realities of the young people who seek care at these clinics. The vast majority of them are already sexually active, have been for almost a year or more, and many of them seek these services because they are afraid they may be pregnant or they have a sexually transmitted disease.

Mr. Chairman, if teens are required to obtain parental consent for any of the Title X services, many of them will avoid the program entirely. It is important to remember that some contraceptives provide protection from STDs. And the opportunity to provide accurate, potentially life-saving education on the transmission of HIV and other STDs could also be lost if teens avoid these services because of parental consent requirements.

I think the Greenwood-Castle amendment offers all kinds of counseling that would be necessary.

I just want to point out the medical community is overwhelmingly opposed to parental consent notification requirements for minors, and I hope that this Congress will support the Greenwood-Castle amendment and oppose the Istook amendment.

The CHAIRMAN. The Chair will seek a clarification of the gentleman from Pennsylvania. Did the gentleman yield 4 of his 8 minutes to the gentleman from Ohio (Mr. STOKES)?

Mr. GREENWOOD. Mr. Chairman, I believe I yielded 4 minutes, and I would be delighted to yield another 4 minutes.

The CHAIRMAN. The gentleman has exhausted the balance of his time through yielding it to the gentlewoman from New York (Mrs. LOWEY).

Mr. GREENWOOD. Mr. Chairman, is it the case then that the time is not entirely fungible, but that there will be another 8 minutes yielded on the Greenwood underlying amendment? Is that correct?

The CHAIRMAN. The time was allocated at the outset for both propositions.

Mr. ISTOOK. Mr. Chairman, if I may inquire as to the time remaining and the different allocations.

The CHAIRMAN. The Chair asks indulgence for 1 minute. The Chair understands the time as fungible.

Under the unanimous consent, each of the following Members were recognized for 8 minutes:

The gentleman from Oklahoma (Mr. ISTOOK); the gentleman from Oklahoma (Mr. COBURN); the gentleman from Ohio (Mr. STOKES); the gentleman from Pennsylvania (Mr. GREENWOOD), and that is on both amendments, in combination, total time.

So the gentleman from Pennsylvania (Mr. GREENWOOD), perhaps under a misunderstanding, has yielded 4 of his 8 minutes to the gentleman from Ohio (Mr. STOKES), who used that time. The gentleman from Ohio (Mr. STOKES) may, in turn, choose to yield 4 minutes of his time back to the gentleman from Pennsylvania.

Mr. STOKES. Mr. Chairman, I am pleased to yield 4 minutes to the gentleman from Pennsylvania (Mr. GREENWOOD)

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The CHAIRMAN. The gentleman from Ohio (Mr. STOKES) yields to the gentleman from Pennsylvania (Mr. GREENWOOD) for his management of 4 minutes of time.

Mr. COBURN. Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Mr. BARCIA).

Mr. BARCIA. Mr. Chairman, I rise in support of the Istook amendment to allow parental notification of minors seeking contraceptives in Title X clinics.

In a recent Gallop survey of 500 teens age 13 through 17, 66 percent indicated that they believed that parental consent should be required before minors received birth control, and believed in fact that parental support and involvement would be beneficial to them.

I would like to also point out, current law requires minors to receive parental consent to have their ears pierced, or even, in cases of an allergy sufferer, to receive an allergy shot. Yet these children can gain access to hormones or other contraceptive drugs that can in fact pose a serious danger to the health of that child. In effect, this issue begs the question of what role should parents have in helping to determine their children's health care needs.

I want to say that while I respectfully disagree with my distinguished colleagues, I commend them for their concern and their focus on abstinence, also, as a key method of preventing unwanted pregnancies.

The CHAIRMAN. The Chair will advise the four Members controlling time, for purposes of the debate that the decision is that the gentleman from Oklahoma (Mr. ISTOOK) as a member of the committee will have the right to close, and the gentleman from Ohio (Mr. STOKES) as a member of the committee will be next to last in closing.

In order to balance the other two, the gentleman from Oklahoma (Mr. COBURN) and the gentleman from Pennsylvania (Mr. GREENWOOD), it is in the Chair's discretion to decide. In order to alternate pro and con on this issue overall, the gentleman from Pennsylvania (Mr. GREENWOOD) will go first in the final use of time, the gentleman from Oklahoma (Mr. COBURN) will go second, the gentleman from Ohio (Mr. STOKES) third, and the gentleman from Oklahoma (Mr. ISTOOK) fourth.

Mr. COBURN. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong support of the Istook-Barcia-Manzullo amendment. I encourage all of my colleagues to vote for it, and vote against the Greenwood amendment.

As many know, I practiced medicine prior to coming to the Congress, including working in emergency rooms. When I work in the emergency room, one of the things we always fear is the possibility that a minor child can come in with a serious illness and the parents will not be with them, and we will not be able to get parental consent.

The reason why that is a very, very serious concern is if we stitch up a wound or give a drug and that child has a reaction to that drug, we can actually be prosecuted for assault. Indeed, a minor child cannot get an aspirin from a school nurse, nor, as was stated previously on the other side of the aisle, their ears pierced without parental consent in the United States. But there is one place in the United States today where a minor child can get medical care without parental consent, and that is in the Title X family planning clinics.

It has been proposed or expounded that these clinics are somehow cutting down on the incidence of AIDS, unwanted pregnancies, or HIV. I would assert that all the research data indicates that since this program began that the incidence of all of those things has gotten consistently worse, not better.

Indeed, I would assert that this policy established by this Congress has

been a tremendous assault on the integrity of the family, and has played a role in the explosion of sexual activity.

In closing, I would just like to say one additional thing. The data that has actually come out of the Alan Gutmacher Institute indicates that up to as many as 50 percent of these kids under the age of 18 are having sexual relations with a man over the age of 18, and in the vast majority of the States that is statutory rape. Indeed, in the case cited by the gentleman from Illinois (Mr. MANZULLO), it involved a teacher of 37 years having relations with a 13-year-old child.

So I would encourage all of my colleagues to vote with the gentleman from Oklahoma (Mr. ISTOOK) on his amendment. It is the right thing to do for the family, it is morally right, and the arguments being put forward by the opponents of the gentleman from Oklahoma (Mr. ISTOOK) are incorrect.

Mr. GREENWOOD. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Chairman, in the real world it is not hard for kids to get condoms. We may not like it, but it is true. Would Members not rather that they got the advice that came from someone who said to them, you ought to talk to your mom and dad about that; that it was someone skilled enough that they would know how to tell that kid how to talk to their mom and dad? A lot of kids do not talk to their mom and dad about this stuff because they actually do not know how to approach it.

They would sit them down and say, look, this is how you do it, then back them up, and say, come back to me and talk to me about it. A lot of kids need to be coached to talk to their parents, because their parents do not talk to them. Their parents do not talk to them, not just about sex, but also not about school, not about friendships, not about intimacy, not about love.

If Members want to mandate, mandate that everyone has to get anything they want to use from a Title X clinic or any health clinic that meets these standards. Then every kid, including the kid that the gentleman from Illinois (Mr. MANZULLO) was so concerned about, she would have come someplace that was skilled in explaining to her, you do not have to participate in coercive sexual relationships.

My point is that we do not tell kids this is coercive sex, we do not tell them they do not have to do this. We do not get them someplace where there are skilled people who can help them build their relationships with their family, help them resist the kind of pressures that are on them, help them understand that abstinence is the only real protection. Furthermore, it gives them a chance to develop their personal power as a young woman.

If Members want to mandate, mandate that they get whatever it is that they want to get from skilled counselors, from a facility that can give them the advice and guidance they need to go to the right people, their families. Remember, States are a lot closer to these problems. Connecticut has a very good law. I ask Members, please do not override our good law with their mandate.

Mr. COBURN. Mr. Chairman, I yield 15 seconds to the gentleman from Illinois (Mr. MANZULLO).

Mr. MANZULLO. Mr. Chairman, in the case in Illinois, under Illinois law, the 13-year-old did receive abstinence counseling.

Mr. COBURN. Mr. Chairman, I am happy to yield 45 seconds to the gentlewoman from North Carolina (Mrs. MYRICK).

Mrs. MYRICK. Mr. Chairman, the Istook amendment does protect our children, and it does provide counseling for children during the time that they are going through emotional problems in their lives. But it does protect a parent's right to know. It simply requires that a parent be notified before their child is given contraception. As parents, we do want to know that. We want to know if they smoke, drink, or do drugs. I do not really see why this is any different.

One thing we have not talked about is that all birth control is not safe, because it has been documented that birth control can be very damaging to young girls going through puberty. It can cause blood clotting, bone deterioration, blindness, among a long list of possible side effects, and even death in girls with heart conditions. It has been a cause of brainstem stroke in teenagers. So I urge Members to support the Istook amendment.

Mr. STOKES. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Texas (Ms. SHEILA JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman from Ohio for yielding time to me.

Mr. Chairman, this is a difficult time. Let me share a fact in our community. A young woman living with a stepfather and her mother, a young woman having her future before her, her stepfather sexually abused her. There obviously was not enough communication in that home. The child wound up pregnant.

I support the Greenwood-Castle substitute, for any other approach to that would go against what 23 States have done. This now will require Title X counselors to expressly inform all minors that abstinence is the only certain way to avoid pregnancy, sexually transmitted infections, and HIV, but it adds counseling to this process. It makes clear that Title X providers must abide by State laws in the reporting of contribution, child molestation, sexual abuse, rape, and incest.

Now we are talking more to these young women who may come for these kinds of prescriptions, but then also share and burden those who are counseling them, what is going on in their home, and maybe this tragedy in Houston would not have occurred.

The Greenwood-Castle substitute ensures that all Title X counselors receive state-of-the-art training on how to help minors abstain from sexual activity, avoid coercive sexual relationships, and involve their parents in the decision to receive family planning.

Mr. Chairman, if the Istook amendment is passed, we will see more of those victims, impregnated young girls, losing the future of their lives. I would ask that we vote for the Greenwood-Castle substitute only.

Mr. COBURN. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Mr. Chairman, I rise in strong support of the Istook-Barcia-Manzullo parental notification amendment. Parents should have the right to know what the Federal Government is doing to their children. It absolutely amazes me that the opponents of this provision do not have a problem with having to write a note for their daughters to receive an aspirin at school or permission to have their ears pierced. Yet, when it comes to young girls being given serious birth control prescription by strangers, opponents do not believe that parents should even be told, that they even have the right to know.

President Clinton has said, parents quite simply have a right to know. Unfortunately, he was not referring to parents having the right to know about their children being given DepoProvera, he was referring to the importance of parents knowing which companies are most responsible for the problem of teen smoking.

If parents quite simply have the right to know about teen smoking, then surely they have the right to know if their minor daughter is receiving potentially dangerous contraceptive prescriptions. The Istook amendment is the only amendment that requires parental notification for prescription contraceptives. The Greenwood amendment would gut this provision.

I urge Members to vote for the Istook-Barcia-Manzullo amendment, to give parents the right to protect their minor daughters.

Mr. STOKES. Mr. Chairman, I yield 1 minute to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Chairman, in my State alone over 300,000 women and teens rely on Title X for their only reproductive health care. Studies show that 80 percent of teens who currently seek family planning advice at clinics would stop going if they had to tell their parents. The Istook language will cause many teens to delay or, even worse, avoid seeking essential health care services, placing their health at risk.

How can we claim to be protecting the health of our young women if we pass legislation that damages their health by restricting access to the care they need? I agree that ideally teens should be encouraged to talk to their parents about their health care decisions, but we do not live in an ideal world, and millions of teens do not live in ideal families.

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The Greenwood-Castle substitute is the correct approach. It provides teens with the message that abstinence is the only way to avoid pregnancy, STDs and HIV infection without restricting their access to needed health care.

Mr. COBURN. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair would inquire of the gentleman from Oklahoma (Mr. COBURN) how many speakers he has remaining for his 1½ minutes.

Mr. COBURN. Just one, Mr. Chairman.

The CHAIRMAN. And how many speakers does the gentleman from Pennsylvania (Mr. GREENWOOD) have remaining for his 2 minutes?

Mr. GREENWOOD. One, Mr. Chairman.

The CHAIRMAN. The gentleman from Ohio (Mr. STOKES) has 30 seconds remaining. In that case, I think it would be appropriate that all the rest of the time be used for closing statements.

So then it is appropriate under the previous direction of the Chair that the gentleman from Pennsylvania (Mr. GREENWOOD) is recognized to close with 2 minutes.

Mr. GREENWOOD. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, this is one of those debates where real good friends look at each other and say, "How can you think this way? How can we come to such different conclusions?"

Mr. Chairman, these are my two pretty little girls and I love them and I want to make sure that nothing ever happens to them. And they are so lucky. They are so lucky because their mother and I talk to them, and we are going to talk to them about their health and their sexuality and their personalities and the strength of their character. And when they come to this decision, they will have us.

But walk out the door of this building. Walk out the door of this building and tell me how many minutes it takes to find the first teenage girl whose parents could care less about her; if they knew where she was, if she knew where they were. Tell us what value it is that we are accomplishing when we send a letter into that home, we send a letter into that home from an agency.

Do my colleagues know what happens? The girl says, Do not send that letter there. I do not want this service, if that is what it means. And so where does she live? She lives in a world in which she has predators. She could be 15 or 16, and there are guys in those neighborhoods all over America, all kinds of neighborhoods, preying on her, putting her at risk of pregnancy, putting her at risk of abortion, putting her at risk of HIV.

She has got nobody. She does not have a parent. She does not have, if the Istook language prevails, a counselor. She has got nobody to teach her what is right. And if we want these values taught to these poor kids, just like we want them taught to our kids, vote for the Greenwood amendment and please vote "no" on the Istook amendment.

Mr. COBURN. Mr. Chairman, I yield 1½ minutes to the gentleman from Oklahoma (Mr. ISTOOK).

Mr. ISTOOK. Mr. Chairman, this program provides birth control pills and other contraceptives to kids. Not just those who are 17, but it freely gives them to those who are 15, to those who are 13, to those who are 12, to those who are 11, to those who are 11, 10, with no limit, totally ignoring the State laws on the books about age of consent.

Without the language, the Istook language in the bill, we do not even have a requirement to turn in people who are taking advantage of kids, and then taking them to these clinics for birth control, who are breaking the law that is designed to protect minors and our kids.

The issue is should $200 million a year of taxpayers' money go to provide contraceptives to 1.5 million kids each year without their parents knowing it? This is not emergency care. We do not say they have to have notice if they need treatment, if they have already contracted some disease. It is only if they are giving out contraceptives for future sexual activity.

And birth control pills, yes, they have side effects. They have interactions. Parents need to know about their children's health, as well as about their children's morals, if they are going to be involved in being able to give parental guidance.

The Istook language has counseling on abstinence. It has a requirement that State laws are to be followed in reporting sexual predators. For goodness sakes, Mr. Chairman, let the parents know.

Mr. STOKES. Mr. Chairman, I yield 1½ minutes to the gentleman from Texas (Mr. EDWARDS) for the purpose of closing.

Mr. EDWARDS. Mr. Chairman, this debate is certainly not about statutory rape, nor is it about taking aspirin. What this debate is about is the real world consequences of the Istook amendment, regardless of the intentions.

I often hear my Republican friends and colleagues talking about taking responsibility for one's actions. They are right, and I agree. And what taking responsibility means on the Istook amendment is that the supporters of this amendment must honestly face the real world consequences of the actions of this amendment and the result of this amendment, if it were to pass into law.

According to the expert opinion of the American Medical Association, the American College of Obstetricians and Gynecologists, and even the American Family Physicians, is that this type of amendment could cause several things to happen. First, more unplanned pregnancies. Because of that, more abortions.

It could also cause in the real world a lot of young teenagers to have serious health problems that otherwise could have been prevented, including lifelong infertility for young women who would love to some day have a family of their own, like many of us are blessed to have our own family.

I do not question the intentions of the gentleman from Oklahoma (Mr. ISTOOK) or his supporters but I do ask them to face not the ideal world in which we would like to live but the real world and the real world consequences that we actually do live in.

I will finish. To suggest that there is anything in the Greenwood language that would come between families and teenagers and parents is absolutely simply not true.

Mr. ISTOOK. Mr. Chairman, I yield the balance of the time to the gentleman from Oklahoma (Mr. COBURN), a family doctor who practices in this area, to close the debate.

The CHAIRMAN. The gentleman from Oklahoma (Mr. COBURN) is yielded the remaining 4 minutes.

Mr. COBURN. Mr. Chairman, first of all, let me thank the gentleman from Illinois (Mr. PORTER) for the way he worked with us this year. He has my utmost respect. I also want to say that the gentleman from Pennsylvania (Mr. GREENWOOD) and I have become good friends through this because we have both learned something from one another.

I do not doubt anybody's motives here, but I definitely doubt the gentleman's knowledge of the facts. I am in the real world every day dealing with teenagers who are pregnant and have a sexually transmitted disease. Do you know what? Two-thirds of them have already been to the Title X clinic. We enabled them to fail.

At the time we have this debate today, 32,000 Americans will get a new sexually transmitted disease, and of that, 17,000 have already been to a Title X clinic.

So the question is, what are the real facts? I agree, if we put in the Istook language, some additional young women will get pregnant; some will get a sexually transmitted disease. But what about all those children now who are going to a Title X clinic or using

birth control pills and do not use them right because it is not talked to by their parents? They do not even brush their teeth at night, let alone remember to take a pill.

Here is the science on oral contraceptives. This is married couples taking the pill, here is what we can expect: 12 to 16 percent of them get pregnant in the first year. Why would we think a 12 or a 16 or 18 year old would not? That does not have anything to do with sexually transmitted diseases, of which human papilloma virus is growing like gangbusters, and herpes, now 40 percent of our population has herpes.

Oral contraceptives do not protect; a condom does not protect. What are we going to give our children for the two greatest sexually transmitted diseases that we have today? The only thing that we can give them is the knowledge of involving their parents back with them in this decision.

I agree, there will be young women who will choose not to go but there will be hundreds of thousands of young women who do have an opportunity to have a relationship with their parents renewed and discuss this issue. If they choose to continue to take oral contraceptives, they will have a parent there saying be sure and take your pill; be sure and do not be indiscriminate; let us teach you how to do it.

The idea of the gentleman from Pennsylvania (Mr. GREENWOOD) on counseling, I agree.

Title X, for those under 18 years of age, in my opinion, is one of the biggest causes of failure of our children. It is not a help. The facts do not show that it is a help. We like to say it is a help because of all of the problems we see.

I give teenage girls oral contraceptives. I practice in this area. But before they walk out of my office, after I have tried to talk them out of it, I make sure they know everything about it, everything about it. The real world is, is there are some wonderful Planned Parenthood clinics that do a good job but the real world on Title X clinics is they do not. They hand them a book of pills and a piece of paper and say, go. They never say the first thing about they are not going to be protected against a sexually transmitted disease.

Finally, my colleagues need to know about the NIH study. Ninety thousand teenagers, 1993, we sponsored the study, here is what it says: The number one way to keep teenagers from getting pregnant or getting a sexually transmitted disease is to connect the parent to the teenager. It is called parental connectedness.

Why would we not want to have a government policy that follows the largest study ever done in our country on this issue?

It is an easy, simple thing. We all want the same thing. We do not want our kids to get pregnant. We do not want them to get a sexually transmitted disease. The difference is, there is a base of knowledge and if we will really look at it we will all go to the same point. We are not 100 percent right or 100 percent wrong.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma (Mr. ISTOOK), as a substitute for the amendment offered by the gentleman from Pennsylvania (Mr. GREENWOOD).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. STOKES. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. Pursuant to clause 2(c) of rule XXIII, the Chair announces that he may reduce to not less than 5 minutes any recorded vote on the underlying Greenwood amendment.

The vote was taken by electronic device, and there were—ayes 224, noes 200, not voting 10, as follows:

[Roll No. 504]

AYES—224

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Bereuter
Bilirakis
Bishop
Bliley
Blunt
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Burton
Callahan
Calvert
Camp
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Ensign
Everett
Ewing
Forbes
Fossella
Fowler
Fox
Gallegly
Gekas
Gibbons
Gillmor
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson, Sam
Jones
Kanjorski
Kasich
Kildee
Kim
King (NY)
Kingston
Knollenberg
LaFalce
LaHood
Largent
Latham
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manzullo
Mascara
McCollum
McCrery
McHugh
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Mollohan
Moran (KS)
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Petri
Pickering
Pitts
Pombo
Portman
Quinn
Radanovich
Rahall
Redmond
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Stupak
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thornberry
Thune
Tiahrt
Traficant
Turner
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NOES—200

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barrett (WI)
Bass
Becerra
Bentsen
Berman
Berry
Bilbray
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Carson
Castle
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Cook
Coyne
Cummings
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Edwards
Ehrlich
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fawell
Filner
Foley
Ford
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Ganske
Gejdenson
Gephardt
Gilchrest
Gilman
Gonzalez
Green
Greenwood
Gutierrez
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Hobson
Hooley
Horn
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kilpatrick
Kind (WI)
Kleczka
Klink
Klug
Kolbe
Kucinich
Lampson
Lantos
LaTourette
Lazio
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McInnis
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moran (VA)
Morella
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pickett
Pomeroy
Porter
Price (NC)
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sawyer
Schumer
Scott
Serrano
Shays
Sherman
Sisisky
Skaggs
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Tauscher
Thomas
Thompson
Thurman
Tierney
Torres
Towns
Upton
Velázquez
Vento
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn

NOT VOTING—10

Buyer
Fazio
Kennelly
Martinez
McDade
Moakley
Peterson (PA)
Poshard
Pryce (OH)
Yates

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Ms. HOOLEY of Oregon changed her vote from "aye" to "no."

Mr. STUPAK and Mr. NEY changed their vote from "no" to "aye."

So the amendment offered as a substitute for the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. GREENWOOD), as amended.

The amendment, as amended, was agreed to.

Mr. PORTER. 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. SHIMKUS) having assumed the chair, Mr. BEREUTER, 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. 4274) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1999, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. PORTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the consideration of H.R. 4274, and that I may include tabular and extraneous material.

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

There was no objection.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105-321)

The SPEAKER pro tempore laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am returning herewith without my approval, H.R. 4101, the "Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999." I am vetoing this bill because it fails to address adequately the crisis now gripping our Nation's farm community.

I firmly believe and have stated often that the Federal Government must play an important role in strengthening the farm safety net. This appropriations bill provides an opportunity each year for the Government to take steps to help hardworking farmers achieve a decent living, despite the misfortune of bad weather, crop disease, collapsing markets, or other forces that affect their livelihoods. It is especially necessary for the Government to act this year, with prices dropping precipitously, crops destroyed by flood, drought, and disease, and where many farmers will see their net income drop by as much as 40 percent below a 5-year average.

Two years ago, when I signed the "Freedom to Farm Bill," I made clear that it did not provide an adequate safety net for our Nation's farmers. There is no better proof of that bill's shortcomings than the hardship in America's farm country this year. Our farm families are facing their worst crisis in a decade.

My Administration has already taken steps to address this crisis. In July, we announced the purchase of $250 million of wheat to export to hungry people around the world. In August, I signed legislation to speed up farm program payments. But in the face of a growing emergency for our Nation's farmers, we must do more to ensure that American farmers can continue to provide, for years to come, the safest and least expensive food in the world. Last month, I sent to the Congress a request for $2.3 billion in emergency aid for our farmers, and I supported Senator Daschle's and Harkin's proposal to boost farm income by lifting the cap on marketing loan rates.

I am extremely disappointed that the Congress has reacted to this agriculture emergency situation by sending me a bill that fails to provide an adequate safety net for our farmers. I have repeatedly stated that I would veto any emergency farm assistance bill if it did not adequately address our farmers' immediate needs, and this bill does not do enough.

The lack of sufficient emergency aid for farmers in this bill is particularly problematic in light of the bill's other provisions that affect farmers and their rural communities. Cutting edge agricultural research is absolutely essential to improve our farmers' productivity and to maintain their advantage over our competitors around the world. But this bill eliminates the $120 million in competitive research grants for this year that I strongly supported and signed into law just last June. It also blocks the $60 million from the Fund for Rural America provided through that same bill, preventing needed additional rural development funds that would help our Nation's rural communities to diversify their economies and improve their quality of life. The bill also cuts spending for our food safety initiative in half, denying funds for research, public education, and other food safety improvements.

Many of our most vulnerable farmers have also had to face an obstacle that no one in America ever should have to confront: racial discrimination. Over 1,000 minority farmers have filed claims of discrimination by USDA's farm loan programs in the 1980s and early 1990s that the statute of limitations bars from being addressed. While I am pleased that this legislation contains a provision waiving the statute of limitations, I am disappointed that it does not contain the language included in the Senate's version of this bill, which accelerates the resolution of the cases, provides claimants with a fair and full court review if they so choose, and covers claims stemming from USDA's housing loan programs.

Therefore, as I return this bill, I again call on the Congress to send me a comprehensive plan, before this session ends, that adequately responds to the very real needs of our farmers at this difficult time.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 7, 1998.*

The SPEAKER pro tempore. The objections of the President will be spread at large upon the Journal, and the veto message and the bill will be printed as a House document.

Mr. SKEEN. Mr. Speaker, I ask unanimous consent that the veto message of the President, together with the accompanying bill, be referred to the Committee on Appropriations.

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

There was no objection.

GENERAL LEAVE

Mr. SKEEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the veto message of the President to the bill, H.R. 4101, and that I may include tabular and extraneous material.

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

There was no objection.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 3150, BANKRUPTCY REFORM ACT OF 1998

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 105–799) on the resolution (H. Res. 586) waiving points of order against the conference report to accompany the bill (H.R. 3150) to amend title 11 of the United States Code, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REREFERRAL OF H.R. 1804, JOHN McKINLEY FEDERAL BUILDING

Mr. KIM. Mr. Speaker, I ask unanimous consent that the Committee on

Transportation and Infrastructure be discharged from further consideration of the bill (H.R. 1804) to designate the Federal building located at 210 Seminary Street in Florence, Alabama, as the "John McKinley Federal Building" and that the bill be rereferred to the Committee on Government Reform and Oversight.

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

There was no objection.

REREFERRAL OF H.R. 4668, JOHN T. MYERS FEDERAL BUILDING

Mr. KIM. Mr. Speaker, I ask unanimous consent that the Committee on Transportation and Infrastructure be discharged from further consideration of the bill (H.R. 4668) to designate the facility of the United States Postal Service at 30 North 7th Street in Terre Haute, Indiana, as the "John T. Myers Federal Building" and that the bill be rereferred to the Committee on Government Reform and Oversight.

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

There was no objection.

AUTHORIZING AWARD OF CONGRESSIONAL MEDAL OF HONOR TO THEODORE ROOSEVELT

The SPEAKER pro tempore. The pending business is the question de novo of suspending the rules and passing the bill, H.R. 2263.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (Mr. BUYER) that the House suspend the rules and pass the bill, H.R. 2263.

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.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. 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 tomorrow.

SENSE OF HOUSE REGARDING NATIONAL SCIENCE POLICY

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 578) expressing the sense of the House of Representatives that the print of the Committee on Science entitled "Unlocking Our Future: Toward a New National Science Policy" should serve as a framework for future deliberations on congressional science policy and funding.

The Clerk read as follows:

H. RES. 578

Whereas the United States must maintain and improve its preeminent position in science and technology in order to advance human understanding of the universe and all it contains, and to improve the lives, health, and freedom of all peoples; and

Whereas the Committee on Science of the House of Representatives is hereby submitting a print to Congress entitled "Unlocking Our Future: Toward a New National Science Policy": Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the print from the Committee on Science entitled "Unlocking Our Future: Toward a New National Science Policy" should serve as a framework for future deliberations on congressional science policy and funding.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from California (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all members may have 5 legislative days in which to revise and extend their remarks on the resolution under consideration.

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

There was no objection.

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

Mr. Speaker, I am pleased to come to the floor today in support of H. Res. 578, which asks the House to endorse the Science Committee's National Science Policy Study, produced by our friend and colleague from Michigan the Committee Vice Chairman (Mr. EHLERS). The study "Unlocking Our Future: Toward a New National Science Policy" is the result of over a year's work by the committee and reflects an approach to science policy that has earned the support of both sides of the aisle.

We have all heard the expression "if it ain't broke, don't fix it." Well, the clear message of this report is that, while not exactly broke, America's science policy is nonetheless in need of some pretty significant maintenance.

□ 2015

Mr. Speaker, this then is not a visionary document, but it is, I think, a document for visionaries. After all, that is what is scientists are, and it is important that we find ways to support them for the contributions they make to our national security, our health and our welfare, and this study succeeds in doing just that.

In my view what makes this report different from other science policy reports published by various groups over the years, some of them very good, is the Committee on Science's intention to act on its recommendations in future oversight hearings in legislation. Indeed this report should not be seen as the end, but rather the beginning of a long process that will involve Congress, the Executive Branch, the States, universities and industry all working together.

Mr. Speaker, this report has generated a great deal of excitement within the scientific community, and before concluding my remarks I would like to share with the House some statements in support of this document from our colleagues and in the Executive Branch.

Dr. Neal Lane, the President's Science Adviser, said he found the report to be harmonious with the President's established science policy goals, and he commended it for underscoring the importance of sustaining and nurturing America's world-leading science and technology enterprise.

Dr. Rita Colwell, Director of the National Science Foundation also praised the report noting its emphasis on the critical role of Federal support for fundamental research and especially merit based investments in university research. Doctor Colwell was also gratified that the report highlights the singular role that math, science and technology education play in any discussions of national science policy.

Mr. Speaker, I insert the full text of these statements in the RECORD:

STATEMENT OF DR. NEAL LANE

In general, I find the Committee's report to be harmonious with the President's established science policy goals. I commend Representative Ehlers for underscoring the importance of sustaining and nurturing America's world-leading science and technology enterprise. Half of our economic productivity in the last half-century is attributable to technological innovation and the science that supports it.

The report's recommendations on the importance of education concur with the President's views that the degree to which our nation flourishes in the 21st century will rest upon our success in developing a well-educated workforce able to embrace the rapid pace of technological change.

I hope this report will serve as a catalyst for broad-based bipartisan Congressional support of the Administration's thoughtful investments across the entire science and technology portfolio. Such a partnership to stimulate scientific discovery and new technologies will take America into the new century well equipped for the challenges and opportunities that lie ahead.

I look forward to working with House Science Committee Vice Chairman Ehlers and other members of Congress to ensure that our national science policy keeps in step with a changing world.

STATEMENT BY DR. RITA COLWELL

I want to commend Rep. Vern Ehlers of his diligent work in preparing this report on national science policy. I am particularly pleased that the report emphasizes the critical role of federal support for fundamental research, and especially for merit based investments in university research. The technological developments that are key to economic growth, public health, and national prosperity all rely on discoveries occurring at and across the frontiers of science and engineering.

I am also gratified that Rep. Ehlers has highlighted the singular role that math, science and technology education play in any discussion of national science policy. We cannot expect to maintain a system of world class research unless we have broad support from an informed public, and we cannot have an informed public unless we commit ourselves to improving public science literacy. I look forward to working closely with Rep. Ehlers in fostering widespread awareness and discussion of the issues raised in this report.

In closing, Mr. Speaker, the Nation's scientific enterprise is too important to our future to be left on auto pilot. In adopting House Resolution 578 and endorsing the National Science Policy Study the House will be sending an unmistakable signal that America's scientific enterprise will no longer be taken for granted in the Halls of Congress, and the real work will begin of turning the ideas in this report into sound policy that is good for science and good for the Nation.

I urge my colleagues to support this resolution.

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

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, I rise to speak on H.R. 578, and I commend my colleague the honorable gentleman from Michigan (Mr. EHLERS) for the significant effort to bring forward a comprehensive science policy report, and I commend the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from California (Mr. BROWN) for allowing it to come this far. The report offers a guide and framework for continued focus on the importance of science as well as an outline for future congressional scientific discussions and deliberations regarding policy and funding options. The report, however, lacks significant input on issues of major concern.

My Committee on Science colleagues, the gentlewoman from California (Ms. LEE), the gentlewoman from Oregon (Ms. HOOLEY) and the gentlewoman from Texas (Ms. JACKSON-LEE), and I offered dissenting views for inclusion as a means to strengthen the report. We find the report needs to address four critical areas: the role of under represented populations in the fields of science and technology, social and behavioral sciences, K–12 science and math education and the challenges of environmental quality.

The role of unrepresented populations:

This report makes only passing mention of the role of unrepresented populations as African Americans, hispanic and people with disabilities in the field of science and technology. It is essential that any science policy document address the need to create a policy to include these populations in our Nation's science and technology efforts. If we do not, we will have a technology divide between Americans.

For example, presently the percentage of white households owning computers is 40.8 percent as compared to 19.3 percent of African American households and 19.4 percent of hispanic households. In addition, 39 percent of black students in public schools have access to computers at school compared with 56 percent of white students. Solving this problem is crucial because from 1996 to year 2006 employment in science and engineering occupations is expected to increase at more than three times the rate of any other occupations. At the same time some projections state that by year 2000, two-thirds of the new entrants into the American work force will be made up of minorities and women. But the number of hispanic and African American first year graduate enrollment in science and engineering fields dropped by 16.2 percent and 19.3 percent respectively from 1996 to 1997. Taken together, these trends spell disaster as a whole. Whole generation of young people may be left behind unable to ride the technological wave.

To begin this process we recommend:

1. The development of programs to involve under-represented communities in the field of science and technology. For example, the National Science Foundation's urban systemic and rural systemic initiative programs focus on a specialized math and science curricula at the high school level. Programs which are based on variables such as household income will improve the education of our youth. High schools with a majority of low-income students have been shown to lack adequate science, engineering, math and technology curricula.

The involvement of under-represented populations in the scientific community by partnership programs between historically black colleges and universities, hispanic-serving institutions, large research institutions and corporate industry. Cooperative research and development agreements, the CRADAs, is an excellent opportunity for collaborations, provide role models and a support system for smaller institutions. However recent National Science Foundation data show from 1993 to 1994 that research institutions received approximately $12.7 billion from 10 Federal agencies. Ten billion dollars of this amount was allocated to the top 100 research universities, but not one historically black or historically hispanic university received a substantial amount. Only $140 million went to the top 81 historically black and historically hispanic producing students while John Hopkins alone received $701 million. More needs to be done to develop the CRADAs with minority institutions of higher education if we are to see more minorities in the fields of science and technology.

In offering these views it is our hope that any future congressional conversations include the aforementioned in an effort to create a national science policy which is sound, diverse and inclusive. Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. Without objection, the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) will control the balance of the time on the minority side.

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. EHLERS), the author of this report.

Mr. EHLERS. Mr. Speaker, I am pleased to address the House this evening to speak regarding the report of the Committee on Science, Unlocking Our Future: Toward a New National Science Policy, that I have spent much of the last year working on.

We started this mammoth effort just one year ago. It has involved a tremendous amount of work on the part of myself, the gentleman from Wisconsin (Mr. SENSENBRENNER) the gentleman from California (Mr. BROWN) and our staffs, and has had the full support of the Speaker, and I certainly wish to thank them all for their support and their work.

I consider the release of this report to be a commencement; it is a beginning and not an end. It is intended to serve as the foundation for continued discussion within the Committee on Science, within the Congress and within the Nation regarding the future funding of science and policy decisions relating thereto. This report was not intended to be an end in itself, but rather to stimulate discussion and provide direction for the Congress and for the Committee on Science in future deliberation on this topic.

I am certainly delighted by the reception the report has received up to this point. The gentleman from Wisconsin (Mr. SENSENBRENNER) has named some of the responses we have received, those from the Director of the National Science Foundation, from members of the bipartsan Senate Science and Technology Caucus, and from the White House in the person of the Director of the Office of Science and Technology Policy. All of them have indicated support for the report, and similar letters from many scientists, scientific organizations and

universities have been pouring into our office and into the chairman's office.

The only comments that we received reflecting reservations agree with and support most of the report, but are concerned about what is not in the report. In other words, they believe that we should have gone further, and indeed we should have and would have in certain subject areas had we had the time.

In particular I would like to respond to the comments of the gentlewoman from Texas who spoke just before me. I appreciate and agree with much of what she just said. There is a great need for us to continue our work in the area of underrepresented populations. I am pleased to report and I do acknowledge in the report, that the instigation, the seed for this report, arose from an African American, Dr. Homer Neal of the University of Michigan, who was Chairman of the U.M. Physics Department when I was in the Michigan State Senate. He invited me to the campus, and we began discussions regarding science and science policy. He eventually became Vice President of Research and then Interim President of the University of Michigan and was instrumental in pulling together a large number of scientists—administrators from major universities to begin discussions on this topic. They met with me, they met with the previous chairman of the Committee on Science, Mr. Walker, and then Dr. Neal organized a symposium at the University of Michigan which was instrumental in beginning the process of developing a science policy in this Nation.

In preparing this report we sought input from the scientific community. I have personally spoken to or with approximately 10,000 scientists and perhaps two thousand nonscientists over the course of the past year. In addition, we started a web site. We have received over 300 E-mails and well over 50 letters, very thoughtful letters, I might add, from scientists across the country. We have held seven hearings specifically on this topic, and in addition to that last year held four hearings on science, math, engineering and technology education, something that is extremely important to this country. We listened very carefully to what every group or individual had to say, and I believe this report reflects much of what we have learned.

But as important as what we learned from these sources was the conviction that we started with.

□ 2030

Our goal, our vision, was that America ought to maintain and improve her preeminent position in science and technology in order, first of all, to advance human understanding of the universe and all that it contains, and, second, to improve the lives, health, and freedoms of all peoples on this planet.

Science—including the physical, natural, life and social sciences, math and engineering can help bring about this vision. The scientific and technological enterprise is critical to bringing about advances in understanding that help ensure that we can maintain our national defense, keep people healthy, and bring about prosperity.

I might add that, if we can maintain people's health and their prosperity, we have introduced a great deal of stability which very naturally will lead to greater democracy in this planet. I truly believe that science and technology are the key to our economic future—as a Nation, and as a planet.

But for science to continue to exert its beneficial effects on society, the scientific enterprise must be kept strong and sustainable. Much of our report is devoted to recommendations for doing so.

We have identified three major areas needing attention. (1) We must have continued discoveries at the scientific frontier; (2) we need research advances in the private sector; and (3) we must improve our system of education from preschool through graduate school.

These are critical areas to address because, first of all, future advances in fundamental research will depend largely on substantial and stable funding for this research from the Federal Government.

Second, research in the private sector and industry is important in bringing the fruits of understanding-driven research to society through applied research.

Third, science and math education, the development of our Nation's intellectual capital, is fundamentally important to our Nation's future.

While the freedom of individual researchers is necessary to bring about ground-breaking scientific discoveries, it is crucial that the scientific and engineering enterprise strengthen its ties to society, the taxpayers, who support it. Our report suggests a number of ways to do so.

In addition, science has another role, and that is to help us make decisions, as a society, as a government, within both the regulatory sector and the judicial branch, as individuals and as voters. We must develop and strengthen our ability to draw on science and engineering to help us make decisions, and our report suggests ways to bring this about.

In writing a document that adhered to my initial goals, in that it should be coherent, comprehensive, and yet concise, we were not able to address any particular issue or aspect of the scientific enterprise in great depth.

Because the report is so comprehensive, encompassing not only the role of the Congress or the Federal Government but also the private sector and our entire education system, it does not explore any particular issue in great depth. It is instead a broad-brush view of the entire science and engineering enterprise.

In part because of this "big picture" approach, this report is the beginning of a process, not the end of one.

The work of addressing specific science policy issues will have to come later. I am gratified, in fact, that the additional views submitted by some committee members indicate a desire to pursue further issues raised in the report. It is my hope that we will do so in the next Congress.

Much hard work remains. We must address these issues that are so critical to maintaining our science and technology enterprise. Let's start that process. I urge my colleagues to support this resolution.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I yield as much time as he may consume to the gentleman from California (Mr. BROWN).

Mr. BROWN of California. Mr. Speaker, I thank the gentlewoman for yielding me the time.

Mr. Speaker, a year ago at the Science Policy Study Kick-off Roundtable, Speaker Gingrich said, and I quote, "You give me a mission large enough to mobilize the Nation. You give me a set of strategic investments large enough to be worth doing, and then make it my problem to go out and figure out how to find the money."

The gentleman from Michigan (Mr. EHLERS) accepted this challenge, and I commend him on his efforts to lay down a national policy for science, math, engineering, and technology.

In setting policy, decisions must be made about the direction this country should move in, the precedence we are willing to set, and the scientific agenda for the coming years.

The problem with this report is that, and this has been already acknowledged, so I am not trying to beat a dead horse, the Speaker sought a bold visionary document, and what he got was a document which, valuable as it is, still satisfies mainly the needs of the status quo.

The Speaker, in reviewing the report at the press conference with which it was announced said this is a very good start, but it really only scratches the surface of what over the next 4 or 5 years will have to be a very important national dialogue.

This is the situation that we are in. I like the report as far as it goes. I think I can echo what the gentleman from Michigan (Mr. EHLERS) and the gentleman from Wisconsin (Mr. SENSENBRENNER) said. But I have cast my role here in the Congress at trying to look beyond the status quo at what needs to be done to solve the problems of the future. To me, this report does not go far enough in terms of that particular kind of goal.

So I am going to offer and I have offered to continue to work with the gentleman from Michigan (Mr. EHLERS) whose contribution is very valuable. I

have gone through many science policy reports over the last 30-odd years. I think this is the first one that I have seen that was completed on time and under budget. I think any person who can do that in dealing with a complex subject like this deserves to be commended.

What I do think we need to do now is to accept the judgment of the Speaker that we need to continue working in this direction and to give our very best efforts to doing that.

The gentlewoman from Texas has pointed out some of the areas in which we need to continue working. This report, incidentally, as the gentleman from Michigan (Mr. EHLERS) has indicated is very acceptable to the research universities of this country and to those who benefit from the present establishment of science.

They like the idea of the Congress committing itself to provide more money for what they are already doing, and they will be glad to spend that. That is not the problem.

The question now is what social purpose are we serving through the expenditure of that money? We no longer can justify on the grounds of, let us say, national security, although we will continue to spend some money on that, but that will continue to decline. We need to look for new ways of answering the question, for what purpose are we supporting this very large scientific establishment that we have created.

I happen to feel that such an establishment is of very great value, but I think we need to look at a new paradigm in terms of the purpose of that establishment and what it can do to achieve the goals of human society.

I know that the gentleman from Michigan (Mr. EHLERS) referred to the need for greater democracy on this planet. Our good friend, the gentleman from California (Mr. DREIER) in his eloquent remarks this morning quoted from Madison's Federalist Paper Number 51 on the problems of justice and how to achieve them.

The physical sciences cannot solve those kinds of problems, but it is conceivable that newly developing areas of science, in the social sciences, the cognitive sciences, interdisciplinary science, a number of other areas might cast some light on this age-old search for a more effective, just society that we have not yet achieved.

We sometimes almost look as if we are not even coming closer to it. But we need to use the best minds of this society to work on the most important goals, the goals of the highest priority to this society. This is the mind-set that we have to inculcate in the scientific leadership of this country today.

I am not discouraged at the possibility of doing that. I think this report, perhaps, does give us a framework in which we can move forward in that direction. But because I feel that it is my goal to continue to be the doubting Thomas and to focus on the needs of the future, I am going to withhold my support. I did this in committee, I might say, although I did not make any effort to influence the other members of the committee.

I can tell you that more than 75 percent of the Committee on Science have signed their approval of this, which I think is probably a figure that ought to be even exceeded by the full House.

But I am going to play the role that I have chosen, hoping that the gentleman from Michigan (Mr. EHLERS) and the gentleman from Wisconsin (Mr. SENSENBRENNER) will understand that I feel that, that way, I can make the greatest contribution to moving us forward along some of the more unorthodox paths that we need to follow if science is truly going to be the asset to this society that I know it can be.

Mr. Speaker, one year ago, at the Science Policy Study Kick-off Roundtable, Speaker NEWT GINGRICH said: "You give me a mission large enough to mobilize the nation. You give me a set of strategic investments large enough to be worth doing, and then make it my problem to go out and figure out how to find the money."

Representative EHLERS accepted this challenge and I commend him on his effort to lay down a national policy for science, math, engineering, and technology.

In setting policy, decisions must be made about the direction this country should move in, the precedents we are willing to set, and the scientific agenda for the coming years. Unfortunately, these are precisely the decisions that were absent from the report.

The speaker sought a bold, visionary document; what he got was largely an affirmation of the status quo.

Any discussion surrounding this report or this broad topic must be put in context and not viewed as an isolated event. This Science Policy Report is not the first of its kind—not even the first such study by the Science Committee—and it will not be the last.

Over the last two decades I can point to a long string of incremental steps in the evolution of our thinking on science policy. In fact, I can find twenty significant studies on national science and technology policy just within the last few years, and I would ask permission to append this list to these remarks.

Twenty-two years ago, President Gerald Ford helped redefine the federal role in science policy with the signing of the National Science and Technology Policy, Organization, and Priorities Act of 1976, a major work of the House Science and Technology Committee. While the Act was signed by the President, it was never fully implemented.

However, it did lead to the further definition of the federal role in technology transfer and advanced technology development in the 1988 Trade Bill signed by President Reagan. The Trade Bill then opened up a restructuring of the broad area of Government-Industry-University cooperation as one way to making the U.S. industrial system more competitive with the national systems of Europe and Asia, which historically had encouraged closer ties between government and industry.

During the Bush Administration, under the skilled guidance of his Science Advisor, Dr. D. Allan Bromley, and with the input of many science and technology organizations, continued progress was made in improving the process of innovation, of moving new inventions and technologies from the labs to the marketplace, and defining, through the device of cooperative research and development agreements, the legal structure for individual institutional agreements.

With the end of the Cold War, this policy debate has intensified. The House Committee on Science, Space, and Technology issued a report in 1992 on the health of research.

The Clinton Administration has attempted to make this imprint on science policy with the 1994 report, "Science in the National Interest," a product of the Office of Science and Technology Policy. This report prompted Congressional hearings and a renewed discussion of science and technology policy at the national level.

With this historical perspective in mind, I would offer some guiding principles for an ongoing dialogue about the future of science policy.

First, a new science policy should reflect our understanding of the process of creativity and innovation. Second, a new science policy should articulate the public's interest supporting science—the goals and values the public should expect of the scientific enterprise. Third, a new science policy should point towards decision-making tools for better investment choices.

With respect to our understanding of the process of creativity and innovation, virtually no one still believes in the Vannevar Bush-era linear model of scientific breakthroughs leading inexorably to technological developments.

Despite report language endorsing a more sophisticated model of science and technology innovations arising through an iterative process, the Ehlers report ultimately puts its money on the old linear model by emphasizing Federal support for "basic" research. The report provides no guidance on how the Federal government should determine that a "market failure" has occurred in the downstream parts of the R&D process or what types of policies would be appropriate to redress such failures. I think we should work together to develop a policy on the appropriate limits of Federal support that fits with our understanding of how innovation actually works. Let's put our money where our model is.

Further, the Ehlers report seems to support the traditional "hard" sciences with only passing mentions of engineering, biology, bio-technology, the social sciences or the cognitive and policy sciences. I think we need a more holistic conception of what constitutes important science and worthwhile endeavors. An argument can be made that the most pressing issues facing our society—crime, education reform, social justice—are more likely to be addressed through investments in social science rather than in the hard sciences. Yet, the report is silent on the need to support this important research.

Next, concerning the public's interest in supporting science and what goals and values the

public should expect of the scientific enterprise, it was over fifty years ago that Vannevar Bush argued that science was worth public support because it could "insure our health, prosperity, and security as a nation in the modern world." I think those general goals are still valid today. However, I also believe that we need to do a more rational job of identifying specific social needs that science can help us remedy. What are the long term goals for society which the public should expect from these investments? To put it simply, science for what end? It isn't enough to declare science a public good and walk away from the table.

When we use public resources to support science and tchnology, we should clearly identify the public purposes which we desire to achieve.

In addition to clearly articulating the goals for science, we need to squarely face the values that science can help enhance or undermine. I am particularly concerned about the possibility that increasing technological sophistication and maldistribution of educational opportunity could create a two-tiered society. What steps can we take to guarantee that we do not become a society of technological haves and have nots? This is a question of justice and equity in access to science education, and to the fruits of the scientific and technological enterprise.

To give an example, it is unfair to use public funds for biomedical research if the fruits of that research are so expensive that only a handful of the most economically advantaged can enjoy them. That is a hidden redistribution of wealth and life-expectancy from poorer Americans to richer Americans under the guise of "basic" research in the life sciences. A new science policy must wrestle with these type of questions.

Another example can be found in the disparity that continues to exist between the number of white males and the number of women and minorities who have access to and pursue higher education in science and technology fields.

Some projections show that by the Year 2000, two-thirds of the new entrants into the American workforce will be made up of minorities and women. These numbers present a compelling argument for inclusion of these groups when one considers sources of scientific capital, the make-up of our workforce, and the nation's consumer base. Therefore, the question is not if, but when, we will begin to seriously tackle the issue of underrepresenttion of these groups. Any comprehensive policy effort must address the inclusion of under-represented groups and acknowledge the future implications for the economy and society if we fail.

And lastly, as regards our decision-making tools for better investment choices. In addition to identifying clear goals and values, a new science policy should point towards methods for making better decisions. Some of the elements for that are in place. For example, the Government Performance and Results Act (GPRA) challenges our agencies to develop comprehensive goals and measurements. However, in research and development programs, GPRA is still a fairly blunt instrument and is in need of fine-tuning.

The Office of Science and Technology Policy is in a position to provide some overall coordination for our science policy, but it doesn't always have the muscle to make its desires stick with executive agencies.

Congress has creative leadership in both parties on science policy questions, but we suffer from a disorganized process for passing authorization and appropriation bills that leads to suboptimal outcomes. I think that we need to tackle all of these elements of decision-making as we move towards a more rational analysis of the major problems facing society—affordable health, broadly based economic opportunity, sustainable environmental policies and social discontent—and of the science needed to address those problems.

Science policy must try to accommodate a complex system that has been and will continue to change with increasing regularity. For this reason we need a policy document that reflects our understanding of the process of creativity and innovation, articulates the public's interest in supporting science, and points towards decision-making tools for better investment choices. Only then can we set forth goals that: (1) Are broad and sustainable, (2) form an overall picture of what we want our future on this planet to be, and (3) are based ultimately on societal needs and our desire to improve the human condition.

Over the course of my career I have issued challenges to legislators, agencies, and the science community to set goals, define priorities, think in a global context, move beyond the limits imposed by discrete disciplines, and to find ways science, engineering, and technology can help society advance. The National Science Policy report written under the direction of Congressman EHLERS is clearly an attempt to move the science, engineering, and technology fields forward, but ultimately it fails to adequately address the pressing issues that face the scientific enterprise and society in coming years. Therefore, I cannot agree that a Science Policy Report that fails to tackle these challenges is "a framework for future deliberations on congressional science policy and funding" as H. Res. 578 states.

I offer any help I can to Mr. EHLERS in continuing this dialogue, but I will withhold my support for the resolution before us today.

20 RECENT SCIENCE POLICY REPORTS

1991—U.S. Congress, Office of Technology Assessment, "Federally Funded Research: Decisions for a Decade."

1992—U.S. Congress, House, Committee on Science, Space and Technology, "Report of the Task Force on Health of Research: Chairman's Report."

1992—Carnegie Commission on Science, Technology, and Government, "Enabling the Future: Linking Science and Technology to Societal Goals."

1992—Federal Coordinating Council for Science, Engineering, and Technology, "In the National Interest: The Federal Government and Research-Intensive Universities."

1992—Competitiveness Policy Council, "First Annual Report To the President and Congress—Building a Competitive America."

1992—President's Council of Advisors on Science and Technology, "Renewing the Promise: Research-Intensive Universities and the Nation."

1993—National Academy of Sciences, Committee on Science, Engineering, and Public Policy, "Science, Technology, and the Federal Government: National Goals for a New Era."

1993—Carnegie Commission on Science, Technology, and Government, "Science, Technology and Government for a Changing World."

1994—Executive Office of the President, President Clinton/VP Gore, Office of Science and Technology Policy, "Science in the National Interest."

1995—National Academy of Sciences, Committee on Science, Engineering, and Public Policy, "Reshaping the Graduate Education of Scientists and Engineers."

1995—Executive Office of the President, The Council of Economic Advisors, "Supporting Research and Development to Promote Economic Growth: The Federal Government Role."

1995—National Academy of Sciences, National Research Council, "Allocating Federal Funds for Science and Technology."

1996—National Science Foundation, "National Patterns of R&D Resources."

1996—Council on Competitiveness, "Endless Frontier, Limited Resource: U.S. R&D Policy for Competitiveness."

1996—Executive Office of the President, President Clinton/VP Gore, Office of Science and Technology Policy, "Technology in the National Interest."

1996—Office of the Vice President for Research, University of Michigan, "The Future of the Government/University Partnership."

1996—U.S. Department of Commerce, "Effective Partnering: A Report to Congress on Federal Technology Partnerships."

1997—Executive Office of the President, Office of Science and Technology Policy, "Science and Technology Shaping the Twenty-first Century."

1997—Lewis Branscomb et al., Harvard University, Center for Science and International Affairs, "Investing in Innovation, Toward a Consensus Strategy for Federal Technology Policy."

1997—National Science Board, "Government Funding of Scientific Research."

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I appreciate the words and insight of the gentleman from California (Mr. BROWN). I think that we are quite proud of the fact, not only was this report completed on time and on budget, which we like to do in the Committee on Science, but also this is one of the first congressional initiatives on any major topic looking into the future that is our own product rather than a reaction from something that has come from the Executive Branch or private industry or the university.

I would like to see the Congress continue in this type of creative venture where we look at how we can better the type of quality of life that we will be bequeathing to our children and grandchildren.

Mr. Speaker, I yield 3½ minutes to the distinguished gentlewoman from Maryland (Mrs. MORELLA).

Mrs. MORELLA. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise this evening in support of H. Res. 578, a resolution expressing the sense of the House that

the Committee on Science's report entitled "Unlocking Our Future: Toward a New National Science Policy" should serve as a framework for maintaining and strengthening our U.S. science policy for the 21st Century.

I, first of all, want to acknowledge the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. EHLERS), the vice chairman, for their leadership and commitment toward a renewed focus on U.S. science policy and for their effort to produce the report that is before us this evening.

As my colleagues know, the Committee on Science has held many, many hearings over the last year covering all aspects of science policy. I applaud their work, support the recommendations set forth in the committee's report.

I do want to say that the gentleman from Michigan (Mr. EHLERS) had many, many hearings in crafting together this science policy, and the gentleman from California (Mr. BROWN), the ranking member of the full committee, was also there at many of those meetings. The gentleman from Wisconsin (Mr. SENSENBRENNER), as a leader, has done an extraordinary job.

The science policy study, in part, focuses on the need to revitalize our Nation's educational system to ensure that students at every level, from K through 12 through university, have the skills necessary to excel in all areas of math and science.

The study also advocates promoting more flexibility in graduate level science and engineering programs to encourage more student participation. But most importantly, the study stresses the need to do more to address the underrepresentation of women and minorities in science and engineering fields.

To that end, the study indicates the passage of H.R. 3007, the Commission on the Advancement of Women in Science, Engineering and Technology Development, is an important step in achieving that goal.

H.R. 3007, which I introduced last fall, establishes a commission to identify and address the problems associated with the recruitment, retention, and advancement of women and minorities in science, engineering, and technology development.

The commission will be comprised of representatives from both private businesses and academia and will provide Congress with a list of policy recommendations that will help break down the barriers that women and minorities face in trying to become scientists and engineers.

As my colleagues know, the House of Representatives passed H.R. 3007 under suspension of the rules on September 13. I am pleased to report that the Senate approved the legislation last week and that H.R. 3007 is now awaiting the President's signature.

I see also the gentleman from Pennsylvania (Mr. GOODLING) is here in the chamber. It was jointly referred also to his committee, and I am pleased that that committee also gave its seal of approval. So we are already on our way of addressing some of the critical issues raised in the science policy study.

Again, Mr. Speaker, I want to thank the gentleman from Wisconsin (Chairman SENSENBRENNER), the gentleman from Michigan (Vice Chairman EHLERS) for their hard work. I support the recommendations in the report unlocking our future toward a new national science policy. I look forward to working with my colleagues on both sides of the aisle next Congress to further promote a strong U.S. science policy.

□ 2045

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, the idea of a science policy statement is a very valuable idea. As a member of the House Committee on Science, I have wanted for a long time that we bring focus around the issues we work with. However, I think it is important to note that we have a long way to go, and what we might be able to add to this process is an understanding of greater creativity and innovation in science and expanding the public's desire to participate in science, as well as to understand the science investments that this country makes. We also need better decision-making tools that will engage our scientists around the Nation so that we can make the right choices of investment.

Then, although we speak about education in this policy statement, I think it is extremely important that we reflect more on the K through 12. One of our most important challenges is to encourage our young people to be interested in the sciences, to desire to participate in the sciences, and by that we must professionally develop our teachers, and we must work on the K through 12 development.

So I would hope that as we conclude this study, that we will look to do more and make it better to expand the interests of science throughout the Nation.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I yield myself the balance of my time.

Let me close my remarks by expressing my appreciation and respect for both the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. EHLERS) for both accepting this responsibility and for producing this report. I am pleased to have the gentleman from Michigan (Mr. EHLERS) acknowledge that this report is a commencement. I believe sincerely that he is willing and open to having more input as related to the areas I have identified.

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

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

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and agree to the resolution, H. Res. 578.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

SENSE OF THE HOUSE REGARDING IMPORTANCE OF MAMMOGRAPHY AND BIOPSIES IN FIGHTING BREAST CANCER

Mr. BLILEY. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 565) expressing the sense of the House of Representatives regarding the importance of mammograms and biopsies in the fight against breast cancer.

The Clerk read as follows:

H.R. 565

Whereas 1 in 8 women will develop breast cancer in her lifetime;

Whereas nearly 180,000 American women will be diagnosed with breast cancer this year, and nearly 44,000 women will die of the disease;

Whereas breast cancer is the leading cause of cancer death of women between the ages of 40 and 55;

Whereas it is universally recognized that regular mammograms are the best way to detect breast cancer at its earliest, most treatable stages, and that mammograms can detect small breast cancers up to 2 years earlier than they can be detected through self-examination;

Whereas early detection, including regular mammography screening with prompt treatment, could result in one-third fewer breast cancer deaths among women over age 50;

Whereas the American Cancer Society and the National Cancer Institute recognize that regular mammograms are beneficial to women in their forties and recommend that women begin mammography screening by age 40;

Whereas the Centers for Disease Control and Prevention determined in 1995 that nearly half of American women age 50 and older, and more than one-third of American women age 40 to 49, had not received a mammogram in the previous year;

Whereas annual mammograms are essential in early detection of breast cancer, and biopsies are the only way to diagnose or rule out breast cancer with certainty;

Whereas it is vital that women have information about breast biopsy and the biopsy options that are available to them;

Whereas cutting-edge technology in women's health is creating more options for women; and

Whereas greater awareness of the importance of mammograms leads to more mammograms and biopsies: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that—

(1) all American women should take an active role in the fight against breast cancer by all the means that are available to them, including self-examination, physician examination, and regular mammograms;

(2) the role played by community organizations and health care providers in promoting awareness of the importance of regular mammograms and of biopsy options and in helping to expand the availability of low-cost mammograms and biopsies should be recognized and applauded; and

(3) the Federal Government has a responsibility to—

(A) endeavor to raise awareness about the importance of the early detection (through mammography and biopsy) and prompt treatment of breast cancer;

(B) continue to fund research so that the causes of and a cure for breast cancer may be discovered; and

(C) continue to make mammograms and biopsies more widely available to women over 40.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. BLILEY) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. BLILEY).

GENERAL LEAVE

Mr. BLILEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to insert extraneous material on the bill now under consideration.

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

There was no objection.

Mr. BLILEY. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in support of H. Res. 565, which expresses the sense of the House of Representatives regarding the importance of mammograms and biopsies in the fight against breast cancer. I salute the gentleman from New Hampshire (Mr. BASS) and the gentlewoman from Washington (Ms. DUNN) for this commendable resolution.

According to the General Accounting Office's testimony this past May before the Committee on Commerce, Subcommittee on Health and the Environment, breast cancer is the most commonly diagnosed nonskin cancer and the second leading cause of cancer deaths among women. Experts estimate that during the 1990s, as many as 1.8 million women will be diagnosed with breast cancer, and 500,000 will die from it. According to 1997 data, an estimated 44,000 women died from breast cancer, and an estimated 180,200 new cases of the disease were diagnosed.

Mr. Speaker, we must remember that these women are not mere numbers. They are mothers, daughters, friends, and colleagues. Breast cancer has struck the families of my staff. It has even struck my own wife.

The fact that 1 in 9 women will develop breast cancer at some point in their lives is a frightening prospect, but there is hope. Awareness leads to vigilance, which leads to early detection. This resolution before us helps build the awareness needed to survive.

As my own family found out, the probability of survival, as well as the use of breast-conserving therapy and the avoidance of mastectomy increases significantly when the disease is discovered in its early stages. Currently, the most effective technique for early detection of breast cancer is screening mammography, an X-ray procedure that can detect small tumors and breast abnormalities up to 2 years before they can be detected by touch, and over 90 percent of these early-stage cancers can be cured, according to the FDA.

The use of mammography as a tool for detecting early cancer continues to increase. According to the Centers for Disease Control and Prevention, the proportion of women aged 50 and older who had received mammograms in the prior year increased from 26 percent in 1987 to 57 percent in 1995. The proportion of women 40 to 49 who had received mammograms in the past 2 years also increased from 59 percent in 1990 to 66 percent in 1995.

Mr. Speaker, I am very proud that our committee has done more than simply build awareness about this dreaded disease. Just 3 weeks ago on September 15, the House joined unanimously the Committee on Commerce in passing H.R. 4382, the Bliley-Bilirakis Mammography Quality Standards Reauthorization Act of 1998. This bill will assure the safety, accuracy and overall quality in mammography services for the early detection of breast cancer. Women who seek mammograms, however, must be assured that their results will be accurate and not misleading.

Bliley-Bilirakis provides for direct patient notification of all mammography examinations in writing, and in easily understood terms so that women are fully aware of their results. As the August 4 joint letter of endorsement from the American Cancer Society, the National Alliance of Breast Cancer Organizations and the Susan Komen Breast Cancer Foundation states, "Studies have shown that women believe their mammography results are normal if they are not contacted after their examination. An increasing number of mammography facilities have begun to report both normal and abnormal findings directly to the women as well as her referring physician, without disrupting the relationships with her referring provider."

The other body passed Bliley-Bilirakis without amendment. It has languished on the President's desk for a full week now. It merits his signature.

Mr. Speaker, the month of October is breast cancer awareness month. Today is a fitting day for the House of Representatives to add its voice to the voice of many other dedicated citizens in this country to express the importance of early mammographies and biopsies.

Mr. Speaker, I urge passage of this resolution, and I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Resolution 565. As we all know, breast cancer is one of the leading causes of death among women in this country. By combining early detection of breast cancer with prompt treatment, we can reduce the number of deaths by as much as one-third.

Although these facts are known, only half of all women over the age of 50 and one-third of women over the age of 40 have had a mammogram in the past year. We should actively push the benefits of mammography and increase its availability. I applaud the organizations that have already been active in promoting breast cancer awareness and the benefits of early detection.

Mr. Speaker, a short time ago, as the gentleman from Virginia (Mr. BLILEY) mentioned, this Congress passed the Mammography Quality Standards Reauthorization Act of 1998. This bill assured the continuation of a program for ensuring mammography quality and making sure that all women are notified of those test results. H. Res. 565 complements this legislation by recognizing the need for greater awareness among women of the need to have regular mammograms.

While I am pleased to support H. Res. 565, Mr. Speaker, I would be remiss if I did not remark for the need of more substantive legislation in this area. The Patients' Bill of Rights would have improved women's access to, and quality of, health care. I lament the fact that this Congress will fail to pass meaningful managed care reforms to stop HMO abuses.

Other legislation upon which I fear this Congress may fail to act this year would expand Medicaid coverage for breast and cervical cancer treatment. Reauthorization of the National Institutes of Health and the Centers for Disease Control programs affecting women also unfortunately have languished in this Congress.

In sum, however, Mr. Speaker, I urge my colleagues to support H. Res. 565. I also urge my colleagues to begin work on all the remaining facets of women's health care as soon as possible next year, and I thank the gentleman from Virginia (Mr. BLILEY) for his good work.

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

Mr. BLILEY. Mr. Speaker, I yield 4 minutes to the gentlewoman from Washington (Ms. DUNN), an original cosponsor of this legislation.

Ms. DUNN. Mr. Speaker, I thank our chairman, the gentleman from Virginia (Mr. BLILEY), and I thank the gentleman from New Hampshire (Mr. BASS) for his great work on a resolution that we believe will help save the lives of women all over this country. I want to thank particularly, though, the gentleman from Virginia (Mr. BLILEY) and the gentleman from Florida (Mr. BILIRAKIS) for enabling this resolution to come very quickly to the floor.

Mr. Speaker, I rise today in support of the Bass resolution because of the impact it will have on the quality of life of America's women. Since October is National Breast Cancer Awareness Month, it is imperative that we seize this opportunity to encourage women to take an active role in combating a disease that takes the lives of thousands of women every single year.

While we have seen tremendous progress in the early detection, diagnosis and treatment of breast cancer, there is still a great deal more work to be done. This year, approximately 180,000 new cases of breast cancer will be diagnosed, and almost 44,000 women will die from this disease.

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That is why it is vital now, more than ever, for us to continue educating women about mammograms and about biopsies. By emphasizing the importance of mammograms and biopsies, the Bass resolution builds on the continuing efforts of those who work so very hard to promote the importance of early detection and early diagnosis in the fight against this devastating disease.

Mr. Speaker, one of my dear friends was diagnosed with breast cancer over a decade ago. She is living a healthy, productive life today because she conquered her illness, but her cancer was not detected early. Back then, only 10 years ago, women had mammograms less frequently, and she discovered the lump in her breast after it had been developing for almost 2 years.

She is a breast cancer survivor because of her own mental strength and her determination and the quality care that she received from her doctors. She was very fortunate, and for that I am thankful. But Mr. Speaker, other women may not be so fortunate.

Early detection and diagnosis through mammography and biopsy remain our best weapons against breast cancer. The Bass resolution stresses the value of regular self-examinations and mammograms in detecting breast abnormalities, and the necessity of breast biopsies in diagnosing if the abnormality is cancerous or noncancerous.

Through our efforts to raise awareness about mammograms and the other biopsy options that are available, women will have the tools to make well-informed decisions when it comes to breast care.

Congress continues to improve the quality of life for American women. As a result of the good work of the gentleman from Virginia (Chairman BLILEY), we are now able to ensure that women have access to the highest quality medical equipment to detect breast cancer at the earliest possible moment, and women now will be able to receive their mammogram results in a clear and comprehensible form.

Congress is also continuing to invest in research that saves lives. We are working to double the funding for the National Institutes of Health over the next 8 years, because their research has produced major advances in the treatment of cancer and disease that affect the lives of women in America.

The Bass resolution complements these efforts to ensure that mothers, daughters, sisters, and wives will not be limited by breast cancer, but will be free to pursue their hopes and dreams, living healthy and productive lives. I ask my colleagues to support this vitally important resolution.

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

Mr. BLILEY. Mr. Speaker, I yield 4 minutes to the gentleman from New Hampshire (Mr. BASS), the original sponsor of this bill.

Mr. BASS. Mr. Speaker, I rise in strong support of the breast cancer awareness resolution, which is quite similar to one I introduced last year. I do want to thank the gentleman from Virginia (Chairman BLILEY) and the gentleman from Florida (Mr. BILIRAKIS) for their crucial help in bringing this resolution to the floor this evening.

I also want to thank the gentlewoman from Washington (Ms. DUNN), whose partnership on this resolution has been absolutely invaluable.

Mr. Speaker, we should all know by now that October is National Breast Cancer Awareness Month, and October 16 is National Mammography Day. It is, therefore, fitting that the House should come together today to pass the resolution that is before us now.

This breast cancer awareness resolution encourages women to take a proactive role in fighting breast cancer through steps like seeking regular mammograms, and following up on those mammograms with biopsies, if necessary. It recognizes and applauds the important role played by community organizations and health care providers in promoting awareness of these services and affordable access to them.

Finally, it acknowledges the responsibility of the Federal Government to be an active participant in efforts to fight breast cancer, from working to promote awareness and access to services to continuing its support for vital medical research.

In recent years, there has been important progress on all of these fronts. On a local level, events like Race for the Cure and Making Strides Against Breast Cancer walkathons that have occurred all over the country, which I participated in last week, have helped raise awareness of the dangers of this disease and support for finally finding a cure.

Congress has also made important contributions, including Medicare coverage for mammograms last year, and, as was mentioned by our chairman, the reauthorization of the Mammography Quality Standards Act.

Yet, despite progress in encouraging early detection and treatment and funding medical research, much more remains to be done. This year alone, nearly 180,000 women will be diagnosed with breast cancer in this country, and 44,000 will die from this terrible disease.

Twenty-seven years ago, when I was 19 years old, or 28 years ago, my mother was diagnosed with breast cancer, and she died at the age of 51. There were no strides for cancer awareness, there were no support groups. Indeed, there was very little understanding of what she faced. Unfortunately, I think she faced this disease with fright, with pain, and sometimes with great loneliness.

What we have done in those 26 years is really quite extraordinary, but there is a lot more work ahead of us. I want to see a world for my wife and my daughter, Lucy, that will be better than it was for my mother.

I thank the chairman of the committee from the bottom of my heart for making this resolution in order tonight, and bringing the importance of breast cancer awareness to the public forefront.

Mr. BLILEY. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Maryland (Mrs. MORELLA).

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

Mr. Speaker, I want to congratulate the gentleman, and salute him for bringing this resolution to the floor. I thank the gentleman from Virginia (Mr. BLILEY) and the gentleman from Florida (Mr. BILIRAKIS) for the work that they have done, and the gentleman from New Hampshire (Mr. BASS), who is the originator, who introduced this legislation this year as well as last year.

It is true, this is Breast Cancer Awareness Month, October. If we look back we can see that we have made great strides, but we still have that figure of 180,000 women who will be diagnosed with breast cancer each year, and 44,000 who will die of breast cancer.

I have been involved every year with the Race for the Cure, and I must say, to reflect on progress, I look around when we have the 50,000 people who are

out there, men as well as women, ready to march for research and education and prevention of breast cancer, and I see those pink hats. Pink hats means they are survivors, and there are more and more survivors. Why? Because of mammograms, because of biopsies, because of education, because of awareness. I think this Congress has been really moving ahead in this particular area.

For instance, I am proud that the National Institutes of Health now has an Office of Research on Women's Health, and we are putting more and more money into breast cancer research and education and prevention.

I am also very proud of our Department of Defense. Many times we do not realize that the Department of Defense appropriation has money in for peer-reviewed breast cancer research, and they have done some wonderful things, because they have great clinical trials where they can come up with some great revelations and great advances on it.

Then, just the other day, as has been mentioned, the Mammography Standards Act not only reauthorizes that for the highest quality of mammograms, but also has the notification facet of it, something that is greatly needed. Again, the gentleman from Virginia (Mr. BLILEY) was a great leader in that particular regard.

I just also want to point out the partnerships that have been occurring, not only with the Department of Defense and NIH, the private sector, NASA, working together to heighten the accuracy of our mammograms, to also have mobile units which they bring in to rural areas and areas of people who have low income, so they can have the finest digital imaging technology available for them.

So we can do a great deal through education, through further research, through making people aware of the advances that are being made, and the continued commitment of this Congress.

Mr. BLILEY. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. FRELINGHUYSEN), my final speaker.

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

I rise in support of House Resolution 565, expressing the critical need for mammograms and biopsies in the fight against breast cancer. I commend the bill's sponsor, the gentleman from New Hampshire (Mr. BASS) for bringing this important bill to the House floor.

Breast cancer, by any definition, is an epidemic in our country. It is reported that every 3 minutes a woman is diagnosed with this disease, and every 11 minutes a woman dies from it. As has been said, more than 44,000 women die from breast cancer. These women are our mothers, spouses, siblings, children, and our friends, the people we love the most.

The numbers are especially alarming in my own State of New Jersey, which has the second highest breast cancer mortality rate of any State in the Nation. The American Cancer Society estimates 6,400 new cases of breast cancer in New Jersey in 1997, and an estimated 1,800 deaths. I have found, and certainly the people who work on behalf of the American Cancer Society, that more than ever, many of these victims are young women.

While we have made some strides in raising awareness about the need for early detection and some strides in research, we still do not have a cure, nor do we know what causes this devastating disease. That is why more emphasis needs to be placed on the importance of mammograms to assist in the fight against this disease.

As a cosponsor of this legislation, I am pleased that the gentleman from New Hampshire (Mr. BASS) and the gentlewoman from Washington (Ms. DUNN) have done so much to bring this resolution to the floor. I commend their efforts. It is something which all Members should support.

STATEMENT OF CONGRESSMAN JON D. FOX IN SUPPORT OF H. RES. 565—EXPRESSING THE SENSE OF THE HOUSE REGARDING THE IMPORTANCE OF MAMMOGRAMS AND BIOPSIES IN THE FIGHT AGAINST BREAST CANCER

Mr. FOX of Pennsylvania. Mr. Speaker, I rise today in strong support of H. Res. 565 which stresses the importance of mammograms and biopsies in the fight against breast cancer.

More women in the United States are diagnosed with breast cancer every year than any other cancer except skin cancer. This year, about 180,000 cases will be diagnosed and about 44,000 women will die of this disease. Many of these lives could have been saved by early diagnosis.

The earlier breast cancer is detected, the easier it is to treat. Every woman is at risk for breast cancer, and the risks increase with age. That means women under 40 should have a mammogram every three years and women over 40 every year. Routine screening mammography is the single most effective method to detect breast changes that may be cancer, long before physical symptoms can be seen or felt. That is why this legislation is so important.

We need to give women a chance. We need them to have access to the vital tools to detect this deadly disease early. We need these women to survive and win their fights by early detection.

I strongly support this Resolution. And I thank the Gentleman for offering this Resolution which stresses the importance of diagnosing and treating this disease in the early stages. We can win this fight.

Thank you and I yield back the balance of my time.

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

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from Virginia (Mr. BLILEY) that the House suspend the rules and agree to the resolution, House Resolution 565.

The question was taken.

Mr. BASS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

FURTHER MESSAGE FROM THE SENATE

A further a message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate has passed bills of the following titles in which concurrence of the House is requested:

S. 442. An act to establish a national policy against State and local government interference with interstate commerce on the Internet or interactive computer services, and to exercise congressional jurisdiction over interstate commerce by establishing a moratorium on the imposition of exactions that would interfere with the free flow of commece via the Internet, and for other purposes.

S. 2584. An act to provide aviator continuation pay for military members killed in Operation Desert Shield.

ESTABLISHING THE LITTLE ROCK CENTRAL HIGH SCHOOL NATIONAL HISTORIC SITE

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that the Committee on Resources be discharged from further consideration of the Senate bill (S. 2232) to establish the Little Rock Central High School National Historic Site in the State of Arkansas, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

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

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2232

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

SECTION 1. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the 1954 U.S. Supreme Court decision of Brown v. Board of Education, which mandated an end to the segregation of public schools, was one of the most significant Court decisions in the history of the United States.

(2) the admission of nine African-American students, known as the "Little Rock Nine", to Little Rock's Central High School as a result of the Brown decision, was the most prominent national example of the implementation of the Brown decision, and served as a catalyst for the integration of other, previously segregated public schools in the United States;

(3) 1997 marked the 70th anniversary of the construction of Central High School, which has been named by the American Institute of Architects as "the most beautiful high school building in America";

(4) Central High School was included on the National Register of Historic Places in 1977 and designated by the Secretary of the Interior as a National Historic Landmark in 1982 in recognition of its national significance in the development of the Civil Rights movement in the United States; and

(5) the designation of Little Rock Central High School as a unit of the National Park System will recognize the significant role the school played in the desegregation of public schools in the South and will interpret for future generations the events associated with early desegregation of southern schools;

(b) PURPOSE.—The purpose of this Act is to preserve, protect, and interpret for the benefit, education, and inspiration of present and future generations, Central High School in Little Rock, Arkansas, and its role in the integration of public schools and the development of the Civil Rights movement in the United States.

SEC. 2. ESTABLISHMENT OF CENTRAL HIGH SCHOOL NATIONAL HISTORIC SITE.

(a) ESTABLISHMENT.—The Little Rock Central High School National Historic Site in the State of Arkansas (hereinafter referred to as the "historic site") is hereby established as a unit of the National Park System. The historic site shall consist of lands and interests therein comprising the Central High School campus and adjacent properties in Little Rock, Arkansas, as generally depicted on a map entitled "Proposed Little Rock Central High School National Historic Site", numbered LIRO–20,000 and dated July, 1998. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(b) ADMINISTRATION OF HISTORIC SITE.—The Secretary of the Interior (hereinafter referred to as the "Secretary") shall administer the historic site in accordance with this Act. Only those lands under the direct jurisdiction of the Secretary shall be administered in accordance with the provisions of law generally applicable to units of the National Park System including the Act of August 25, 1916 (16 U.S.C. 1, 2–4) and the Act of August 21, 1935 (16 U.S.C. 461–467). Nothing in this Act shall affect the authority of the Little Rock School District to administer Little Rock Central High School nor shall this Act affect the authorities of the City of Little Rock in the neighborhood surrounding the school.

(c) COOPERATIVE AGREEMENTS.—(1) The Secretary may enter into cooperative agreements with appropriate public and private agencies, organizations, and institutions (including, but not limited to, the State of Arkansas, the City of Little Rock, the Little Rock School District, Central High Museum, Inc., Central High Neighborhood, Inc., or the University of Arkansas) in furtherance of the purposes of this Act.

(2) The Secretary shall coordinate visitor interpretation of the historic site with the Little Rock School District and the Central High School Museum, Inc.

(d) GENERAL MANAGEMENT PLAN.—Within three years after the date funds are made available, the Secretary shall prepare a general management plan for the historic site. The plan shall be prepared in consultation and coordination with the Little Rock School District, the City of Little Rock, Central High Museum, Inc., and with other appropriate organizations and agencies. The plan shall identify specific roles and responsibilities for the National Park Service in administering the historic site, and shall identify lands or property, if any, that might be necessary for the National Park Service to acquire in order to carry out its responsibilities. The plan shall also identify the roles and responsibilities of other entities in administering the historic site and its programs. The plan shall include a management framework that ensures the administration of the historic site does not interfere with the continuing use of Central High School as an educational institution.

(e) ACQUISITION OF PROPERTY.—The Secretary is authorized to acquire by purchase with donated or appropriated funds by exchange, or donation the lands and interested therein located within the boundaries of the historic site: *Provided*, That the Secretary may only acquire lands or interests therein within the consent of the owner thereof: *Provided further*, That lands or interests therein owned by the State of Arkansas or a political subdivision thereof, may only be acquired by donation or exchange.

SEC. 3. DESEGREGATION IN PUBLIC EDUCATION THEME STUDY.

(a) THEME STUDY.—Within two years after the date funds are made available, the Secretary shall prepare and transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a National Historic Landmark Theme Study (hereinafter referred to as the "theme study") on the history of desegregation in public education. The purpose of the theme study shall be to identify sites, districts, buildings, structures, and landscapes that best illustrate or commemorate key events or decisions in the historical movement to provide for racial desegregation in public education. On the basis of the theme study, the Secretary shall identify possible new national historic landmarks appropriate to this theme and prepare a list in order of importance or merit of the most appropriate sites for national historic landmark designation.

(b) OPPORTUNITIES FOR EDUCATION AND RESEARCH.—The theme study shall identify appropriate means to establish linkages between sites identified in subsection (a) and between those sites and the Central High School National Historic Site established in section 2, and with other existing units of the National Park System to maximize opportunities for public education and scholarly research on desegregation in public education. The theme study also shall recommend opportunities for cooperative arrangements with State and local governments, educational institutions, local historical organizations, and other appropriate entities to preserve and interpret key sites in the history of desegregation in public education.

(c) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with one or more educational institutions, public history organizations, or civil rights organizations knowledgeable about desegregation in public education to prepare the theme study and to ensure that the theme study meets scholarly standards.

(d) THEME STUDY COORDINATION WITH GENERAL MANAGEMENT PLAN.—The theme study shall be prepared as part of the preparation and development of the general management plan for the Little Rock Central High School National Historic Site established in section 2.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this Act.

Mr. HANSEN. Mr. Speaker, S. 2232 was introduced by Senator DALE BUMPERS from the State of Arkansas who worked hard and has done a very commendable job on a bill which recognizes a very important time in our history.

S. 2232 establishes Little Rock Central High School as a National Historic Site and unit of the National Park System. Little Rock Central High School played a prominent role in the struggle for civil rights and served as an example and as a catalyst for the integration of public schools across the country. In so doing, the Federal Government would help to preserve, protect, and interpret the role this high school played in the integration of public schools and the evolution of the civil rights movement in the United States.

I strongly urge my colleagues to support S. 2232 and send it to the President.

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

DUTCH JOHN FEDERAL PROPERTY DISPOSITION AND ASSISTANCE ACT OF 1998

Mr. HANSEN. Mr. Speaker. I ask unanimous consent to take from the Speaker's table the Senate bill (S. 890) to dispose of certain Federal properties located in Dutch John, Utah, to assist the local government in the interim delivery of basic services to the Dutch John community, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

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

There was no objection.

The Clerk read the Senate bill, as follows:

S. 890

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 "Dutch John Federal Property Disposition and Assistance Act of 1998".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1)(A) Dutch John, Utah, was founded by the Secretary of the Interior in 1958 on Bureau of Reclamation land as a community to house personnel, administrative offices, and equipment for project construction and operation of the Flaming Gorge Dam and Reservoir as authorized by the Act of April 11, 1956 (70 Stat. 105, chapter 203; 43 U.S.C. 620 et seq.); and

(B) permanent structures (including houses, administrative offices, equipment storage and maintenance buildings, and other public buildings and facilities) were constructed and continue to be owned and maintained by the Secretary of the Interior;

(2)(A) Bureau of Reclamation land surrounding the Flaming Gorge Reservoir (including the Dutch John community) was included within the boundaries of the Flaming Gorge National Recreation Area in 1968 under Public Law 90-540 (16 U.S.C. 460v et seq.);

(B) Public Law 90-540 assigned responsibility for administration, protection, and development of the Flaming Gorge National Recreation Area to the Secretary of Agriculture and provided that lands and waters needed or used for the Colorado River Storage Project would continue to be administered by the Secretary of the Interior; and

(C) most structures within the Dutch John community (including the schools and public buildings within the community) occupy lands administered by the Secretary of Agriculture;

(3)(A) the Secretary of Agriculture and the Secretary of the Interior are unnecessarily burdened with the cost of continuing to provide basic services and facilities and building maintenance and with the administrative costs of operating the Dutch John community; and

(B) certain structures and lands are no longer essential to management of the Colorado River Storage Project or to management of the Flaming Gorge National Recreation Area;

(4)(A) residents of the community are interested in purchasing the homes they currently rent from the Secretary of the Interior and the land on which the homes are located;

(B) Daggett County, Utah, is interested in reducing the financial burden the County experiences in providing local government support services to a community that produces little direct tax revenue because of Federal ownership; and

(C) a withdrawal of the role of the Federal Government in providing basic direct community services to Dutch John would require local government to provide the services at a substantial cost;

(5)(A) residents of the Dutch John community are interested in self-government of the community; and

(B) with growing demands for additional commercial recreation services for visitors to the Flaming Gorge National Recreation Area and Ashley National Forest, there are opportunities for private economic development, but few private lands are available for the services; and

(6) the privatization and disposal to local government of certain lands in and surrounding Dutch John would be in the public interest.

(b) PURPOSES.—The purposes of this Act are—

(1) to privatize certain lands in and surrounding Dutch John, Utah;

(2) to transfer jurisdiction of certain Federal property between the Secretary of Agriculture and the Secretary of the Interior;

(3) to improve the Flaming Gorge National Recreation Area;

(4) to dispose of certain residential units, public buildings, and facilities;

(5) to provide interim financial assistance to local government to defray the cost of providing basic governmental services;

(6) to achieve efficiencies in operation of the Flaming Gorge Dam and Reservoir and the Flaming Gorge National Recreation Area;

(7) to reduce long-term Federal outlays; and

(8) to serve the interests of the residents of Dutch John and Daggett County, Utah, and the general public.

SEC. 3. DEFINITIONS.

In this Act:

(1) SECRETARY OF AGRICULTURE.—The term "Secretary of Agriculture" means the Secretary of Agriculture, acting through the Chief of the Forest Service.

(2) SECRETARY OF THE INTERIOR.—The term "Secretary of the Interior" means the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation.

SEC. 4. DISPOSITION OF CERTAIN LANDS AND PROPERTIES.

(a) IN GENERAL.—Lands, structures, and community infrastructure facilities within or associated with Dutch John, Utah, that have been identified by the Secretary of Agriculture or the Secretary of the Interior as unnecessary for support of the agency of the respective Secretary shall be transferred or disposed of in accordance with this Act.

(b) LAND DESCRIPTION.—Except as provided in subsection (e), the Secretary of Agriculture and the Secretary of the Interior shall dispose of (in accordance with this Act) approximately 2,450 acres within or associated with the Dutch John, Utah, community in the NW¼ NW¼, S½ NW¼, and S½ of Section 1, the S½ of Section 2, 10 acres more or less within the NE¼ SW¼ of Section 3, Sections 11 and 12, the N½ of Section 13, and the E½ NE¼ of Section 14 of Township 2 North, Range 22 East, Salt Lake Base and Meridian, that have been determined to be available for transfer by the Secretary of Agriculture and the Secretary of the Interior, respectively.

(c) INFRASTRUCTURE FACILITIES AND LAND.—Except as provided in subsection (e), the Secretary of the Interior shall dispose of (in accordance with this Act) community infrastructure facilities and land that have been determined to be available for transfer by the Secretary of the Interior, including the following:

(1) The fire station, sewer systems, sewage lagoons, water systems (except as provided in subsection (e)(3)), old post office, electrical and natural gas distribution systems, hospital building, streets, street lighting, alleys, sidewalks, parks, and community buildings located within or serving Dutch John, including fixtures, equipment, land, easements, rights-of-way, or other property primarily used for the operation, maintenance, replacement, or repair of a facility referred to in this paragraph.

(2) The Dutch John Airport, comprising approximately 25 acres, including runways, roads, rights-of-way, and appurtenances to the Airport, subject to such monitoring and remedial action by the United States as is necessary.

(3) The lands on which are located the Dutch John public schools, which comprise approximately 10 acres.

(d) OTHER PROPERTIES AND FACILITIES.—The Secretary of Agriculture and the Secretary of the Interior shall dispose of (in accordance with this Act) the other properties and facilities that have been determined to be available for transfer or disposal by the Secretary of Agriculture and the Secretary of the Interior, respectively, including the following:

(1) Certain residential units occupied on the date of enactment of this Act, as determined by the Secretary of the Interior.

(2) Certain residential units unoccupied on the date of enactment of this Act, as determined by the Secretary of the Interior.

(3) Lots within the Dutch John community that are occupied on the date of enactment of this Act by privately owned modular homes under lease agreements with the Secretary of the Interior.

(4) Unoccupied platted lots within the Dutch John community.

(5) The land, comprising approximately 3.8 acres, on which is located the Church of Jesus Christ of Latter Day Saints, within Block 9, of the Dutch John community.

(6) The lands for which special use permits, easements, or rights-of-way for commercial uses have been issued by the Forest Service.

(7) The lands on which are located the offices, 3 employee residences, warehouses, and facilities of the Utah Division of Wildlife Resources, as described in the survey required under section 7, including yards and land defined by fences in existence on the date of enactment of this Act.

(8) The Dutch John landfill site, subject to such monitoring and remedial action by the United States as is necessary, with responsibility for monitoring and remediation being shared by the Secretary of Agriculture and the Secretary of the Interior proportionate to their historical use of the site.

(9) Such fixtures and furnishing in existence and in place on the date of enactment of this Act as are mutually determined by Daggett County, the Secretary of Agriculture, and the Secretary of the Interior to be necessary for the full use of properties or facilities disposed of under this Act.

(10) Such other properties or facilities at Dutch John that the Secretary of Agriculture or the Secretary of the Interior determines are not necessary to achieve the mission of the respective Secretary and the disposal of which would be consistent with this Act.

(e) RETAINED PROPERTIES.—Except to the extent the following properties are determined by the Secretary of Agriculture or the Secretary of the Interior to be available for disposal, the Secretary of Agriculture and the Secretary of the Interior shall retain for their respective use the following:

(1) All buildings and improvements located within the industrial complex of the Bureau of Reclamation, including the maintenance shop, 40 industrial garages, 2 warehouses, the equipment storage building, the flammable equipment storage building, the hazardous waste storage facility, and the property on which the buildings and improvements are located.

(2) 17 residences under the jurisdiction of the Secretary of the Interior and the Secretary of Agriculture, of which—

(A) 15 residences shall remain under the jurisdiction of the Secretary of the Interior; and

(B) 2 residences shall remain under the jurisdiction of the Secretary of Agriculture.

(3) The Dutch John water system raw water supply line and return line between the power plant and the water treatment plant, pumps and pumping equipment, and any appurtenances and rights-of-way to the line and other facilities, with the retained facilities to be operated and maintained by the United States with pumping costs and operation and maintenance costs of the pumps to be included as a cost to Daggett County in a water service contract.

(4) The heliport and associated real estate, consisting of approximately 20 acres, which shall remain under the jurisdiction of the Secretary of Agriculture.

(5) The Forest Service warehouse complex and associated real estate, consisting of approximately 2 acres, which shall remain under the jurisdiction of the Secretary of Agriculture.

(6) The Forest Service office complex and associated real estate, which shall remain under the jurisdiction of the Secretary of Agriculture.

(7) The United States Post Office, pursuant to Forest Service Special Use Permit No. 1073, which shall be transferred to the jurisdiction of the United States Postal Service pursuant to section 6(d).

SEC. 5. REVOCATION OF WITHDRAWALS.

In the case of lands and properties transferred under section 4, effective on the date of transfer to the Secretary of the Interior (if applicable) or conveyance by quitclaim deed out of Federal ownership, authorization for each of the following withdrawals is revoked:

(1) The Public Water Reserve No. 16, Utah No. 7, dated March 9, 1914.

(2) The Secretary of the Interior Order dated October 20, 1952.

(3) The Secretary of the Interior Order dated July 2, 1956, No. 71676.

(4) The Flaming Gorge National Recreation Area, dated October 1, 1968, established under Public Law 90-540 (16 U.S.C. 460v et seq.), as to lands described in section 4(b).

(5) The Dutch John Administrative Site, dated December 12, 1951 (PLO 769, U-0611).

SEC. 6. TRANSFER OF JURISDICTION.

(a) TRANSFERS FROM THE SECRETARY OF AGRICULTURE.—Except for properties retained under section 4(e), all lands designated under section 4 for disposal shall be—

(1) transferred from the jurisdiction of the Secretary of Agriculture to the Secretary of the Interior and, if appropriate, the United States Postal Service; and

(2) removed from inclusion in the Ashley National Forest and the Flaming Gorge National Recreation Area.

(b) TRANSFERS FROM THE SECRETARY OF THE INTERIOR.—

(1) IN GENERAL.—The Secretary of the Interior shall transfer to the Secretary of Agriculture administrative jurisdiction over certain lands and interests in land described in paragraph (2), containing approximately 2,167 acres located in Duchesne and Wasatch Counties, Utah, acquired by the Secretary of the Interior for the Central Utah Project.

(2) LAND DESCRIPTION.—The lands referred to in paragraph (1) are lands indicated on the maps generally depicting—

(A) the Dutch John transfer of the Ashley National Forest to the State of Utah, dated February 1997;

(B) the Dutch John transfer of the Uinta National Forest to the State of Utah, dated February 1997;

(C) lands to be transferred to the Forest Service: Lower Stillwater Properties;

(D) lands to be transferred to the Forest Service: Red Hollow (Diamond Properties); and

(E) lands to be transferred to the Forest Service: Coal Mine Hollow (Current Creek Reservoir).

(3) STATUS OF LANDS.—

(A) NATIONAL FORESTS.—The lands and interests in land transferred to the Secretary of Agriculture under paragraph (1) shall become part of the Ashley or Uinta National Forest, as appropriate. The Secretary of Agriculture shall adjust the boundaries of each of the National Forests to reflect the additional lands.

(B) MANAGEMENT.—The transferred lands shall be managed in accordance with the Act of March 1, 1911 (commonly known as the "Weeks Law") (36 Stat. 962, chapter 186; 16 U.S.C. 515 et seq.) and other laws (including rules and regulations) applicable to the National Forest System.

(C) WILDLIFE MITIGATION.—As of the date of the transfer under paragraph (1), the wildlife mitigation requirements of section 8 of the Act of April 11, 1956 (43 U.S.C. 620g), shall be deemed to be met.

(D) ADJUSTMENT OF BOUNDARIES.—This paragraph does not limit the authority of the Secretary of Agriculture to adjust the boundaries of the Ashley or Uinta National Forest pursuant to section 11 of the Act of March 1, 1911 (commonly known as the "Weeks Law") (36 Stat. 963, chapter 186; 16 U.S.C. 521).

(4) LAND AND WATER CONSERVATION FUND.—For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*-9), the boundaries of the Ashley and Uinta National Forests, as adjusted under this section, shall be considered to be the boundaries of the Forests as of January 1, 1965.

(c) FEDERAL IMPROVEMENTS.—The Secretary of the Interior shall transfer to the Secretary of Agriculture jurisdiction over Federal improvements to the lands transferred under this section.

(d) TRANSFERS FROM THE SECRETARY OF AGRICULTURE.—The Secretary of Agriculture shall transfer to the United States Postal Service administrative jurisdiction over certain lands and interests in land subject to Forest Service Special Use Permit No. 1073, containing approximately 0.34 acres.

(e) WITHDRAWALS.—Notwithstanding subsection (a), lands retained by the Federal Government under this Act shall continue to be withdrawn from mineral entry under the United States mining laws.

SEC. 7. SURVEYS.

The Secretary of the Interior shall survey or resurvey all or portions of the Dutch John community as necessary—

(1) to accurately describe parcels identified under this Act for transfer among agencies, for Federal disposal, or for retention by the United States; and

(2) to facilitate future recordation of title.

SEC. 8. PLANNING.

(a) RESPONSIBILITY.—In cooperation with the residents of Dutch John, the Secretary of Agriculture, and the Secretary of the Interior, Daggett County, Utah, shall be responsible for developing a land use plan that is consistent with maintenance of the values of the land that is adjacent to land that remains under the jurisdiction of the Secretary of Agriculture or Secretary of the Interior under this Act.

(b) COOPERATION.—The Secretary of Agriculture and the Secretary of the Interior shall cooperate with Daggett County in ensuring that disposal processes are consistent with the land use plan developed under subsection (a) and with this Act.

SEC. 9. APPRAISALS.

(a) REQUIREMENTS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior shall conduct appraisals to determine the fair market value of properties designated for disposal under paragraphs (1), (2), (3), (5), and (7) of section 4(d).

(2) UNOCCUPIED PLATTED LOTS.—Not later than 90 days after the date of receipt by the Secretary of the Interior from an eligible purchaser of a written notice of intent to purchase an unoccupied platted lot referred to in section 4(d)(4), the Secretary of the Interior shall conduct an appraisal of the lot.

(3) SPECIAL USE PERMITS.—

(A) IN GENERAL.—Not later than 90 days after the date of receipt by the Secretary of the Interior from a permit holder of a written notice of intent to purchase a property described in section 10(g), the Secretary of the Interior shall conduct an appraisal of the property.

(B) IMPROVEMENTS AND ALTERNATIVE LAND.—An appraisal to carry out subparagraph (A) may include an appraisal of the value of permit holder improvements and alternative land in order to conduct an in-lieu land sale.

(4) OCCUPIED PARCELS.—In the case of an occupied parcel, an appraisal under this subsection shall include an appraisal of the full fee value of the occupied lot or land parcel and the value of residences, structures, facilities, and existing, in-place federally owned fixtures and furnishings necessary for full use of the property.

(5) UNOCCUPIED PARCELS.—In the case of an unoccupied parcel, an appraisal under this subsection shall consider potential future uses of the parcel that are consistent with the land use plan developed under section 8(a) (including the land use map of the plan) and with subsection (c).

(6) FUNDING.—Funds for appraisals conducted under this section shall be derived from the Upper Colorado River Basin Fund authorized by section 5 of the Act of April 11, 1956 (70 Stat. 107, chapter 203; 43 U.S.C. 620d).

(b) REDUCTIONS FOR IMPROVEMENTS.—An appraisal of a residence or a structure or facility leased for private use under this section shall deduct the contributory value of improvements made by the current occupant or lessee if the occupant or lessee provides reasonable evidence of expenditure of money or materials in making the improvements.

(c) CURRENT USE.—An appraisal under this section shall consider the current use of a property (including the use of housing as a community residence) and avoid uncertain speculation as to potential future use.

(d) REVIEW.—

(1) IN GENERAL.—The Secretary of the Interior shall make an appraisal under this section available for review by a current occupant or lessee.

(2) ADDITIONAL INFORMATION OR APPEAL.—

(A) IN GENERAL.—The current occupant or lessee may provide additional information, or appeal the findings of the appraisal in writing, to the Upper Colorado Regional Director of the Bureau of Reclamation.

(B) ACTION BY SECRETARY OF THE INTERIOR.—The Secretary of the Interior—

(i) shall consider the additional information or appeal; and

(ii) may conduct a second appraisal if the Secretary determines that a second appraisal is necessary.

(e) INSPECTION.—The Secretary of the Interior shall provide opportunities for other qualified, interested purchasers to inspect completed appraisals under this section.

SEC. 10. DISPOSAL OF PROPERTIES.

(a) CONVEYANCES.—

(1) PATENTS.—The Secretary of the Interior shall dispose of properties identified for disposal under section 4, other than properties retained under section 4(e), without regard to law governing patents.

(2) CONDITION AND LAND.—Except as otherwise provided in this Act, conveyance of a building, structure, or facility under this Act shall be in its current condition and shall include the land parcel on which the building, structure, or facility is situated.

(3) FIXTURES AND FURNISHINGS.—An existing and in-place fixture or furnishing necessary for the full use of a property or facility under this Act shall be conveyed along with the property.

(4) MAINTENANCE.—

(A) BEFORE CONVEYANCE.—Before property is conveyed under this Act, the Secretary of the Interior shall ensure reasonable and prudent maintenance and proper care of the property.

(B) AFTER CONVEYANCE.—After property is conveyed to a recipient under this Act, the recipient shall be responsible for—

(i) maintenance and proper care of the property; and

(ii) any contamination of the property.

(b) INFRASTRUCTURE FACILITIES AND LAND.—Infrastructure facilities and land described in paragraphs (1) and (2) of section 4(c) shall be conveyed, without consideration, to Daggett County, Utah.

(c) SCHOOL.—The lands on which are located the Dutch John public schools described in section 4(c)(3) shall be conveyed, without consideration, to the Daggett County School District.

(d) UTAH DIVISION OF WILDLIFE RESOURCES.—Lands on which are located the offices, 3 employee residences, warehouses, and facilities of the Utah Division of Wildlife Resources described in section 4(d)(7) shall be conveyed, without consideration, to the Division.

(e) RESIDENCES AND LOTS.—

(1) IN GENERAL.—

(A) FAIR MARKET VALUE.—A residence and occupied residential lot to be disposed of under this Act shall be sold for the appraised fair market value.

(B) NOTICE.—The Secretary of the Interior shall provide local general public notice, and written notice to lessees and to current occupants of residences and of occupied residential lots for disposal, of the intent to sell properties under this Act.

(2) PURCHASE OF RESIDENCES OR LOTS BY LESSEES.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary of the Interior shall provide a holder of a current lease from the Secretary for a residence to be sold under paragraph (1) or (2) of section 4(d) or for a residential lot occupied by a privately owned dwelling described in section 4(d)(3) a period of 180 days beginning on the date of the written notice of the Secretary of intent of the Secretary to sell the residence or lot, to execute a contract with the Secretary of the Interior to purchase the residence or lot for the appraised fair market value.

(B) NOTICE OF INTENT TO PURCHASE.—To obtain the protection of subparagraph (A), the lessee shall, during the 30-day period beginning on the date of receipt of the notice referred to in subparagraph (A), notify the Secretary in writing of the intent of the lessee to purchase the residence or lot.

(C) NO NOTICE OR PURCHASE CONTRACT.—If no written notification of intent to purchase is received by the Secretary in accordance with subparagraph (B) or if a purchase contract has not been executed in accordance with subparagraph (A), the residence or lot shall become available for purchase by other persons under paragraph (3).

(3) PURCHASE OF RESIDENCES OR LOTS BY OTHER PERSONS.—

(A) ELIGIBILITY.—If a residence or lot becomes available for purchase under paragraph (2)(C), the Secretary of the Interior shall make the residence or lot available for purchase by—

(i) a current authorized occupant of the residence to be sold;

(ii) a holder of a current reclamation lease for a residence within Dutch John;

(iii) an employee of the Bureau of Reclamation or the Forest Service who resides in Dutch John; or

(iv) a Federal or non-Federal employee in support of a Federal agency who resides in Dutch John.

(B) PRIORITY.—

(i) SENIORITY.—Priority for purchase of properties available for purchase under this paragraph shall be by seniority of reclamation lease or residency in Dutch John.

(ii) PRIORITY LIST.—The Secretary of the Interior shall compile a priority list of eligible potential purchasers that is based on the length of continuous residency in Dutch John or the length of a continuous residence lease issued by the Bureau of Reclamation in Dutch John, with the highest priority provided for purchasers with the longest continuous residency or lease.

(iii) INTERRUPTIONS.—If a continuous residency or lease was interrupted, the Secretary shall consider only that most recent continuous residency or lease.

(iv) OTHER FACTORS.—In preparing the priority list, the Secretary shall not consider a factor (including agency employment or position) other than the length of the current residency or lease.

(v) DISPUTES.—A potential purchaser may file a written appeal over a dispute involving eligibility or ranking on the priority list with the Secretary of the Interior, acting through the Upper Colorado Regional Director of the Bureau of Reclamation. The Secretary, acting through the Regional Director, shall consider the appeal and resolve the dispute.

(C) NOTICE.—The Secretary of the Interior shall provide general public notice and written notice by certified mail to eligible purchasers that specifies—

(i) properties available for purchase under this paragraph;

(ii) the appraised fair market value of the properties;

(iii) instructions for potential eligible purchasers; and

(iv) any purchase contract requirements.

(D) NOTICE OF INTENT TO PURCHASE.—An eligible purchaser under this paragraph shall have a period of 90 days after receipt of written notification to submit to the Secretary of the Interior a written notice of intent to purchase a specific available property at the listed appraised fair market value.

(E) NOTICE OF ELIGIBILITY OF HIGHEST ELIGIBLE PURCHASER TO PURCHASE PROPERTY.—The Secretary of the Interior shall provide notice to the potential purchaser with the highest eligible purchaser priority for each property that the purchaser will have the first opportunity to execute a sales contract and purchase the property.

(F) AVAILABILITY TO OTHER PURCHASERS ON PRIORITY LIST.—If no purchase contract is executed for a property by the highest priority purchaser within the 180 days after receipt of notice under subparagraph (E), the Secretary of the Interior shall make the property available to other purchasers listed on the priority list.

(G) LIMITATION ON NUMBER OF PROPERTIES.—No household may purchase more than 1 residential property under this paragraph.

(4) RESIDUAL PROPERTY TO COUNTY.—If a residence or lot to be disposed of under this Act is not purchased in accordance with paragraph (2) or (3) within 2 years after providing the first notice of intent to sell under paragraph (1)(B), the Secretary of the Interior shall convey the residence or lot to Daggett County without consideration.

(5) ADVISORY COMMITTEE.—The Secretary of the Interior, acting through the Upper Colorado Regional Director of the Bureau of Reclamation, may appoint a nonfunded Advisory Committee comprised of 1 representative from each of the Bureau of Reclamation, Daggett County, and the Dutch John community to review and provide advice to the Secretary on the resolution of disputes arising under this subsection and subsection (f).

(6) FINANCING.—The Secretary of the Interior shall provide advice to potential purchasers under this subsection and subsection (f) in obtaining appropriate and reasonable financing for the purchase of a residence or lot.

(f) UNOCCUPIED PLATTED LOTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary of the Interior shall make an unoccupied platted lot described in section 4(d)(4) available for sale to eligible purchasers for the appraised fair market value of the lot.

(2) CONVEYANCE FOR PUBLIC PURPOSE.—On request from Daggett County, the Secretary of the Interior may convey directly to the County without consideration a lot referred to in paragraph (1) that will be used for a public use purpose that is consistent with the land use plan developed under section 8(a).

(3) ADMINISTRATION.—The procedures established under subsection (e) shall apply to this subsection to the maximum extent practicable, as determined by the Secretary of the Interior.

(4) LAND-USE DESIGNATION.—For each lot sold under this subsection, the Secretary of the Interior shall include in the notice of intent to sell the lot provided under this subsection the land-use designation of the lot established under the land use plan developed under section 8(a).

(5) LIMITATION ON NUMBER OF LOTS.—No household may purchase more than 1 residential lot under this subsection.

(6) LIMITATION ON PURCHASE OF ADDITIONAL LOTS.—No household purchasing an existing residence under this section may purchase an additional single home, residential lot.

(7) RESIDUAL LOTS TO COUNTY.—If a lot described in paragraph (1) is not purchased in accordance with paragraphs (1) through (6) within 2 years after providing the first notice of intent to sell under this subsection, the Secretary of the Interior shall convey the lot to Daggett County without consideration.

(g) SPECIAL USE PERMITS.—

(1) SALE.—Lands on which Forest Service special use permits are issued to holders numbered 4054 and 9303, Ashley National Forest, comprising approximately 15.3 acres and 1 acre, respectively, may be sold at appraised fair market value to the holder of the permit.

(2) ADMINISTRATION OF PERMITS.—On transfer of jurisdiction of the land to the Secretary of the Interior pursuant to section 6, the Secretary of the Interior shall administer the permits under the terms and conditions of the permits.

(3) NOTICE OF AVAILABILITY FOR PURCHASE.—The Secretary of the Interior shall notify the respective permit holders in writing of the availability of the land for purchase.

(4) APPRAISALS.—The Secretary of the Interior shall not conduct an appraisal of the land unless the Secretary receives a written notice of intent to purchase the land within 2 years after providing notice under paragraph (3).

(5) ALTERNATIVE PARCELS.—On request by permit holder number 9303, the Secretary of the Interior, in consultation with Daggett County, may—

(A) consider sale of a parcel within the Daggett County community of similar size and appraised value in lieu of the land under permit on the date of enactment of this Act; and

(B) provide the holder credit toward the purchase or other negotiated compensation

for the appraised value of improvements of the permittee to land under permit on the date of enactment of this Act.

(6) RESIDUAL LAND TO COUNTY.—If land described in paragraph (1) is not purchased in accordance with paragraphs (1) through (5) within 2 years after providing the first notice of intent to sell under this subsection, the Secretary of the Interior shall convey the land to Daggett County without consideration.

(h) TRANSFERS TO COUNTY.—Other land occupied by authorization of a special use permit, easement, or right-of-way to be disposed of under this Act shall be transferred to Daggett County if the holder of the authorization and the County, prior to transfer of the lands to the County—

(1) agree to and execute a legal document that grants the holder the rights and privileges provided in the existing authorization; or

(2) enter into another arrangement that is mutually satisfactory to the holder and the County.

(i) CHURCH LAND.—

(1) IN GENERAL.—The Secretary of the Interior shall offer to sell land to be disposed of under this Act on which is located an established church to the parent entity of the church at the appraised fair market value.

(2) NOTICE.—The Secretary of the Interior shall notify the church in writing of the availability of the land for purchase.

(3) RESIDUAL LAND TO COUNTY.—If land described in paragraph (1) is not purchased in accordance with paragraphs (1) and (2) within 2 years after providing the first notice of intent to sell under this subsection, the Secretary of the Interior shall convey the land to Daggett County without consideration.

(j) RESIDUAL PROPERTIES TO COUNTY.—The Secretary of the Interior shall convey all lands, buildings, or facilities designated for disposal under this Act that are not conveyed in accordance with subsections (a) through (i) to Daggett County without consideration.

(k) WATER RIGHTS.—

(1) IN GENERAL.—Subject to the other provisions of this subsection, the Secretary of the Interior shall transfer all water rights the Secretary holds that are applicable to the Dutch John municipal water system to Daggett County.

(2) WATER SERVICE CONTRACT.—

(A) IN GENERAL.—Transfer of rights under paragraph (1) is contingent on Daggett County entering into a water service contract with the Secretary of the Interior covering payment for and delivery of untreated water to Daggett County pursuant to the Act of April 11, 1956 (70 Stat. 105, chapter 203; 43 U.S.C. 620 et seq.).

(B) DELIVERED WATER.—The contract shall require payment only for water actually delivered.

(3) EXISTING RIGHTS.—Existing rights for transfer to Daggett County under this subsection include—

(A) Utah Water Right 41-2942 (A30557, Cert. No. 5903) for 0.08 cubic feet per second from a water well; and

(B) Utah Water Right 41-3470 (A30414b), an unapproved application to segregate 12,000 acre-feet per year of water from the original approved Flaming Gorge water right (41-2963) for municipal use in the town of Dutch John and surrounding areas.

(4) CULINARY WATER SUPPLIES.—The transfer of water rights under this subsection is conditioned on the agreement of Daggett County to provide culinary water supplies to Forest Service campgrounds served (on the date of enactment of this Act) by the water supply system and to Forest Service and Bureau of Reclamation facilities, at a rate equivalent to other similar uses.

(5) MAINTENANCE.—The Secretary of Agriculture and the Secretary of the Interior shall be responsible for maintenance of their respective water systems from the point of the distribution lines of the systems.

(l) SHORELINE ACCESS.—On receipt of an acceptable application, the Secretary of Agriculture shall consider issuance of a special use permit affording Flaming Gorge Reservoir public shoreline access and use within the vicinity of Dutch John in conjunction with commercial visitor facilities provided and maintained under such a permit.

(m) REVENUES.—

(1) IN GENERAL.—Except as provided in paragraph (2), all revenues derived from the sale of properties as authorized by this Act shall temporarily be deposited in a segregated interest-bearing trust account in the Treasury with the moneys on hand in the account paid to Daggett County semiannually to be used by the County for purposes associated with the provision of governmental and community services to the Dutch John community.

(2) DEPOSIT IN THE GENERAL FUND.—Of the revenues described in paragraph (1), 15.1 percent shall be deposited in the general fund of the Treasury.

SEC. 11. VALID EXISTING RIGHTS.

(a) AGREEMENTS.—

(1) IN GENERAL.—If any lease, permit, right-of-way, easement, or other valid existing right is appurtenant to land conveyed to Daggett County, Utah, under this Act, the County shall honor and enforce the right through a legal agreement entered into by the County and the holder before the date of conveyance.

(2) EXTENSION OR TERMINATION.—The County may extend or terminate an agreement under paragraph (1) at the end of the term of the agreement.

(b) USE OF REVENUES.—During such period as the County is enforcing a right described in subsection (a)(1) through a legal agreement between the County and the holder of the right under subsection (a), the County shall collect and retain any revenues due the Federal Government under the terms of the right.

(c) EXTINGUISHMENT OF RIGHTS.—If a right described in subsection (a)(1) with respect to certain land has been extinguished or otherwise protected, the County may dispose of the land.

SEC. 12. CULTURAL RESOURCES.

(a) MEMORANDA OF AGREEMENT.—Before transfer and disposal under this Act of any land that contains cultural resources and that may be eligible for listing on the National Register of Historic Places, the Secretary of Agriculture, in consultation with the Secretary of the Interior, the Utah Historic Preservation Office, and Daggett County, Utah, shall prepare a memorandum of agreement, for review and approval by the Utah Office of Historical Preservation and the Advisory Council on Historic Preservation established by title II of the National Historic Preservation Act (16 U.S.C. 4701 et seq.), that contains a strategy for protecting or mitigating adverse effects on cultural resources on the land.

(b) INTERIM PROTECTION.—Until such time as a memorandum of agreement has been approved, or until lands are disposed of under this Act, the Secretary of Agriculture shall provide clearance or protection for the resources.

(c) TRANSFER SUBJECT TO AGREEMENT.—On completion of actions required under the memorandum of agreement for certain land, the Secretary of the Interior shall provide for the conveyance of the land to Daggett County, Utah, subject to the memorandum of agreement.

SEC. 13. TRANSITION OF SERVICES TO LOCAL GOVERNMENT CONTROL.

(a) ASSISTANCE.—

(1) IN GENERAL.—The Secretary of the Interior shall provide training and transitional operating assistance to personnel designated by Daggett County, Utah, as successors to the operators for the Secretary of the infrastructure facilities described in section 4(c).

(2) DURATION OF TRAINING.—With respect to an infrastructure facility, training under paragraph (1) shall continue for such period as is necessary for the designated personnel to demonstrate reasonable capability to safely and efficiently operate the facility, but not to exceed 2 years.

(3) CONTINUING ASSISTANCE.—The Secretary shall remain available to assist with resolving questions about the original design and installation, operating and maintenance needs, or other aspects of the infrastructure facilities.

(b) TRANSITION COSTS.—For the purpose of defraying costs of transition in administration and provision of basic community services, an annual payment of $300,000 (as adjusted by the Secretary for changes in the Consumer Price Index for all-urban consumers published by the Department of Labor) shall be provided from the Upper Colorado River Basin Fund authorized by section 5 of the Act of April 11, 1956 (70 Stat. 107, chapter 203; 43 U.S.C. 620d), to Daggett County, Utah, or, in accordance with subsection (c), to Dutch John, Utah, for a period not to exceed 15 years beginning the first January 1 that occurs after the date of enactment of this Act.

(c) DIVISION OF PAYMENT.—If Dutch John becomes incorporated and become responsible for operating any of the infrastructure facilities referred to in subsection (a)(1) or for providing other basic local governmental services, the payment amount for the year of incorporation and each following year shall be proportionately divided between Daggett County and Dutch John based on the respective costs paid by each government for the previous year to provide the services.

(d) ELECTRIC POWER.—

(1) AVAILABILITY.—The United States shall make available electric power and associated energy from the Colorado River Storage Project for the Dutch John community.

(2) AMOUNT.—The amount of electric power and associated energy made available under paragraph (1) shall not exceed 1,000,000 kilowatt-hours per year.

(3) RATES.—The rates for power and associated energy shall be the firm capacity and energy rates of the Salt Lake City Area/Integrated Projects.

SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

(a) RESOURCE RECOVERY AND MITIGATION.—There are authorized to be appropriated to the Secretary of Agriculture, out of nonpower revenues to the Federal Government from land transferred under this Act, such sums as are necessary to implement such habitat, sensitive resource, or cultural resource recovery, mitigation, or replacement strategies as are developed with respect to land transferred under this Act, except that the strategies may not include acquisition of privately owned lands in Daggett County.

(b) OTHER SUMS.—In addition to sums made available under subsection (a), there are authorized to be appropriated such sums as are necessary to carry out this Act.

Mr. HANSEN. Mr. Speaker, S. 890 is a very important bill. It helps a small town in Utah, and it saves the American people millions of dollars.

The Town of Dutch John was established in 1958 by the Bureau of Reclamation to provide housing and serve project construction needs for the construction of Flaming Gorge Dam. This provision will privatize certain lands at Dutch John which are no longer needed by the Bureau of Reclamation. In an agreement reached between the local county and the Bureau, this language will transfer these lands and save the taxpayer over one million dollars annually.

I ask my colleagues to give S. 890 their full support.

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

INTERNATIONAL CHILD LABOR RELIEF ACT OF 1998

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4506) to provide for United States support for developmental alternatives for underage child workers, as amended.

The Clerk read as follows:

H.R. 4506

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 "International Child Labor Relief Act of 1998".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Article 32 of the United Nations Convention on the Rights of the Child recognizes "the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education or to be harmful to the child's health or physical, mental, spiritual, moral or social development.".

(2) Article 2 of Convention 138 of the International Labor Organization, the Minimum Age Convention, states that the minimum age for admission to employment or work "shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years.".

(3) Convention 29 of International Labor Organization, the Forced Labor Convention, which has been in effect since 1930, prohibits most forms of "forced or compulsory labor", including all forced labor by people under the age of 18.

(4) Although it is among the most universally condemned of all human rights abuses, child labor is widely practiced. The International Labor Organization and the United Nations Children's Fund (UNICEF) have estimated the total number of child workers to be between 200,000,000 and 250,000,000. More than 95 percent of those child workers live in developing countries.

(5) The International Labor Organization has estimated that 13.2 percent of all children 10 to 14 years of age around the world were economically active in 1995. According to UNICEF, 75 percent of the child laborers in the 10 to 14 age group work 6 days a week or more, and 50 percent work 9 hours a day or more. There are no reliable figures on workers under 10 years of age, though their numbers are known to be significant. Reliable child labor statistics are not readily available, in part because many governments in the developing world are reluctant to document those activities, which are often illegal under domestic laws, which violate international standards, and which may be perceived as a failure of internal public policy.

(6) Notwithstanding international and domestic prohibitions, many children in developing countries are forced to work as debt-bonded and slave laborers in hazardous and exploitative industries. According to the United Nations Working Group on Contemporary Forms of Slavery and the International Labor Organization, there are tens of millions of child slaves in the world today. Large numbers of those slaves are involved in agricultural and domestic labor, the sex industry, the carpet and textile industries, and quarrying and brick making.

(7) In many countries, children lack either the legal standing or the means to protect themselves from cruelty and exploitation in the workplace.

(8) The employment of children often interferes with the opportunities of such children for basic education. Furthermore, where it coexists with high rates of adult unemployment, the use of child labor likely denies gainful employment to millions of adults.

(9) While child labor is a complex and multifaceted phenomenon that is tied to issues of poverty, educational opportunity, and culture, its most abusive and hazardous forms are repugnant to basic human rights and must be eliminated.

(10) Created in 1992, the International Labor Organization's International Program on the Elimination of Child Labor (IPEC) is the world's largest technical cooperation program on child labor, involving more than 50 countries and over 1,000 action programs. Governments take the initiative in seeking IPEC assistance, and demonstrate their commitment to combating child labor by signing a memorandum of understanding with IPEC, which serves as the basis for a long term in-country program that is overseen by a national steering committee comprised of representatives of government, employers' and workers' organizations, and relevant non-governmental organizations. IPEC activities aim at preventing child labor, withdrawing children from hazardous work, and providing alternatives to child labor as a transitional measure toward its elimination.

SEC. 3. UNITED STATES SUPPORT FOR DEVELOPMENTAL ALTERNATIVES FOR UNDERAGE CHILD WORKERS.

For each of the fiscal years 1999 through 2001 there are authorized to be appropriated for the Department of Labor under the heading "International Labor Affairs Bureau" $30,000,000 for a United States contribution to the International Labor Organization for the activities of the International Program on the Elimination of Child Labor.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. GILMAN) and the gentleman from Minnesota (Mr. LUTHER) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. GILMAN).

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this measure.

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

There was no objection.

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

Mr. Speaker, I would like to express my support for the International Child Labor Relief Act, H.R. 4506. I commend its chief sponsors, the distinguished chairman of our Subcommittee on International Operations and Human Rights, the gentleman from New Jersey (Mr. SMITH), for his tireless work in drawing attention to the growing epidemic of child labor. It is one of the most universally condemned of all human rights abuses.

The work that exploited children do is more often than not dirty, demeaning, and dangerous. A large proportion of the estimated 250 million exploited children in the world are debt bonded or slave laborers. Employment prevents a child from gaining a basic education, and for children whose employment involves captivity, employment means no education at all.

This legislation authorizes $90 million over the next 3 years to the International Labor Organization for the activities of the International Program on the Elimination of Child Labor, IPEC. Each of the more than 50 countries participating in IPEC have signed a memorandum of understanding that serves as a basis for its own long-term efforts to address this problem.

There can be little doubt that the ongoing economic crisis in Asia has forced governments and non-governmental groups alike to reevaluate their programs and strategies to address this critically important issue.

Most experts agree that governments can help to address this growing humanitarian crisis by promoting free education to reduce the incidence of child labor, but the revival of economic growth throughout Asia and other affected market economies is no less essential to the long-term solution to the exploitation of underage workers.

□ 2115

Accordingly, Mr. Speaker, I urge my colleagues to support this vitally important legislation to ensure that child labor issues are given the attention they deserve in the Clinton administration and among all the 174 members of the International Labor Organization.

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

Mr. LUTHER. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, I want to thank the gentleman from

New York (Chairman GILMAN) and the gentleman from Minnesota (Mr. LUTHER) for being here tonight to outline why this bill is so necessary.

Mr. Speaker, I would like to be home with my kids, and I know that each of my colleagues would like to be as well. We will go home and we will look at those kids and know that they are well fed and clothed and housed and cared for and nurtured. But that is not the case with hundreds of millions of children around the globe.

I would like to share a few of these children that this bill that these gentlemen, along with the gentleman from New Jersey (Mr. SMITH), who was the principal sponsor on the Committee on International Relations, have cared for who would not have been cared for, who will not even be noticed, unless we provide this money.

Mr. Chairman, this is a picture of a girl shining shoes. She works in a shoe shine stand in Ecuador. She cannot be more than 4 years old. She represents the millions of children who work on the streets of the world's cities. Children are sent on to the streets to work or to beg, and while seeking work, they are easy prey.

They are given a job, like this girl, shining shoes. They must turn over all the money they receive to an older child, who then gives them a small portion as salary. The older child rakes in profits by exploiting a small army of children. Frequently, though, the older child is in a similar relationship with even older children who control large groups of these children. Those who are beggars may be maimed to make them look more helpless and miserable than other beggars.

And as the children grow older, they learn they can make more money by theft or by exploiting children younger than themselves.

Here is another picture of the kind of child that this legislation deals with. This is a little girl who works in Aligarth, India, a town on the border of Nepal. This child is making tiny padlocks. The average pay for the children in the metal industry is $6 a month. They work 60-hour workweeks. They are recruited by middlemen, who are paid by the contractor, who prefers children because they are so much easier to control.

Although almost all metal factories claim to be family businesses to skirt India's scant child labor regulations, there are virtually no incidences of actual family metal shops in this part of India.

These children remove molten metal from molds near furnaces. They work with furnaces at temperatures of 2,000 degrees. Burns are a constant danger. Children also work electroplating, polishing and applying chemicals to metal. This child is polishing padlocks on a small grindstone. Fumes and metal dust are constantly inhaled by these children, which causes tuberculosis and respiratory problems.

The last picture of children that this legislation will help this is a little girl. This little girl is hammering rocks. Sometimes in other parts of the world the entire family is working in bondage, perhaps to pay the debt of a deceased relative. Children are required to work alongside their parents to maximize production. They work up to 14 hours a day carrying rocks or breaking them into pieces. That is what this young girl is doing. She lives in an area where gravel is scarce. In order to make cement, rocks must be broken down to small stones.

In many rural areas, traditional class or caste systems perpetuate bonded labor. Pledging one's labor and that of his children may be the only resource that a father has and may be all that he can pledge as security for a loan. Unfortunately, this same family may be uneducated, illiterate. It is easy prey for a moneylender who may charge outrageous interest rates.

That is why this bill does what it does. That is why the gentleman from New York (Chairman GILMAN); why the gentleman from New Jersey (Mr. SMITH), chairman of our subcommittee; why the gentleman from Minnesota (Mr. LUTHER); why so many members of the Committee on International Relations and of the body, and really of the staff, know that this bill has to pass.

These are just a few of the horrors that exist as we speak. They have to be eliminated. This bill is important. I am sorry it comes up so late at night, but I appreciate the fact that the chairman has brought it up, and I appreciate the time that has been given me by the gentleman from Minnesota.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from Virginia (Mr. MORAN) for his very eloquent remarks.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. SMITH), the distinguished chairman of our Subcommittee on International Operations and Human Rights, who is the original sponsor of this measure.

Mr. SMITH of New Jersey. Mr. Speaker, I thank the gentleman from Virginia (Mr. MORAN) for his kind words and for his work on this important legislation. I also thank the gentleman from Minnesota (Mr. LUTHER) and a number of other sponsors, including the gentleman from California (Mr. LANTOS), the ranking member of our Subcommittee on International Operations and Human Rights; the gentlewoman from Florida (Ms. ROS-LEHTINEN); the gentleman from Vermont (Mr. SANDERS); the gentleman from Florida (Mr. CANADY); the gentleman from Massachusetts (Mr. KENNEDY); the gentleman from Virginia (Mr. WOLF); the gentleman from Ohio (Mr. KUCINICH); the gentleman from Florida (Mr. DIAZ-BALART); the gentleman from Virginia (Mr. MORAN) who already spoke; the gentleman from Indiana (Mr. SOUDER); the gentleman from Pennsylvania (Mr. FOX); the gentleman from Pennsylvania (Mr. PITTS), and others who helped shape this legislation and worked so hard to bring it to the floor today.

Mr. Speaker, international child labor is a cancer on our global economy that defies an easy cure. In the words of the International Labor Organization, and I quote, "Few human rights abuses are so unanimously condemned while being so widely practiced as child labor."

Today somewhere between 200 and 250 million children under the age of 14 are being robbed of their youth for the profit of others. Many work in hazardous industries such as mining, explosives, manufacturing, and even deep-sea fishing. Others are forced into prostitution and other forms of sexual exploitation.

The sheer magnitude of these statistics, 250 million kids, a staggering number of kids, can blind us to the human misery that they represent. Those of us who are parents should imagine our own kids in those kinds of circumstances. Only then, I think, do we begin to get a taste of the hopelessness caused by this exploitation.

While the problem is heartbreaking and immense, there are new reasons for hope. Global public awareness of this problem is greater than it has ever been. My subcommittee has held three exhaustive hearings on the issue of child labor, and it involved representatives of the administration, nongovernmental organization witnesses, labor and manufacturing representatives, concerned celebrities such as Kathie Lee Gifford, who I think offered some very useful insight to our committee, and child victims themselves. Those who had actually been exploited came before the committee and stood there and told us how they were abused.

This year, the International Labor Conference issued proposed new labor standards on what they call extreme forms of child labor, which is expected to be adopted next June. Tonight it is increasingly important that we seize this momentum.

Experts believe that the current international financial difficulties that we see every day, just open up the paper about what is going on over the world, may only worsen the problem unless we take some real action.

One of the most promising weapons in the fight against child labor is the International Program on the Elimination of Child Labor, or IPEC, of the International Labor Organization. IPEC works within countries to help develop and execute practical solutions to child labor abuse. IPEC works only in countries whose governments have officially committed themselves to developing national child labor policies

in cooperation with employers, workers, NGOs and other relevant parties.

Over the past 3 years, the United States' modest, and I mean this, it is really modest, contributions to IPEC has been on the order of $1 million to $3 million. Yet even that minuscule amount of money has resulted in discernible improvements. Remember, this bill will authorize $90 million over 3 years for these kinds of programs. We are talking about 1 to 3 million, and we even see some success there.

One U.S.-funded project in Bangladesh removed 10,000 children from garment factories and placed them in schools. Another program in Pakistan will remove 7,000 kids from the soccer ball industry. My kids play soccer and have played it all their lives and are on travel teams. It causes me great concern, as it does all of us, that every soccer ball that we pick up comes from Pakistan, made by some kid. That is horrible and has to change. This modest program has begun to change that.

This program provides a social safety net for children and creates a local monitoring mechanism to ensure that they do not return to factory work. By stressing in-country program ownership and requiring local industries to share the costs, IPEC plans for those efforts to become self-sufficient. The old adage, give somebody a fish and they can eat; teach them to fish, and they can eat for a lifetime. We try to help, they try to help the countries to really become self-sufficient.

Let me remind my colleagues that when they are working at these sweatshops, these kids are not going to school. So their prospects for the future are greatly inhibited and retarded as a direct result of the exploitation, and the prospects of breaking out of that become very limited indeed.

Mr. Speaker, our country should be the global standard bearer for human rights. On some things we are, and many other aspects we fall far short. But at least we should be always striving for human rights and human decency. We are blessed, clearly, with unparalleled prosperity. However, to date our IPEC contributions total only about $8 million. That is the aggregate, as compared to $65 million pledged by Germany and $12.5 million by Spain. We must, I would submit, and we can, and with this legislation we will, do better.

Notwithstanding international acclaim for its program, IPEC has not had enough funding, and we have asked them and they have documented that they are far short of the funding needed to meet all the requests or even most of the requests that they have received from countries seeking help.

This bill seeks $30 million, as I said, each year over 3 years, $90 million total over the next fiscal years. These are some of the things that they have identified: The International Program on the Elimination of Child Labor has identified the need for approximately 10 sectoral programs in dangerous industries where child labor is prevalent, such as mining, fireworks, agriculture, and brick making. Those programs would require a minimum of $2 million for each sectoral program in each participating country.

Based on the success of the U.S.-funded projects in Pakistan in the sporting goods industry, IPEC would like to begin projects in other exporting countries with strong links to the U.S. market. They would like to address the surgical instrument industry in Pakistan, the sporting goods industry in India, and other similar projects. As a matter of fact, they gave us a list at our request of what their hopes would be. Looking through it, they are working, preparatory as they call it, in preparatory countries; nine African countries, five Arab states, four in Asia, one in Central Europe and Eastern Europe, and four in Latin America. That is what this money helps to do, to push the envelope to get into those countries and hopefully help to mitigate the suffering of those kids.

Let me conclude by saying in addition to the more than 30 countries currently participating in IPEC, the total of what I just mentioned, 23 additional countries are seeking IPEC assistance. I would hope that we would get an overwhelming support for this legislation. It is bipartisan, and, as I mentioned earlier, my good friend the gentleman from California (Mr. LANTOS) is the principal cosponsor of this legislation and has worked with us in the hearings. We stand arm in arm, Democrat and Republican, trying to advance the cause for these kids who are suffering and for their families.

Mr. Speaker, I do hope the body will adopt this legislation.

Mr. LUTHER. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. LANTOS), my good friend.

Mr. LANTOS. Mr. Speaker, I thank the gentleman from Minnesota (Mr. LUTHER), my friend, for yielding me this time.

Mr. Speaker, I want to pay tribute to my friend and colleague, the gentleman from New Jersey (Mr. SMITH), the chairman of the Subcommittee on International Operations and Human Rights, for taking the lead on this most important item. I also want to express my appreciation to the gentleman from New York (Chairman GILMAN) who has done so much on this most important issue.

Mr. Speaker, my colleagues have spoken eloquently on this matter, and I do not want to take up much time, except to indicate that it is a moral obligation on the part of all of us to move this legislation. While doing so, allow me to mention that a parallel piece of legislation introduced by me, the Young American Workers Bill of Rights, is also before this body.

□ 2130

It is extremely important for us to deal with child labor all over the world, but we should not forget the issue of child labor here in the United States. Scores of young children in the United States are exploited by unconscionable means, and the Young Workers' Bill of Rights will be an appropriate parallel legislation to this legislation which deals with the exploitation of children across the globe.

Mr. LUTHER. Mr. Speaker, I yield 4 minutes to the gentleman from American Samoa (Mr. FALEOMAVAEGA).

Mr. FALEOMAVAEGA. Mr. Speaker, I, too, would like to echo the remarks of my colleagues and to compliment the gentleman from New York (Mr. GILMAN), the chairman of the Committee on International Relations, for bringing this legislation to the floor. I also want to commend my good friend, the gentleman from New Jersey (Mr. SMITH), the chairman of the Subcommittee on International Operations and Human Rights.

With so many lists going around, Mr. Speaker, I do not know which list to go on as far as the listing of the bills on suspension being brought to the floor. I was caught by surprise in learning that this legislation had been brought to the floor for consideration by the Members.

Mr. Speaker, there are approximately 200 to 250 million children in this world who are considered to be working not only under dire circumstances but the fact that they are, as far as I am concerned, Mr. Speaker, they are slave labor. I have held public hearings in the past, Mr. Speaker, on this issue, but I again want to thank the gentleman from New Jersey (Mr. SMITH) for his initiative and his leadership in doing this, not only to sensitize the Members of the Congress about this very serious issue around the world, but the fact that we have now proposed legislation to look into and to fully examine and to provide some sense of sanity to this world and the fact that we have done this so unfairly to these young people around the world.

I want to compliment the gentleman from Virginia (Mr. MORAN), who was here earlier, who shared with us some of the pictures that were taken. I suppose he may have done so himself when he visited some of these countries around the world to see that these things are real and not some abstract idea.

I also want to compliment the members of the Committee on International Relations for their support and the fact that there is true bipartisan support for this piece of legislation.

The sad part about this is, Mr. Speaker, that many of the major companies doing business in some of these Third World countries use children. Supposedly, we are assured that some of the major commodities or products

that are being imported to our country are not involved with any children being employed to bring some of these products to our country. But my question is: Who actually looking after this? Where is the assurance to give us that these children are not involved as part of the processing of bringing some of these commodities or products to our country? I seriously question the fact that some of these companies rally do live up to that standard or that requirement.

I know for a fact where many of these products that we receive here, made with labor at 25 cents an hour, end up. When we buy a pair of shoes for $125, I know for a fact that many of these children were involved in that type of employment.

Mr. Speaker, again I commend my good friend from New York (Mr. GILMAN) for bringing this legislation, and I urge my colleagues to support this bill.

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. FOX), a member of our committee.

Mr. FOX of Pennsylvania. Mr. Speaker, I thank the chairman for yielding me this time. I appreciate the opportunity to speak on behalf of this legislation.

It is very important that we protect our children in developing countries who have been forced to work as debt bound and slave laborers in hazardous and exploitative industries. According to the United Nations Working Group on Contemporary Forms of Slavery and the international labor organizations, there are tens of millions of child slaves in the world today. This must be ended, and this legislation will take a positive step to stop this.

We know of many countries where children lack either the legal standing or the means to protect themselves from cruelty and exploitation in the workplace. The employment of children often interferes with the opportunities for the youth's basic education, and it coexists with high rates of adult unemployment where this use of child labor denies gainful employment to millions of adults.

While child labor is a complex and multifaceted phenomenon, Mr. Speaker, it is tied to issues of poverty, education opportunity, and culture, and I commend the gentleman from New Jersey (Mr. SMITH) for this legislation; the gentleman from California (Mr. LANTOS), and the other cosponsors of the bill for moving it forward.

I am proud to be a cosponsor, and I look for colleagues on both sides of the aisle to support this legislation to provide for United States support for developmental alternatives to underage child workers, and commend the sponsor again for his leadership and look forward to the bill's passage here this evening.

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

I wish to also express my support for this legislation, and I commend the gentleman from New Jersey (Mr. SMITH) for bringing this before the House. I likewise wish to commend the chairman of our committee, the gentleman from New York (Mr. GILMAN), for his leadership role. And I also want to just thank the various colleagues for their excellent presentations, very compelling presentations, here on the floor this evening.

The problem of child labor is truly a global one, as has been pointed out this evening. It impacts children on almost every continent and deprives them of their opportunities for a normal and safe childhood. It is one of the most intolerable forms of human rights abuses. Children have no way of protecting themselves against forced labor and dangerous and exploitative conditions. Recognizing this problem, I am pleased that the President announced earlier this year a child labor initiative.

This bill, as has been pointed out, will make the United States a leader in the international effort to eliminate child labor, and the children of the world need the United States to play a leadership role on this issue. Mr. Speaker, I urge the adoption of this bill.

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

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

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

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from New York (Mr. GILMAN) that the House suspend the rules and pass the bill, H.R. 4506, 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.

PROVIDING REWARDS FOR INFORMATION LEADING TO ARREST OR CONVICTION OF ANY INDIVIDUAL FOR COMMISSION OR CONSPIRACY OF AN ACT OF INTERNATIONAL TERRORISM, NARCOTICS RELATED OFFENSES, OR FOR SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW RELATING TO FORMER YUGOSLAVIA

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4660) to amend the State Department Basic Authorities Act of 1956 to provide rewards for information leading to the arrest or conviction of any individual for the commission of an act, or conspiracy to act, of international terrorism, narcotics related offenses, or for serious violations of international humanitarian law relating to the Former Yugoslavia, as amended.

The Clerk read as follows:

H.R. 4660

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

SECTION 1. CHANGES IN DEPARTMENT OF STATE REWARDS PROGRAM.

(a) INCREASE IN MAXIMUM AMOUNT OF AWARD.—Section 36(c) of the State Department Basic Authorities Act (22 U.S.C. 2708(c)) is amended by striking "$2,000,000" and inserting "$5,000,000".

(b) INCREASE IN AUTHORIZATION OF APPROPRIATIONS.—Section 36(g) of the State Department Basic Authorities Act (22 U.S.C. 2708(g)) is amended in the first sentence by striking "$5,000,000" and inserting "$10,000,000".

SEC. 2. REWARDS FOR INFORMATION CONCERNING INDIVIDUALS SOUGHT FOR SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW RELATING TO THE FORMER YUGOSLAVIA.

The State Department Basic Authorities Act of 1956 is amended by adding after section 36 the following new section:

"SEC. 36A. REWARDS FOR INFORMATION CONCERNING INDIVIDUALS SOUGHT FOR SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW RELATING TO THE FORMER YUGOSLAVIA.

"(a) AUTHORITY.—In the sole discretion of the Secretary of State (except as provided in subsection (b)(2)) and in consultation, as appropriate, with the Attorney General, the Secretary may pay a reward to any individual who furnishes information leading to—

"(1) the arrest or conviction in any country, or

"(2) the transfer to, or conviction by, the International Criminal Tribunal for the Former Yugoslavia,

of any individual who is the subject of an indictment confirmed by a judge of such tribunal for serious violations of international humanitarian law as defined under the statute of such tribunal.

"(b) PROCEDURES.—

"(1) Subject to paragraph (3), the offering, administration, and payment of rewards under this section, including procedures for—

"(A) identifying individuals, organizations, and offenses with respect to which rewards will be offered;

"(B) the publication of rewards;

"(C) the offering of joint rewards with foreign governments;

"(D) the receipt and analysis of data; and

"(E) the payment and approval of payment,

shall be governed by procedures developed by the Secretary of State, in consultation with the Attorney General.

"(2) Before making a reward under this section in a matter over which there is Federal criminal jurisdiction, the Secretary of State shall obtain the concurrence of the Attorney General.

"(3) Rewards under this section shall be subject to any requirements or limitations that apply to rewards under section 36 with respect to the ineligibility of government employees for rewards, maximum reward amount, and procedures for the approval and certification of rewards for payment.

"(c) REFERENCE.—For the purposes of subsection (a), the statute of the International Criminal Tribunal for the Former Yugoslavia means the Annex to the Report of the Secretary General of the United Nations pursuant to paragraph 2 of Security Council Resolution 827 (1993) (S/25704).

"(d) DETERMINATION OF THE SECRETARY.—All determinations of the Secretary of State under this section shall be final and conclusive and shall not be subject to judicial review.

"(e) FUNDING.—

"(1) There are authorized to be appropriated to the Department of State $1,000,000 for fiscal year 1999, $1,000,000 for fiscal year 2000, and $1,000,000 for fiscal year 2001 to carry out this section.

"(2) Amounts appropriated under paragraph (1) shall remain available until expended.

"(f) PRIORITY.—In the administration and payment of rewards under the rewards program of section 36, the Secretary of State shall ensure that priority is given for payments to individuals described in section 36 and that funds paid under this section are paid only after any and all due and payable demands are met under section 36.".

SEC. 3. VIOLATIONS RELATING TO MATERIAL SUPPORT TO TERRORISTS.

Section 38(g)(1)(A)(iii) of the Arms Export Control Act (22 U.S.C. 2778(g)(1)(A)(iii)) is amended by adding at the end before the comma the following: "or section 2339A of such title (relating to providing material support to terrorists)".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. GILMAN) and the gentleman from Minnesota (Mr. LUTHER) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. GILMAN).

GENERAL LEAVE

Mr. GILMAN. 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. 4660, the bill under consideration.

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

There was no objection.

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

Mr. Speaker, H.R. 4660 sends the following message to terrorists and war criminals: "You can run, but you cannot hide."

Following the bombings of our embassies in Tanzania and Kenya, we must review the State rewards program. To date, the program is an unqualified success. Using these rewards, the U.S. Government captured terrorists like Ramsi Yousef, the mastermind of the World Trade Center bombing, and Mir Amal Kasi, who murdered two people outside of the CIA headquarters in 1993. Currently, we have an outstanding reward of $2 million to bring Haroun Fazil back dead or alive for the recent U.S. embassy bombings.

And, Mr. Speaker, I am holding up the wanted poster for Fazil here in my hand, printed by the State Department and distributed throughout the world, along with reward matchbook covers, that resulted in the capture of a prior criminal.

We last set the levels of these rewards back in 1989, and they are currently capped at $2 million. Last month, FBI Director Freeh testified before the Senate that the cap on rewards should be raised. Former CIA Director Woolsey noted that the architect of the embassy bombings, the very wealthy Bin Laden, could "see our $2 million bet and raise it" more than once. And we agree with that.

The bill before the House raises the total amount available for rewards from $5 million to $10 million, and increases the cap from $2 million to $5 million.

The administration and our senior military commanders in Bosnia also requested Congress to grant authority to the State Department to offer rewards for information leading to the arrest of persons indicted for war crimes in the former Yugoslavia.

Under current law, the State Department may offer rewards for information leading to the arrest of persons who commit terrorist acts or who import illegal narcotics into our Nation. Our military commanders in Bosnia would like to expand that to include persons indicted for war crimes in Yugoslavia.

We all know who the main targets of that effort are, Radovan Karadzic and Ratko Mladic, who ordered and carried out the massacre of 7,000 civilians at Srebrencia, among other crimes. These men remain at large and pose a danger to our U.S. diplomatic and military personnel who are stationed in Bosnia.

Mr. Speaker, I want to thank the gentleman from California (Mr. LANTOS), a cosponsor of this legislation, as well as Ambassador Gelbard, and the junior Senator from Arizona, Mr. KYL, all of whom made this legislation possible. This is a bipartisan bill with strong support of the administration and our commanders in the field in Bosnia. Accordingly, I urge its adoption.

Mr. Speaker, the bill authorizes one million dollars in FY99, 00 and 01 to be appropriated to pay for these awards. The Administration expects that awards offered for war criminals will not top $100,000 each. CBO has scored this bill at a cost of $8 million in authorized spending, all subject to appropriation.

It is important to note that while we will authorize such rewards to be offered, the bill requires the Secretary of State to ensure that payment of rewards for the arrest of people in the current law—terrorists and narcotics traffickers—come before this new authority to pay rewards for U.N. war criminals. This requirement keeps the focus of the rewards program on catching people who commit crimes against Americans.

It is also important to state what the bill does not do. It does not authorize rewards for catching people indicted by the Rwanda tribunal, as originally requested by the Administration. While I favor including Rwanda as does most of the members of this committee, we reviewed this proposal with the senior Senator from North Carolina, Mr. Helms, who objected to the inclusion of Rwanda. Since we are looking to consider this bill in the Senate by unanimous consent, we felt it better to not include Rwanda. Nevertheless, if this bill is enacted, I believe that it will make a rewards program for Rwanda more likely to be enacted in the next Congress.

In its comment to the Committee regarding this legislation, the Administration also does not like the language requiring that rewards for the arrest of people who attack Americans and narcotic trafficking take priority over rewards for the arrest of Yugoslav war criminals. While I understand the Administration's call for flexibility, Sen. Helms and I both strongly believe that while we should allow rewards for U.N. war criminals, the priority should remain with the original purposes of the law to arrest those who harm Americans. In light of the Administration's concerns, we did narrow the priority in the bill to making payments for U.N. war criminal arrests after any and all due and payable rewards under the original program are met.

This bill does not permit a judicial review of the U.N. war criminal rewards but I want to emphasize that while the underlying statute does not deal with this subject, we do not imply a judicial review allowed over the current program.

In addition, while we authorize payment of awards only for catching indicted war criminals, the State Department may offer rewards for unindicted criminals. They just cannot make a payment until the War Criminal Court brings forth an official indictment.

With regard to the account rewards will be paid from, the Emergencies in the Diplomatic and Consular Service Account, I will note this account pays the costs of post evacuations, the rewards program and representational expenses of the State Department.

Usually, the account is funded at around $5 million each year and has been supplemented with carryover balances that generally make around $10–12 million available in any given year. This fiscal year, the account is expected to only carry forward only $1 million due to the exceptional number of embassy evacuations.

The FY 98 Supplemental includes $10 million to replenish this account. The $10 million is divided as follows: $4.5 is to pay for medical expenses, transportation, etc. for the families of victims and the Foreign Service Nationals in Kenya and Tanzania, $4.5 to cover rewards following the bombings, and $1 million is targeted for other post evacuations.

The Department has $4 million in transfer authority to replenish this fund out of the Diplomatic and Consular Programs account. They intend to use that authority in FY 99. In FY 2000, the Department expects to have a budget request of $10–12 million.

Since FY 85, $13.3 million has been made available to pay rewards for information leading to the arrest or conviction of persons responsible for international terrorist activities.

FY 97 $1.5 million was available for rewards; $1.2 million was obligated for three narcotics rewards and $144,000 for publicity initiatives.

FY 98 $3 million is available for rewards. $500,000 has been obligated for three narcotics rewards and $86,000 for publicity. Several other rewards are in the interagency review process.

FY 99 $2 million was requested for the rewards program.

In closing, I understand that while the State Department has some concerns with the draft, as outlined above, the Administration strongly supports passage of the bill.

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

Mr. LUTHER. Mr. Speaker, I yield myself such time as I may consume to rise in support of this bill.

This bill, Mr. Speaker, adds a new authority to the current program of paying rewards for information leading to the arrest of terrorist and narcotics suspects. It would allow the Secretary of State to pay rewards for war criminals who are the subject of an indictment by the International Criminal Tribunal for the former Yugoslavia.

The bill is an important contribution to the efforts of the United States and its NATO allies to move forward on the difficult issues of Bosnia peace implementation. We know that the arrest of major figures who have been indicted by the war crimes tribunal has gone slowly. We need to help energize that process. Offering rewards for information leading to the arrest of war criminals in the former Yugoslavia will, hopefully, give some incentive to those who, until now, have been wavering about offering information.

The arrest of these war criminals may not be the solution in itself to the success of the Dayton peace process, but it would be an important step in the right direction in moving the Dayton peace process forward.

Mr. Speaker, I support this important bill and I urge its adoption.

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

Mr. GILMAN. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey (Mr. SMITH), the distinguished chairman of our Subcommittee on International Operations and Human Rights.

Mr. SMITH of New Jersey. Mr. Speaker, I rise today in strong support of H.R. 4660, authorizing the provision of rewards for information leading to the arrest and conviction of war criminals and those who have committed other serious violations of international humanitarian law in the former Yugoslavia.

I want to thank the gentleman from New York (Mr. GILMAN) for sponsoring this and for his steadfast work on behalf of those suffering in that very, very troubled region.

□ 2145

As cochairman of the Helsinki Commission, Mr. Speaker, and also as chair of the International Ops and Human Rights Committee, I have had a number of hearings in both of those panels on the issue of war crimes tribunals, on the fact that from the very beginning, we did far too little, we did not provide enough money, but certainly the effort was worth it to try to collect information. Thankfully some of the problems we had in the beginning of underfunding are beginning to be met and the indictments of Mladic and Karadzic and others is, I think, a compelling testimony that we will at some point hold these people responsible. Our hope is that this will be extended in a very proactive and a very aggressive way to what is going on in Kosovo where there is slaughter.

Our Helsinki Commission held a hearing just a few days ago. We heard from former Senator Bob Dole and Assistant Secretary of State for Human Rights John Shattuck who had just visited the region and gave riveting, unbelievably disturbing testimony about the terrible carnage that they had witnessed firsthand and the accounts that they had heard from people fleeing those who are committing these crimes. Those who do these things must be held accountable. This resolution seeks to up the ante, if you will, put a price on their heads, to try to say that there is a reward for those who will promote justice and bringing these people to justice as they so surely deserve.

I want to again thank the gentleman from New York (Mr. GILMAN). This is a very, very worthwhile resolution deserving of the support of our colleagues.

Mr. Speaker, I rise today in support of H.R. 4660, authorizing the provision of rewards for information leading to the arrest and conviction of war criminals and those who have committed other serious violations of international humanitarian law in the former Yugoslavia.

As Co-Chairman of the Helsinki Commission, I have followed the tragic developments in the former Yugoslavia and advocated decisive action to stop the senseless slaughter, first in Bosnia, and most recently in Kosovo. The tragic chapters of genocide and cold blooded murder in the Former Yugoslavia will not be closed until those responsible for such heinous criminal acts are brought to justice.

Developments in Bosnia underscore the fact that there is a price—a high price—to be paid for allowing indicted war criminals like Karadzic and Mladic to remain at large. The unfolding carnage in Kosovo is most certainly the handiwork of the "Butcher of Belgrade," Slobodan Milosevic. I applaud the recent passage of resolutions in the House and Senate calling for the investigation and indictment of Slobodan Milosevic as a war criminal. In fact, I introduced the measure in this House. We all recognize, though, that true justice demands that the net be cast further than the one person most responsible.

As a supporter of the Tribunal from the get go, I offered amendments to boost funding—I believe it is critical that the Tribunal take a proactive stance in Kosovo that could serve as a possible deterrence against a new round of war crimes in the Former Yugoslavia. In the case of Bosnia, the Tribunal could only react to crimes that were mostly committed before and during its formation. In Kosovo, however, crimes could perhaps be deterred, if the Tribunal is vigorous and visible in its investigation of ongoing activity.

Mr. Speaker, we saw a couple of days ago the reports of a major massacre in three villages in Kosovo, where women, children and the elderly were slain and, in some instances, their bodies mutilated by the Serbian security forces. These scenes are all too familiar and, absent determined action, will be repeated over and over and over again. The Helsinki Commission has received disturbing reports from Senator Bob Dole and Assistant Secretary of State John Shattuck who formed a fact-finding mission to Kosovo. They told us about men being separated from women and children and simply taken away, perhaps to lengthy detention or maybe their execution. There are also reports, again of the mass rape being used as a weapon of war.

Mr. Speaker, as a cosponsor of H.R. 4660, I believe adoption of this legislation will underscore the continued commitment of the United States to see that those responsible for the war crimes and other serious violations of international humanitarian law are held accountable for their actions. While it is unlikely that the offer of rewards alone will lead to the arrest or conviction of all of those responsible for war crimes in the Former Yugoslavia, even if one criminal is brought to justice as a result of our action today, the modest investment would have been worth the effort.

Mr. LUTHER. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. LANTOS).

Mr. LANTOS. I thank my friend for yielding me this time. I rise, Mr. Speaker, in support of this legislation, but also to recognize the enormous contributions of the distinguished Republican chairman of the Committee on International Relations in his fight against terrorism over many years in many capacities. At our annual meetings with the European Parliament, it was Chairman GILMAN who invariably raised the issue of international terrorism, drug trafficking and international criminal activities. His unceasing efforts on behalf of these causes has paid off handsomely. I think this last measure is an appropriate indication of the change of antiterrorist legislation that Chairman GILMAN has introduced. I strongly urge all of my colleagues to support it.

Mr. GILMAN. Mr. Speaker, I want to thank the gentleman from California for his kind remarks and for his strong support for antiterrorism legislation in our committee.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. FOX).

Mr. FOX of Pennsylvania. Mr. Speaker, I too want to congratulate the gentleman from New York (Mr. GILMAN) for bringing this legislation forward. He has worked in a bipartisan fashion with the gentleman from California

(Mr. LANTOS) and others in the Committee on International Relations including the gentleman from New Jersey (Mr. SMITH) in making sure that the antiterrorism legislation moves forward in this Congress. We owe a great debt of gratitude to the gentleman from New York for his leadership in this area.

We just have to look to the fact that the program that Chairman GILMAN referred to relates back to the August 7, 1998 reward and poster which he spoke of earlier where two explosions rocked the U.S. embassies in Kenya and in Tanzania killing over 200 innocent people. This particular reward calls for a reward to those individuals who will bring information against Haroun Fazil who is a member of an international terrorist group dedicated to opposing select governments with force and violence.

The fact is this legislation, H.R. 4660, Mr. Speaker, will amend the State Department Basic Authorities Act of 1956 to provide rewards of an increase from $2 million to $5 million for the arrest and conviction of any individual for the commission of an act, or conspiracy to act, of international terrorism, narcotics related offenses, or for serious violations of international humanitarian law.

The fact is that it has been 10 years since the last time this threshold from $2 million to $5 million will have been changed. This legislation of the gentleman from New York which we have supported widely will help us to in fact catch those individuals in Croatia, Bosnia and the Federal Republic of Yugoslavia who are committing the kind of terrorism that the United States wants to end. With this legislation, we will be one step further toward that goal.

I thank the gentleman from New York (Mr. GILMAN), the gentleman from California (Mr. LANTOS) and the other cosponsors including the gentleman from New Jersey (Mr. SMITH) for bringing this bill forward and look forward to its passage. I thank my colleagues on both sides of the aisle for supporting this important bill.

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

Mr. GILMAN. Mr. Speaker, I thank the gentleman from Pennsylvania (Mr. FOX) for his supporting remarks.

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

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from New York (Mr. GILMAN) that the House suspend the rules and pass the bill, H.R. 4660, 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 the State Department Basic Authorities Act of 1956 to provide rewards for information leading to the arrest or conviction of any individual for the commission of an act, or conspiracy to act, of international terrorism, narcotics related offenses, or for serious violations of international humanitarian law relating to the Former Yugoslavia, and for other purposes."

A motion to reconsider was laid on the table.

SENSE OF CONGRESS REGARDING SEWAGE INFRASTRUCTURE FACILITIES IN TIJUANA, MEXICO

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 331) expressing the sense of Congress concerning the inadequacy of sewage infrastructure facilities in Tijuana, Mexico.

The Clerk read as follows:

H. CON. RES. 331

Whereas, since the 1930's, United States beaches have been severely impacted by the flow of sewage from Mexico and, in the last 2 decades, this environmental problem has been elevated to a major health and safety concern; and

Whereas, most recently, the flow of sewage from Tijuana, Mexico, has forced beach closures and caused other environmental and economic hardships in the cities of Imperial Beach, Coronado, and San Diego, California, and caused severe degradation of the Tijuana National Estuarian Wildlife Preserve: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that—

(1) if the Government of Mexico does not take appropriate actions to recognize and mitigate the inadequacy of sewage infrastructure facilities in Mexico (including facilities for the treatment and transport of sewage) and the adverse environmental and economic impacts of sewage from Mexico on cities in the United States, the United States should review its obligations with Mexico under treaties and other international agreements (including agreements relating to port access, loan guarantees, and other types of foreign aid) and take appropriate actions to ensure that the Government of Mexico shares in the burdens caused by its sewage infrastructure problems; and

(2) any measurement of the responsiveness of the Government of Mexico to requests to mitigate its sewage treatment problems should be based on risk assessment procedures developed in consultation with the San Diego County Health Officer.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. GILMAN) and the gentleman from Minnesota (Mr. LUTHER) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. GILMAN).

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this measure.

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

There was no objection.

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

Mr. Speaker, the gentleman from California (Mr. BILBRAY) introduced this resolution and I was pleased to be able to take it up before our committee and bring it to the floor today.

This resolution highlights the serious problem of untreated sewage-tainted water flowing down the Tijuana River which is contaminating U.S. seashores and the Tijuana National Estuarian Wildlife Preserve. As recently as August of this year, 12 million gallons of river water contaminated with sewage was flowing down the Tijuana River to the Pacific Ocean every day. Ocean currents carried the contaminated water to the Imperial Beach, Coronado and San Diego area.

This is not a new problem and it has yet to find a permanent solution. There have been terrible moments of crisis since the May 1994 break in the sewage line in Tijuana which dumped 25 million gallons of raw, untreated sewage into the Tijuana River a day for three successive days.

While Mexico has made significant infrastructure investments, our Nation has assumed a majority of the burden of building new sewage treatment infrastructure, and since 1989 has appropriated $234 million for the EPA under Section 510 of the Water Quality Act for "special purpose projects" in San Diego. By December of this year, the United States will complete our major outstanding agreed-upon infrastructure improvement, a pipeline to carry treated wastewater some 3½ miles offshore. Still, experts estimate that this will only temporarily help address this binational problem.

It should be underscored that this is a problem that the United States and Mexico must work together jointly to resolve. Both governments must shoulder their responsibility. I have recently met with representatives of the Mexican government along with the gentleman from California (Mr. BILBRAY) to discuss this terrible problem. They have informed us that they both understand and share the deep concern of the people of our Nation who are affected. I am hopeful that the gentleman from California's concerted and tireless efforts have raised the sense of urgency on both sides of the border so that we can get on with solving this problem once and for all.

Accordingly, I ask my colleagues to join me in supporting this resolution.

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

Mr. LUTHER. Mr. Speaker, I yield myself such time as I may consume. I am aware, Mr. Speaker, that the administration does have concerns about this particular piece of legislation, and I know that there are many Members that have concerns as well. Because we have a 2,000-mile border with Mexico,

we face a number of issues that we simply cannot solve without the cooperation of the government of Mexico. To address these issues, we have developed an impressive number of joint efforts over the last decade. Some of these efforts are not adequately funded or staffed, but we have made progress in encouraging the government of Mexico to work with us. We all want to see the sewage problem dealt with faster and better. But we must ask ourselves when we are considering any piece of legislation such as this whether threatening unspecified retaliation for insufficient action will hasten cooperation or will it in fact undermine it. I believe that is exactly why the administration has concerns, Mr. Speaker, and I believe it would be helpful to the debate here this evening if we do hear from others that support the legislation and also others that do have concerns about it. I know the gentleman from California (Mr. BILBRAY) is a supporter and I welcome his comments.

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

Mr. GILMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. BILBRAY), the author of this legislation.

Mr. BILBRAY. Mr. Speaker, I thank the chairman of the House Committee on International Relations, the gentleman from New York (Mr. GILMAN) for his steadfast support to addressing this concurrent resolution, H. Con. Res. 331. From the beginning, the chairman has been committed to addressing this as an outcome-based strategy, as it is related to the environmental crisis that we have been confronted with in San Diego, California and Imperial Beach, California and the related surrounding communities of Tijuana.

Mr. Speaker, this resolution is simply a sense of Congress. It outlines past problems, and presents the current problems in a clear, concise aspect of the infrastructure problems that relate to Tijuana, Mexico. This lack of infrastructure has forced the closure of beaches and caused environmental and economic hardships for the San Diego region, including the degradation of the Tijuana National Estuarian Wildlife Preserve. This resolution simply states that the government of Mexico needs to recognize and mitigate the inadequate sewage infrastructure that is impacting the United States. Frankly, we need the United States and Mexico recognizing that it is the impact and outcome of this pollution that matters the most. Let me place an emphasis on the word "review" that is in this bill. It states that if this problem is not taken care of, then the United States will "review" its treaties with Mexico. That is all it says. It does not say we will repeal them. It does not mean we will be punitive, but it says we have a relationship with Mexico, we have treaties, and if there is a continuing environmental and health threat, we as Congress think that it is important enough for us to review our treaties. I do not think the word "review" is punitive or mean-spirited. I think it is logical. This is only a sense of Congress. It is not legally binding. All we are trying to say is that the long-term relations between our two great countries have many factors that have to be considered. Frankly one of those major factors is the environment along our frontier.

Mr. Speaker, this resolution is not punitive against Mexico. It is not anti-Mexican. It is anti-pollution. Now, there are those who oppose NAFTA. Some of my close friends opposed NAFTA because they were concerned that increased trade would equate to increased pollution, and they wanted an assurance that our trade agreements were not going to push pollution. This resolution, this sense of Congress just says that all our treaties or agreements will be considered; are they helping or hurting a pollution problem? This pollution problem predates NAFTA. Does that mean that all pollution problems that predate NAFTA now will not be considered in a treaty relationship? Some of my colleagues opposed NAFTA because they were concerned about potential pollution related to NAFTA, but I do not believe anybody who opposed NAFTA on that basis was anti-Mexican. So I would ask that my colleagues not think negatively about those of us who supported NAFTA, hoping that NAFTA would give the inspiration for this Congress and for Mexico to take care of some environmental problems that long predate NAFTA. My intention is to use this forum as a means to educate this Congress specifically on this problem.

Now, seeing the interests and concerns that Members have voiced here tonight, I feel we have been successful at least at that step. The fact is children go to the beaches in the United States and have to be told by their parents, "Patrick, Briana, you can't go in the water. You can't go into your beaches, because a foreign country has polluted your neighborhood."

□ 2200

The communities of San Diego and Tijuana have enjoyed a special relationship. In fact, I was the mayor of the city that was a sister city to Tijuana long before the City of San Diego even considered a formal long-term relationship with Tijuana. We have strong cultural and economic ties that enable us as neighbors to work together. Even now there are various issues that we are working on to address these issues. We are talking about the City of Imperial Beach and City of San Diego sending vector trucks into Mexico to help clear out their sewer lines. Why would one city send a sewer truck to another neighbor city? So the sewage of one does not pollute their beaches of another.

My goal tonight, Mr. Speaker, is to raise the awareness of my colleagues, to say to them they must be familiar with existing environmental problems if they are going to truly address those that they say may be created in the future. It is now my hope that this resolution will sensitize both the Mexican government and the U.S. Government to understand that this issue needs to be addressed, to inspire them to work together on outcome-based environmental strategies.

Now I have worked on this item, Mr. Speaker, for over 20 years. I have been involved in negotiations that date back to 1978 with the Carter administration, 1985 in the negotiations and 1990 that actually put together the proposal for building a plant that has cost over $200 million of taxpayers' funds. And American taxpayers who say, "What are you going to get for it? Are our beaches really going to be clean?" This sense of Congress will be saying we are committed to our beaches being clean.

I would ask us to look at the fact that we are going to implement improvements that tie together economic opportunities with environmental responsibility. I would say to our colleagues—is that so unfair? I would ask us to recognize that we are building plants today that people are concerned are not going to clean up the beaches. This bill is an added assurance by those of us in Congress that, yes, it will clean up the beaches and we will commit that we will do everything possible to clean up those beaches.

This August we had a meeting, because we had a situation where the beaches of Imperial Beach were closed during August, summertime, major tourist season, and the tourists came to the United States Open Sand Castle Competition, only to be greeted by red pollution signs. What do I tell Mike Bixler, the mayor of Imperial Beach, when he calls an emergency meeting and says, "Why are my beaches being polluted by a foreign government?" What I have told him is that I will do everything possible to educate Washington and to educate Mexico City to what the people of Imperial Beach and Coronado and San Diego are going through.

Mr. Speaker, this is only a sense of Congress. We are not asking to spend money, we are not asking to take on anything except the feeling that this has to be addressed, and our colleagues will keep an open mind.

Some may say that threats to Mexico does not work and will never work. Well, first of all, I would ask my colleagues to read the record. We are not talking about a threat, we are talking about raising a legitimate concern, just as Ambassador Gavin in 1985 raised

a concern over a grant for water projects in Tijuana that would result in more sewage pouring into the United States, and because Gavin at that time spoke clearly and frankly to Mexico, Mexico agreed that we must make major improvements.

I think that this is another one of those chances for us to make a clear statement. The problem has gone on for decades and decades and decades. My colleagues, there are those who promised to take care of these environmental problems if NAFTA was passed. Those of my colleagues who oppose NAFTA raised that issue. Now is their chance to say everything will be considered to clean up the environment.

Mr. Speaker, I ask that my colleagues approve H. Con. Res. 331, and let me say sincerely I was raised in a community with raw Mexican sewage pouring in and polluting our beaches. I was raised in this kind of health threat. My children are second generation sewage kids growing up with this pollution. Please let us work together as Members of Congress, and let us work together between the United States and Mexico. Let us make a commitment tonight that from the year 2000 on, from now on, we will stop finding excuses for letting our beaches be polluted, and that the next generation of children that go to that beach will have clean beaches, pure beaches and have an environment that is safe and appropriate. Because let me tell my colleagues flat out: For those who are concerned about social injustice, that environmental policies are not enforced equally, let me assure my colleagues we are talking about a working class neighborhood that happens to have a high percentage of minorities, and they have not been represented by this Congress equally and fairly in the past. Let us start changing that today and tell the children in Imperial Beach and in Tijuana and San Diego we are committed to doing whatever we can whenever we can to make sure it does not happen any more.

Thank you, Mr. Speaker. I'd like to begin by thanking the Chairman of the House Committee on International Relations, Mr. GILMAN, for his steadfast support and effort on House Concurrent Resolution 331. After returning home to Imperial Beach to close beaches for the second summer in a row, resulting from Mexican sewage overflowing or leaking from inadequate and poorly maintained sewage treatment plants across the border, I asked Chairman GILMAN for his assistance in working on this problem.

From the beginning, Chairman GILMAN has been committed to working with me on this environmental and public health crisis. In fact, earlier this afternoon, the Chairman and I had the opportunity to meet with representatives from the Mexican Embassy to discuss both countries' mutual interest in resolving these problems. Again, I thank the Chairman for his leadership and support.

As the Chairman pointed out, H. Con. Res. 331 is simply a "sense of Congress" outlining past and present problems with inadequate sewage infrastructure and treatment facilities in Tijuana, Mexico. This lack of infrastructure has forced beach closures and caused other environmental and economic hardships in the south bay region of San Diego, including severe degradation of the Tijuana National Estuarian Wildlife Preserve. The neighborhoods that are directly impacted by this health threat, such as my hometown of Imperial Beach, consist of largely working class, predominately minority families.

The Concurrent Resolution goes on to state that if the government of Mexico does not recognize and mitigate the inadequacy of sewage infrastructure, then the United States should "review" its existing relationships with Mexico, including existing treaties and other international agreements to see where the weaknesses may exist. Let me place an emphasis on the word review. Such a review will open both the governments of the United States and Mexico to scrutiny on these agreements.

Let me be perfectly clear, this is ONLY a sense of Congress. It is not legally binding, nor does it require Congress to Act. This resolution is not punitive, nor is it anti-Mexico. Frankly, my intent is to use it as a means of educating Congress on the problems many border communities confront on a regular basis. Given the number of Members now showing interest in this issue, I think I've been successful.

I recognize and applaud the ongoing bilateral efforts and binational cooperation of the governments of Mexico and the United States in developing a long-term solution in addressing this problem. The communities of San Diego and Tijuana enjoy a special relationship. Their strong cultural and economic ties have enabled these neighbors to work together, even now, on a variety of issues, including sewage spills. My ultimate goal is for Washington, DC and Mexico City to reach this same level of cooperation and to increase their responsiveness to the local citizens of San Diego and Tijuana.

My intent is to raise the level of awareness on this issue to my fellow colleagues who may be unfamiliar with some of the unique environmental problems we have along the border. It is also my hope that with this resolution, both the Mexican and U.S. governments will understand just how serious our level of commitment is on this issue, and will be inspired to continue to work cooperatively in resolving both the short-term and long-term problems.

Unfortunately, this issue is not new to either the United States or to Mexico. In my 20 years of public service, I have had numerous meetings and extensive dialogue with national and local officials from Mexico, and have raised this issue again on two recent congressional delegation trips to Mexico, as participant in the Interparliamentary Conference. The results have been mixed. On the one hand, Mexico understands the severity of the problem and the need to build a permanent, stable and safe sewage treatment system. On the other, I recognize, better than most, the problems Mexico continues to face in terms of available financial resources.

However, the implementation of these efforts has been less than satisfactory. There has yet to be established between these communities a reliable notification system to alert them when a leak or overflow takes place. All of the communities affected need to realize that this is a regional crisis, and it will take the entire region to resolve these issues.

The United States and Mexico have demonstrated that they can work effectively together, but clearly more attention needs to be devoted to follow-through. In 1990, the United States and Mexico agreed to build a sewage treatment plant in the United States to treat sewage waste from Mexico, because the treatment plant in Mexico was unable to treat the increased volume of waste. However, leakages and overflows on the Mexican side of the border have continued to occur. Unfortunately, that waste continuously ends up on local U.S. beaches. The multimillion dollar plant can't treat sewage that doesn't get to the pipe, which can deliver it for treatment.

Frustration on the part of local officials culminated in an August meeting organized by the mayor of Imperial Beach. Participants included IBWC Commissioners from both Mexico and the United States, a San Diego County supervisor, the Counsel General from Tijuana, City of San Diego officials, and myself. While the attendees were reassured with the status of the long-term plan, concerns remain about the current overflow of sewage waste. A dialogue of possible short-term solutions was initiated at this meeting. As a result of these discussions, the cities of San Diego and Imperial Beach are attempting to send U.S. vector trucks across the border into Tijuana, Mexico to clean out the accumulated debris and cobble stones, which are causing blockages in the pipes and storm drains, which, in turn, are causing sewage to run into the Tijuana River and on to our beaches. We're awaiting final approval from Mexican Customs implementation of this project.

I'd like to raise one last issue. There are some pundits and foreign policy "experts" that will claim that Mexico does not respond well under pressure or to threats, and that this resolution will harm the situation more than help it. Again, this is only a "sense of Congress"—we're only bringing long overdue attention to a very serious problem and maintain the level or urgency of this problem until a solution is in place. I might add that there are also those who will argue that the threat of pressure on Mexico has been used before as an excuse to not assert the need for change to the status quo.

More importantly, however, how can we, as a Congress, in good conscience allow our environment and our public health and safety continue to be at risk without raising this issue? This problem has been going on for decades. It's about time both sides come together and acknowledge the need to comprehensively resolve the sewage crisis along the border. H. Con. Res. 331 can begin this process.

Again, thank you for your consideration and I urge my colleagues to support House Concurrent Resolution 331.

I would ask that these materials be placed into the RECORD following my statement.

[From The Tribune, Nov. 14, 1989]

TIJUANA SEWAGE IS FLOWING FASTER, KILLING ESTUARY

(By Michael Richmond)

An increasing amount of raw sewage flowing across the border from Mexico is killing marine life and threatening birds in the Tijuana River estuary, according to a newly completed study of the huge saltwater marsh.

The increase is the result of the continued growth of Tijuana, where many neighborhoods are not hooked up to sewers. The sewage flow in the river now averages nearly 10 million gallons a day, up from about 7 million gallons a day two years ago, according to Dion McMicheaux, resident engineer here for the International Boundary and Water Commission.

A three-year federally funded study shows that the sewage-laden water flowing down the river has harmed game fish and shellfish in the saltwater marsh at the river's mouth. The marsh is a part of the 2,500-acre Tijuana River National Estuarine Reserve and the Tijuana Slough National Wildlife Refuge.

In recent years, the Tijuana River Valley has been beset with problems.

The beach stretching from the south city limits of Imperial Beach to the Mexican border, considered by some as one of the most beautiful in Southern California, is deserted most days, except for an occasional jogger or horse rider.

Among the area's troubles:

The two-mile beachfront has been under a health quarantine since 1983 because of sewage pollution from the Tijuana River. Sewage bacteria levels as much as five times the health limit have been measured in the ocean waters. Some surfers regularly ignore the warning, however.

The 390-acre Border Field State Park, nestled against the international boundary, was closed for four months in 1988 because of renegade sewage flows from Mexico, causing the closure from June to mid-September this year after it was overwhelmed with thousands of undocumented migrants and smugglers who used it as a staging area for their trips northward. The park was shut down without any public announcement and has just as quietly reopened, but only on Fridays, Saturdays and Sundays.

Biologists and other researchers studying the Tijuana River estuary and its ecosystem no longer do field work at night because of the danger from border bandits.

County health officials are worried about the potential for an outbreak of malaria or encephalitis from breeding of mosquitoes in sewage ponds that accumulate at times in the river bottom. The water is "heavily laden" with mosquito larvae, says Larry Aker, assistant deputy director of the county's Environmental Health Services.

Some of the sewage settles out of the water as it makes its way through a maze of small channels that thread the estuary en route to the ocean.

"We are essentially killing off that estuary," Aker said.

A walk south from Imperial Beach along the beach at the edge of the estuary can be deceiving.

Ocean waves wash gently upon the sandy beach. A flock of seagulls with a lone brown pelican among them rest on a sandbar near the river mouth. To the south, two riders trot their horses along the beach.

The water flowing from the estuary outlet to the sea appears fairly clear, diluted by incoming tides.

But a quarter-mile inland from the beach, the scene is much different. In places, the water is like a pea-green soup, full of algae, said Chris Nordby, manager of the Pacific Estuarine Research Laboratory at San Diego State University.

It is also an area where there are no pollution sampling stations, "because when I went in there to set up my samples, there just were no animals. There's absolutely nothing there," Nordby said.

Evidence of the extreme environmental damage to the estuary is contained in a just-completed study funded by the National Oceanic and Atmospheric Administration, which found significant depletions in some fish and shellfish species, such as clams. The study is based on water-quality testing and sampling of fish and shellfish from 1986 through March of 1989.

One small game fish known as Tops Smelt, which formerly accounted for 52 percent of the fish in the estuary, has fallen to about 5 percent, said Nordby, a biologist and principal researcher for the pollution study.

The California jacknife clam, which in years past accounted for 70 percent to 86 percent of the clam population, "is now down to about 27 percent," Nordby said.

Another shellfish, the purple clam, is virtually extinct there.

"People used to clam here in the 1970s and take their limit, but not anymore," said Nordby, who has been studying the estuary since 1978.

Small sand dollars, once abundant, are rarely found these days, he said.

"Every now and then you'll find a small tiny one, but they don't survive like they used to," he said. The harm is caused by the year-round influx of polluted fresh water, which dilutes the salinity of the estuary, Nordby explained.

When that happens, marine organism are killed or escape from the estuary.

In addition to marine organisms, the estuary is home to dozens of bird species, including the endangered least tern and the light-footed clapper rail. The effects of the sewage pollution on bird life have not been documented, but Nordby and others believe there is potential for harm.

They note that a decline in the marine life on which birds feed will eventually reduce the bird populations.

Paul Jorgensen, manager of the Tijuana River National Estuarine Reserve, said extensive studies are needed to confirm the effects on birds. But he added, "If the shellfish, crabs and fish are affected, then the birds probably are affected."

Nordby and others worried about the wetlands are pinning their hopes for its recovery on construction of a binational sewage treatment plant that has been proposed for the border to treat sewage from Tijuana. The treated effluent would be discharged directly into the ocean through a big pipe.

But the binational plant is still a long way from being approved. Mexico and U.S. officials have made only preliminary commitments. Negotiations on a detailed agreement between the two countries are under way by the Mexican and U.S. commissioners of the International Boundary and Water Commission in El Paso, Texas.

Narendra N. Gunaji, head of the U.S. section of the international boundary commission, predicted earlier this year that the new plant could be in operation by 1993. That estimate, however, was tied to a firm commitment from Mexico that it would participate in the plant and on funding from both countries.

Without such a plant, the pollution woes of the Tijuana River Valley will only grow as Tijuana keeps growing, officials say.

"I think the federal, state and local governments have a responsibility to the people in the area to make sure that dream becomes a reality," said County Supervisor Brian Bilbray, a former Imperial Beach councilman and mayor who has spent his entire political career trying to resolve the Tijuana River Valley's troubles.

"The sewage problem has become bad enough that the Federal Government can't ignore it anymore," he said, "We're going to find answers . . . because you just can't allow problems like that to exist."

In addition to the border sewage plant, Bilbray said, development of the long-sought Tijuana River Valley Regional Park will help transform the river valley.

The county park will encompass 2,200 acres along both sides of the river, extending from the ocean eastward to San Ysidro. It has received $10 million in state park bond funds and two weeks ago was given another $1.5 million by the Tia Juana Valley County Water District, which apparently is about to shut down after a half-century in existence.

Bilbray has been critical of the Border Patrol and state and federal park and wildlife managers for past practices that he says have focused more on wildlife protection and keeping people out of the area.

He also criticized the Border Patrol for its "scorched earth" practice of clearing underbrush from large areas of the river channel to help them patrol the region.

"If you and I did that, we'd go to jail," Bilbray said.

As for development of the regional park, he said he believes that wildlife preservation and recreation in the river valley can be compatible "if you do it right."

Bilbray envisions miles of trails, small fishing lakes, campgrounds and other amenities.

"I'm real optimistic that we're seeing a lot of movement we haven't seen in 20 years," he said of efforts to solve the river valley's problems.

[From The Tribune, Jan. 26, 1990]

3 OFFICIALS HERE PLEDGE TO FIGHT SEWAGE PROJECT

(By Kathryn Balint)

Meeting the news media in the sewage-polluted Tijuana River Valley, two San Diego city councilmen and a county supervisor vowed yesterday to fight to save local sewer users at least $1 billion on a massive project they say would harm the environment.

"This is a fight we still can win," said Councilman Bruce Henderson.

Henderson, Councilman Bob Filner and Supervisor Brian Bilbray called a news conference yesterday to make it clear that their

battle against San Diego city government's nearly $3 billion upgrade in sewage treatment is continuing.

In a closed-door session this week, the city council agreed in a 7–2 vote on a settlement of the federal government's lawsuit accusing the city of discharging inadequately treated sewage into the ocean. The vote, which was taken secretly because by law the council is allowed to discuss litigation in private, will end a two-year legal dispute between the city and the U.S. Environmental Protection Agency.

Henderson and Filner coast the dissenting votes.

Bilbray, Henderson and Filner said the city should not have caved in to the federal government by agreement to build the multibillion-dollar sewage facilities by Dec. 31, 2003. The agreement will be made public Tuesday in the U.S. District Court of Judge Rudi M. Brewster.

"That's disgraceful that we should make such a deal as this," Filner said. He called the planned sewage project "a boondoggie" that will be bad for the environment and for residents' pocketbooks. For the 1.6 million people who use the sewer system, sewer rates are expected to go up dramatically.

As they have in the past, Henderson, Filner and Bilbray based their comments on the opinions of noted marine scientists from the Scripps Institution of Oceanography in La Jolla.

The scientists, including Roger Revelle, director emeritus of the institution, and Edward Goldberg, a chemist known internationally for his work in fighting ocean pollution, contend that the nutrients in the waste water now disposed of in the ocean pose no hazard to sea life. In fact, they say, the lowest forms of life in the ocean feed on the nutrients in the sewage, which is treated to a step just below the federal standards.

The three politicians said they chose the Tijuana River Valley to illustrate their point that a sewage-treatment plant there, near a national estuary, where endangered birds and plants live, would hurt the environment. Anther reason they chose to meet near Border Field State Park in the river valley was to point out the raw sewage flowing daily from Mexico into the United States.

Bilbray said the EPA should be focusing its attention on cleaning up the raw sewage there rather than trying to force San Diegans to spend their money on a project that is unnecessary.

Bilbray also said that the city should be worrying about "keeping the sewage in the pipes," referring to repeated spills of raw sewage from sewer pipes before it even reaches the Point Loma Wastewater Treatment Plant. The raw sewage has fouled both Mission Bay and San Diego Bay. One of the provisions of the settlements agreement is aimed at trying to prevent such spills.

The three politicians said they will lobby for changes in the Clean Water Act. The act sets a uniform sewage-treatment standard—called secondary sewage treatment—for all cities in the nation.

[The San Diego Union, Jan. 26, 1990]

SEWER PROJECT FOES MEET

Three local officials traveled to a proposed South Bay sewage-treatment plant site yesterday to continue their campaign to overturn what they called the city's "bureaucratic boondoogle" decision for a $2.86 billion sewage system upgrade.

San Diego City Councilman Bob Filner and County Supervisor Brian Bilbray, whose districts include the Tijuana estuary site proposed for the plant, were joined by San Diego City Councilman Bruce Henderson, an early critic of the massive sewage-system overhaul.

"This is a fight that we can still win," Henderson said at the site, just north of the entrance to Border Field State Park, on the coast between the international boundary and southern Imperial Beach city limits.

The three argued that the sewage-system upgrade would harm rather than help the environment. They called for more detailed scientific studies on the impacts to the Tijuana River estuary and ocean floor where the treated sewage would be discharged.

They want to begin efforts for a new waiver of federal orders for the more advanced treatment system, have congressional hearings to try to amend the requirements of the U.S. Clean Water Act, or mount a court challenge to the federal and state lawsuit filed to force the city into federal compliance.

[The San Diego Union, Tues., Nov. 13, 1990]

BILBRAY DIVERTS SMELLY RIVER WITH BULLDOZER; MAY HAVE VIOLATED LAW

(By Graciela Sevilla, Staff Writer)

San Ysidro—Sitting at the controls of a bulldozer, county Supervisor Brian Bilbray yesterday redirected the course of the sewage-infested Tijuana River—possibly violating a federal law.

Bilbray said he was fulfilling a promise to area residents to ease the stench and hazard posed by the blocked river, which had become a mosquito breeding ground.

Previously, the river flowed into a wall of willows that caused the water to back up and flood, surrounding farm and commercial properties, Bilbray said.

"When the water backs up and kills the willows, it creates a massive health problem for surrounding communities," he said.

By rechanneling the river to what he believes was its original course, Bilbray estimated that he helped reduce the area previously covered by sewage by as much as 30 percent.

The water now flows into Lake Tijuana, also known as Shelton Pond, which lies in the midst of the Nelson & Sloan concrete company's sand-mining operation just north of the Mexican border.

The river and land immediately banking on it are federal property, under the control of the International Boundary and Water Commission (IBWC).

According to Dion McMicheaux, a local project manager for the commission, Bilbray's action may be in violation of federal law that requires a permit from the Army Corps of Engineers when diverting federal waters.

However, Bilbray said he decided to take matters into his own hands out of frustration after working for two years to secure a permit to no avail. "They can blame me if they find any fault involved in it," Bilbray said.

The supervisor asserted that he had the backing of local environmentalists and the County Health Department; although he said he acted on his own.

Legal or not, Bilbray's earthmoving was applauded by several nearby residents who said they could no longer tolerate the sewage, mosquito and health problems caused by the blocked river.

Ruben Marshall, owner of a vegetable farm located adjacent to the polluted river, said: "The IBWC, in my estimation, has been very lax in addressing the problems of this area."

Rosemary Nolan, a resident of Nestor who helped found the group Citizens Revolting Against Pollution, said she was grateful for Bilbray's intervention.

Nolan said her family and neighbors had suffered headaches, nausea, heartburn and other ills as a result of living near the contaminated river. "I don't know which is worse, the mosquitoes or the smell," she said.

Last September, some 100 area residents gathered in Nolan's living room, where they started the group and aired their complaints before Bilbray.

"He told us that if the bureaucracy didn't do anything by October, then he'd get on a bulldozer and do something about it himself," she said.

Bilbray said he secured a dozer and began putting his words into action over the weekend. He refused to say where he obtained the bulldozer or whether he paid for it.

As a public official, Bilbray has gotten on the business end of a bulldozer once before in an attempt to do battle with Tijuana River sewage.

In June 1980, during his tenure as mayor of Imperial Beach, Bilbray drove an earthmover to create a dirt dam to stop river sewage from contaminating and closing his seaside community's beach.

Yesterday, Imperial Beach City Councilman Bud Harbin was also on hand to support Bilbray's latest effort.

"Every time our beach is quarantined because of pollution . . . this is where it comes from," said Harbin, standing near the edge of the thick, black waters. "If this is deterred, it's going to help us down there. It's definitely a plus for the people here and the people of IB."

[The San Diego Union, Feb. 16, 1991]

WARDENS QUIZ BILBRAY ON BULLDOZING OF DIKE

(By Frank Klimko)

County Supervisor Brain Bilbray was read his rights and questioned in his office yesterday by a pair of state game wardens who are investigating his bulldozing last year of an earthen dike along the Tijuana River channel.

In another development, the U.S. Army Corps of Engineers recently notified Bilbray they had finished their investigation of the Nov. 12 incident and asked him to consult with them before he takes any similar action in the future.

In a Feb. 1 letter to Bilbray, Corps officials said he violated environmental laws by not obtaining the necessary permits before bulldozing the dike. However, no penalties were being sought, the letter said.

Bilbray, atop a bulldozer last year, redirected the course of the sewage-infested Tijuana River, fulfilling a promise he made to area residents to ease the stench and hazard posed by the blocked waterway.

The game wardens visited his office yesterday, tape-recorded their meting after reading him his Miranda Rights, and then left, Bilbray said. Such a declaration of rights is normally given to criminal suspects just before they are arrested.

They told Bilbray they were investigating whether he violated any state fish and game laws and their findings would be turned over to the district attorney. It could not be determined what statutes Bilbray may be suspected of violating.

"I told them I would talk with them," Bilbray said. "It does rattle me when someone does read me the Miranda Rights. I don't have anything to hide here, and I told them the facts."

Bilbray said he bulldozed a dam that had been illegally erected, blocking the river.

Two other such dikes are still in place near the same area, he said.

The river, which had become a breeding ground for mosquitoes, previously flowed into a wall of willows that caused the water to back up and flood, surrounding farm and commercial properties, he said.

By rechanneling the river to what he said was its original course, Bilbray estimated that he helped reduce the area previously covered by sewage by as much as 30 percent.

"The biggest problem that existed was because of the blockage, and my action was to remove an illegal structure that was constituting a health threat," Bilbray said.

The water now flows into Lake Tijuana, also known as Shelton Pond.

[The San Diego Union Jan. 1, 1991]

EMERGENCY SOUGHT ON POLLUTION—BILBRAY SEEKS FAST ACTION ON CLEANUP OF TIJUANA RIVER VALLEY

(By Graciela Sevilla)

The County Board of Supervisors will consider declaring a state of emergency next Tuesday to allow for the cleanup of the sewage-infested Tijuana River Valley.

Supervisor Brian Bilbray is recommending that the county join forces with Assemblyman Steve Peace, D–Chula Vista, to request that the governor issue an emergency proclamation releasing state funds and placing the cleanup on a fast track.

A declaration of emergency would override state regulations that have prevented the removal of the underbrush that causes the polluted waters to stagnate in the valley.

"The action really should be taken now to avoid the situation becoming a chronic problem in the summer," Bilbray said.

Area residents complain that the stench and mosquito swarms become intolerable during warm weather. The estimated 13 million gallons of contaminated water flowing daily from Mexico also poses grave health threats.

"Without significant preventive control measures, serious outbreaks of encephalitis and malaria will occur in this area," J. William Cox, director of the county Health Department, wrote last year.

Although local health officials have called the sewage-infestation "a disaster waiting to happen," the county health officer cannot declare a public health emergency until someone becomes sick from exposure to the waste.

Timing is crucial because the river valley is home to several endangered species of birds that nest and migrate in the area during the spring and summer.

"If we wait, it becomes a choice between endangered species and public health," Bilbray said.

The county has yet to determine how much time or money it will take to clear out the dense underbrush. According to Peace, the Regional Water Quality Control Board has indicated a willingness to fund the project if the emergency is declared.

For his part, Bilbray is optimistic that San Diego will fare well with its bid for help from Sacramento once former San Diego Mayor Pete Wilson is inaugurated as governor.

"We have one big advantage in that the guy filling that office this month has got a very good background on this," Bilbray said.

[The San Diego Union, Fri., Jan. 4, 1991]

EMERGENCY DECREE MIGHT UNLOCK HELP FOR TIJUANA SEWAGE PROBLEM

(By Graciela Sevilla)

While county supervisors are poised to declare a state of emergency on the contaminated Tijuana River next week, just what would follow such an unprecedented action is being heavily debated.

County, state and federal officials are at loggerheads over who is to blame for the delay in attacking the chronic mosquito problem that a health official has called a "disaster waiting to happen."

"I think something should be done before you have sick people," said County Health Officer Donald Ramras. "Sooner or later, if something isn't done we're going to have encephalitis or malaria down there transmitted by mosquitoes."

About 13 million gallons of sewage a day flows from the eastern hills of Tijuana into the Tijuana River Valley. For years, the South Bay residents have complained that the stench and mosquito swarms become intolerable during warm weather.

In recent months, the residents formed a group called Citizens Revolting Against Pollution to demand action from public officials.

Representatives from all involved agencies agree action is needed to solve the serious health threat to the estimated 400 families who live beside the sewage-plagued waters, but say there are significant hurdles to clear even if an emergency is declared.

First, a declaration of emergency is needed to release state funds to finance the clearing of the heavy vegetation that causes water to stagnate, enabling mosquitoes to breed.

At the urging of Assemblyman Steve Peace, D-Chula Vista, county Supervisor Brian Bilbray will ask his colleagues Tuesday to declare a state of emergency and to seek a similar declaration from the governor.

Until recently, the supervisors believed Ramras was the only county official with the authority to declare a public health emergency, something Ramras said he cannot legally do in this case.

A situation that has the potential for making people ill is not enough, he explained. "Basically you've go to show that no only you have mosquitoes there but that they've actually given someone encephalitis."

But Peace insists that Ramras can declare an emergency under state code, but has resisted doing so. "It's been an emerging reality on my part that somewhere there's been a reluctance to work on the problem," Peace said.

Unsatisifed with Ramras' posture, Peace asked attorneys for the state Legislature to search for a way around the impasse. In November, he was informed that the California Emergency Services Act allows boards of supervisors to declare a local emergency.

If that's done, Peace said funds would be made available by the State Water Resources Control Board for removing the underbrush clogging the river and hampering its flow. A spokeswoman for the agency said the board would first have to vote to spend the money.

According to Peace, a governor's proclamation would suspend state statutes and state agency regulations that have hindered work efforts. However, federal agencies might still invoke environmental concerns to limit the project.

Depending on the scope of the proposal, which has yet to be defined, the project could require a permit from the Army Corps of Engineers, which must authorize any project that involves filling of wetlands.

The U.S. Fish and Wildlife Service would also evaluate the project to determine if it would irreparably harm the environmentally important area.

"Several state and federally listed endangered species inhabit the river valley," said Martin Kinney, a Fish and Wildlife biologist.

Streamside vegetation along the Tijuana River provides one of the rarest wildlife habitats in the state, Kenney said. In San Diego County, about two-thirds of such streamside areas were destroyed between 1970 and 1987, he said.

Thus far, Kenney said the county has not presented a proposal for removing brush. "There's been constant talk about doing things, but no one wants to put anything on paper," he said.

"We get real defensive if they say there's an emergency when county health and everyone has known about this for a long time," the biologist said. "Why do you wait till January 1991 and suddenly say there's an emergency when you've known about this for years?"

Despite the agency's concerns, Kenney said, joint planning of such a project could make the work possible while preventing serious harm to the environment. "We're not trying to say no to everything."

Last year, cattail plants were cleared by hand from a river valley pond after the agency revised health department plans to burn all the vegetation in the area, Kenney said.

Peace is quick to caution that even if the underbrush is removed, that will not permanently solve the problems of the contaminated river area.

"There are no cheap solutions," Peace said. "The ultimate solution," in his estimation, will be the building of a new $195 million sewage treatment plant, still several years off.

In the interim, the International Boundary and Water Commission is working with the governments of the U.S. and Mexico to construct a pipeline that will divert errant Tijuana sewage into Sand Diego's sewer system for treatment.

That project, now being planned and built in Mexico, is due to be ready in February, according to José Valdez, the project's principal engineer.

[From the San Diego Tribune, June 4, 1991]

COUNTY MAY ACT TO EASE EFFECTS OF MEXICO SEWAGE

(By Ruth L. McKinnie)

A permanent solution to the Mexican sewage problem in the Tijuana River Valley may be years away, but a reduction in mosquito infestation and foul odor may be in sight.

County Supervisor Brian Bilbray and state Assemblyman Steve Peace, D-Rancho San Diego, are optimistic the county can use emergency powers to clear dense vegetation that causes sewage stagnation in the border-area valley.

The county Board of Supervisors will consider calling a local emergency when it meets Tuesday afternoon.

An estimated 13 million gallons of sewage flows daily through the valley, but a complex series of state and federal restrictions intended to protect the environment prevent the county from tearing out willows and cattails that dam the flow and further damage the environment.

The brush is habitat for several endangered birds, including the least Bell's vireo and least tern.

A local emergency declaration would clear the way for Gov.-elect Pete Wilson to call a state-level emergency and suspend the environmental strictures, Bilbray said.

Bilbray and Peace said Wilson, who is familiar with the sewage problem from his years as mayor of San Diego, would likely sign an emergency proclamation.

In the meantime, disease-carrying mosquitoes known to bear encephalitis, malaria and hepatitis continue to plague residents of Nestor and other parts of the valley.

And the wildlife and vegetation that the environmental laws are supposed to protect are being destroyed, Peace said.

"If you continue to do nothing, we're going to have a hot crisis," he said.

Bilbray said the county cannot afford to wait months to secure clearing permits. The removal must be done now, before the birds return form their winter migration.

[From the San Diego Union, Jan. 9, 1991]

COUNTY TO ASK WILSON'S HELP ON TIJUANA SEWAGE

(By Graciela Sevilla)

The county Board of Supervisors will look to the new governor for help in abating the "extreme peril" posed by the contamination of the Tijuana River Valley with raw sewage from Mexico.

In a unanimous vote yesterday, the board declared a state of emergency to exist in the South San Diego area, which is flooded with an estimated 13 million gallons in raw waste daily from across the border.

The declaration will be forwarded to Gov. Wilson with a request that he issue a similar proclamation and seek a presidential declaration of emergency.

Supervisor Brian Bilbray said he offered the resolution in response to pleas for relief from some of the area's 400 residents who have lived with a terrible stench and mosquito swarms as a result of the polluted waters.

"It's been reaching a crisis level in the last few years," Bilbray said.

Valley resident Rosemary Nolan, praising the action, said: "We hope that by declaring an emergency we can start on the road to recovery for the South Bay community."

Last week, County Health Officer Donald Ramras characterized the problem as "a disaster waiting to happen" and warned that residents were at risk of being infected with malaria and encephalitis by mosquitoes.

Following the vote yesterday, Bilbray said he is optimistic about winning Wilson's support because of the former mayor's familiarity with the situation.

"I have worked with Pete Wilson on this program since 1979," Bilbray said. A gubernatorial declaration would release needed state funds and suspend state regulations that have stymied plans to remove the heavy underbrush that causes the contaminated waters to stagnate.

The state water board has approximately $3.5 million in its cleanup abatement fund, some of which could be spent on the Tijuana River Valley, according to a spokeswoman for Assembly Steve Peace, D–Chula Vista.

A letter petitioning Wilson will be mailed by the end of the week, Bilbray said, adding, "We could expect an answer by the end of the month."

Thus far, the cost of the weed removal has not been calculated, nor has a decision been reached on which agency would be responsible for the work.

In lobbying for the declaration, Bilbray cautioned the audience not to look at the proposed cleanup as a final solution. "This will not cure the problem, but it is one more thing we can do here at the country," Bilbray said.

At the federal level, agreement has been reached between the governments of Mexico and the United States to build a new $195 million sewage treatment plant. That facility is not expected to be in operation until 1995.

In the interim, the International Boundary and Water Commission is working on a binational plan to construct a pipeline to intercept the errant Tijuana sewage and transfer it into the San Diego sewer system for treatment.

[From the Star News, Jan. 9, 1991]

BILBRAY SAYS STATE OF EMERGENCY NEEDED TO DEAL WITH RAW SEWAGE

Supervisor Brian Bilbray wants the governor to declare a local state of emergency to deal with raw sewage in the Tijuana River Valley, his office recently announced.

Bilbray is trying to convince the County Board of Supervisors to ask the governor to declare the emergency suspending certain laws, and regulations in the emergency area.

Suspended along with those laws would be "presumably, those which prohibit or delay the removal of dense underbrush in the valley," Bilbray said in a letter to fellow supervisors. That underbrush hinders efforts to control mosquitoes that pose not only an annoyance but also a health hazard because they carry encephalitis and malaria.

Bilbray is seeking action this winter to control the mosquitoes breeding in the spring and summer and to protect environmentally sensitive conditions in the valley.

[From the San Diego Tribune, Jan. 9, 1991]

HEALTH CRISIS DECLARED OVER SOUTH BAY SEWAGE

(By Ruth L. McKinnie)

Optimistic county officials say they hope that relief from pesky mosquitoes and foul odors in the sewage-plagued Tijuana River Valley is a month away.

The Board of Supervisors yesterday unanimously proclaimed a local health emergency in the border-area valley in hopes of getting emergency powers from the state to immediately clear away dense vegetation that causes sewage stagnation.

Supervisor Brian Bilbray, who represents the South Bay, said that this week the county would ask Gov. Wilson to call a state-level emergency and suspend environmental restrictions preventing the county from tearing out willows and cattails that dam the sewage flow.

An estimated 13 million gallons of Mexican sewage flows daily through the valley. Residents have long complained about the problem, but a permanent solution is years away.

Last summer, the mosquito infestation became so acute that residents could not go outside without being attacked by the insects, which can transmit encephalitis, malaria and hepatitis.

"It is reaching a crisis level," Bilbray said.

The supervisor and Assemblyman Steve Peace, D–Rancho San Diego, who have been pushing for emergency measures, say money is available from the state Regional Water Quality Control Board to pay cleanup costs.

The county, Bilbray said, cannot wait months to get permits to clear away the plants. He said the removal must begin soon, before endangered birds that nest in the valley return from their winter migration.

WILSON MAY DECLARE CRISIS IN SOUTH BAY

(By Ron Roach)

SACRAMENTO—The state Assembly yesterday voted to urge Gov. Wilson to declare a state of emergency in the Tijuana River Valley to eradicate mosquitoes and deal with sewage-polluted water.

A spokesman said Wilson, who is a former San Diego mayor, is considering the request.

Minutes before Wilson's State of the State address to the Legislature yesterday afternoon, Assemblyman Steve Peace, D–Rancho San Diego, and Assemblywoman Dede Alpert, D–Del Mar, won approval of the Assembly resolution, which follows Tuesday's San Diego County supervisors' declaration of a local health emergency in the border-area valley.

Peace represents the border area and Alpert's coastal district includes Imperial Beach.

Peace said he discussed the resolution with Bob White, Wilson's chief of staff, and "was very encouraged by his response. he said it would be great to start off with something for San Diego" in the first week of Wilson's administration.

James Lee, Wilson's deputy press secretary, said Wilson would "take a look" at the problem but said "there was no positive go-ahead signal."

A state declaration would make funds available from the state Regional Water Quality Control Board to bulldoze a buffer area, kill mosquitoes and clear away dense willows and cattails that cause sewage-polluted water to pool in the riverbed, Peace said.

It is important, said Peace, that work start while the weather is cool, before the insects can multiply. Otherwise, there could be threats of malaria, encephalitis and hepatitis, he said.

Peace said he and Supervisor Brian Bilbray and pushed the county to act for almost a year. Normally, a county's board of supervisors must make an official request documenting the problem before a governor makes a disaster or emergency declaration.

[From the Los Angeles Times, Jan. 1991]

TIJUANA RIVER VALLEY MAY GET EMERGENCY STATUS ON SEWAGE

(By Bernice Hirabayashi)

Gov. Pete Wilson was considering Thursday whether to declare a state of emergency for the sewage-plagued Tijuana River Valley in south San Diego County, state officials said.

The declaration would make state funds available to clean up the border valley, through which 13 million gallons of raw sewage from Mexico flow daily. It would also speed the permit process that would allow removal of cattails and willows restricting the flow of sewage to the ocean.

Assemblyman Steve Peace (D–Rancho San Diego) released a statement saying he spoke with Bob White, Wilson's chief of staff, Wednesday morning and "was very encouraged by his response."

The Assembly threw its support behind the cleanup effort Wednesday by passing a house resolution urging Wilson to call a state of emergency for the area.

The action was the first to be taken by the Legislature this year, and came a day after the County Board of Supervisors declared a local emergency for the area, prompted by concerns that the summer would bring a repeat of last year's unusually large swarms of mosquitoes, which thrive in stagnant pools of sewage in the valley. The mosquitoes from the foul-smelling sewage can transmit encephalitis, malaria and hepatitis to humans.

Money for the cleanup is available from the state Regional Water Quality Control Board, said David Takashima, Peace's chief of staff. The governor's discretionary funds, set aside for economic uncertainty, could also be used for an emergency cleanup.

The county hopes to construct a channel that would keep the sewage moving out to sea instead of forming stagnant pools, said John Woodard, chief of staff for county Supervisor Brian Bilbray, who represents the

area and has been pushing for emergency status along with Peace for a year.

A bird on the federal endangered species list, the least, Bell's vireo, nests in several of the valley's marshes between fall and spring, so any work done in the valley requires permission from the U.S. Fish and Wildlife Service and should be kept to the winter months, Woodward said.

[From the Tribune, Mar. 5, 1991]

ILLEGALS CROSS SEWAGE RIVER—AND FEDS IGNORE BOTH PROBLEMS

In a near-disaster filled with symbolism and irony for San Diego, a group of undocumented immigrants crossing the border illegally got caught in the sewage-laden floodwaters of the Tijuana River during last week's storm.

Two floods met—a flood of immigrants and the flood of sewage. Fortunately, San Diego firefighters and lifeguards rescued the stranded immigrants.

San Diego did its job even though both issues are federal responsibility. But because there is little interest or understanding in Washington, D.C., about the nation's southwestern border, San Diego is left alone to try to cope.

The federal government has agreed to help build a sewage plant in the Tijuana River Valley to help clean up that fetid estuary fed by millions of gallons of raw sewage every day. But the plant won't be ready for at least five or six years. Until then, the feds have no plans to help clean up the sewage, which could breed encephalitis-carrying mosquitoes.

The county Board of Supervisors has asked Gov. Wilson for emergency funds to clean up the Tijuana River, but there has been no response from Sacramento.

As for illegal immigration, inaction by the federal government has kept pace with the rising migration from Mexico. Congress passed an immigration reform package last year, and everyone in Washington cheered. Unfortunately, the bill did absolutely nothing to solve the anarchy on our border.

The county and city get no federal or state money to help pay for the burden of illegal immigration. And we've received only a pittance to defray costs of services for hundreds of thousands of legal immigrants here who received amnesty under the 1986 Immigration Reform Act.

San Diego is simply stuck with two serious problems not of our making and far beyond our limited resources to handle. Is anyone out there listening?

[From the San Diego Union, Mar. 15, 1991]

STATE TO PAY TO TREAT TJ SEWAGE

(By Daniel C. Carson and Graciela Sevilla)

Sacramento—Gov. Wilson today will announce he has signed a declaration of emergency for San Diego County and is taking other actions to help the border region cope with raw sewage contaminating the Tijuana River, sources say.

Wilson will be directing the state Water Resources Control Board to release $860,000 to pay the first-year cost of treating the Tijuana River sewage at San Diego's Point Loma sewage plant, sources say.

This sets an important precedent, because the cost of treating border on sewer-system ratepayers in the city of San Diego, sources say.

Wilson's moves come in response to a resolution passed unanimously by the San Diego County Board of Supervisors on Jan. 8 requesting the emergency decree and financial assistance in stemming the sewage flows from Mexico.

In winter months, an estimated 13 million gallons in raw waste from the eastern hills of Tijuana pours into the river each day.

The U.S. and Mexican governments, in cooperation with the city of San Diego and the state, are building a new $195 million sewage treatment plant in the South Bay that would capture and clean up the sewage flows. However, that plant is not expected to begin operation before 1995.

In the interim, the U.S. International Boundary and Water Commission is working on a plan to construct a pipeline to intercept the flows and transfer them to the Point Loma plant for treatment.

The gubernatorial proclamation of a state of emergency finds that "conditions of extreme peril to the safety of persons and property exist within the county of San Diego."

Word of the decree cheered Ruben D. Marshall, a farmer who has worked the land near the river for 15 years.

"We've been through so much hell down here. It has just been one nightmare," Marshall said.

County Supervisor Brian Bilbray, who as mayor of Imperial Beach during the 1970s worked on the Tijuana sewage problem with Wilson—then San Diego's mayor, said Wilson's actions signal a new state commitment to solving a long-standing public health threat.

[From the San Diego Tribune, Mar. 15, 1991]

WILSON DECLARES SEWAGE EMERGENCY

(By Ron Roach)

Responding to the environmental crisis posed by sewage flowing north from Tijuana, Gov. Wilson today declared a state of emergency in San Diego County and urged a state board to provide $860,000 to help clean up the mess.

"The raw sewage flowing across the border creates an extreme peril to people living and working in the area of the Tijuana River estuary," said Wilson, who also called for help from federal agencies.

The Republican governor, a former mayor of San Diego and former U.S. senator from California, was scheduled to discuss his action at a news conference today at Imperial Beach City Hall.

The San Diego County Board of Supervisors voted Jan. 10 to declare the county a disaster area and seek a state declaration of emergency.

The United States and Mexico have agreed to build a treatment plant north of the border to deal with the daily problem of millions of gallons of Tijuana sewage, but the plant will not be completed until 1995.

San Diego city government has agreed to divert the sewage to its Point Loma plant, Wilson said, because of the need to move quickly and resolve a public health threat caused by an estimated 13 million gallons of sewage daily. The diversion project, costing $860,000 a year, is expected to start in April, the governor said.

In a letter to Don Maughan, chairman of the State Water Resources Control Board, the governor urged the board to, at its March 21 meeting, approve $860,000 from the state Cleanup and Abatement Fund as first-year costs of sewage treatment. Although it is a state agency, the board is independent from the governor's authority.

Wilson also wrote to U.S. Secretary of State James Baker, seeking help with his request that the International Boundary and Water Commission provide treatment funds for the city for the interim years, 1992 to 1995, or until the international facility is operating.

Writing to Baker, Wilson said: "The City of San Diego is unable nor should it be expected to bear these costs. Commission or federal government funds should be provided to San Diego to cover costs for interim treatment after the first year."

The governor wrote a third letter, to U.S. Interior Secretary Manuel Lujan, urging Lujan to direct the U.S. Fish and Wildlife Service to help San Diego County divert sewage flows by clearing brush along the Tijuana River to allow for more effective use of insecticide to kill mosquitoes.

Wilson said diverting sewage will reduce dry weather flows in the channel, but mosquito problems will remain during wet weather and possibly in standing pools at various times.

"To fully alleviate the mosquito and sewage problems, the city and county of San Diego believe it will be necessary to perform minor channeling and brush clearing in specific areas," Wilson told Lujan.

While there is a government duty to protect the nation's wetlands, Wilson said in the letter to Lujan:

"We must not lose sight of the fact . . . that the wetlands in question exist today because of raw-sewage flows. Even raising the question of mitigations and offsets in this case—as has been done by Fish and Wildlife Service—goes well beyond the concept of sound environmental management. Our focus clearly must be on protecting the public's health and safety, by removing their exposure to raw sewage and the attendant mosquito problem it has created."

[From the San Diego Union, Mar. 16, 1991]

BORDER BREATHES SIGH OF RELIEF AS WILSON ACTS ON TIJUANA SEWAGE

(By Dwight C. Daniels)

Imperial Beach—Jeanie Gomez breathed a sign of relief yesterday as Gov. Wilson announced his move to combat the 13 million gallons of Mexican sewage that flow daily into the dank and brackish Tijuana River estuary near here.

Wilson's declaration of a state of emergency will serve as a tool to get around international entanglements and federal and state regulations to solve the effluent problem.

The governor's action directs the Water Resources Control Board to release $860,000 to finance first-year costs of treating the diverted effluent at the Point Loma sewage-treatment plant.

"We've got people who have been unable to act, it seems, because they were restrained by regulations and even by law," the governor said, calling the raw sewage "an extreme peril to people living and working in the area."

He said he also sent a letter to Interior Secretary Manual Lujan to ask for his intervention with U.S. Fish and Game authorities to "allow early action by the county . . . to deal with this problem."

The governor's action was good news to Gomez and the families who live in more than 400 homes that border the estuary, which Wilson toured before his midmorning news conference. The sewage has long caused county health officials to voice concerns about possible water-borne diseases.

State and local officials echoed that relief after the announcement, with county Supervisor Brian Bilbray and Assemblyman Steve Peace, D-Chula Vista, leading the chorus.

Bilbray—who repeatedly has risked breaking state laws by using a bulldozer to rechannel or block effluent in the estuary—said the governor "has the guts to take this issue head-on when others would only talk."

Peace pointed out that Wilson overruled advice of key staffers to take the move, which is seen as a precedent because the full cost of sewage treatment has previously fallen on San Diego ratepayers.

The actions came after a unanimous vote by county supervisors Jan. 8 requesting an emergency decree and financial assistance.

The governor's actions included a letter to U.S. Secretary of State James A. Baker that urges the State Department to intercede with the International Boundary and Water Commission to fund the remaining years of work to build the $195 million U.S./Mexican sewage-treatment facility set to be completed in 1995.

Rosemary Nolan, president of the Citizens Revolting Against Pollution, a grass-roots coalition long involved in advocating a solution to solve the sewage quandary, stood at Wilson's side as he made the announcement.

CONGRESSMAN BILBRAY'S STATEMENT FOR THE OPENING OF THE SOUTH BAY INTERNATIONAL WASTEWATER TREATMENT PLANT

San Diego, CA—The following is a text of Congressman Brian Bilbray's (R–CA) remarks during the opening ceremony of the South Bay International Wastewater Treatment Plant:

"It gives me great satisfaction to be here to participate in this event today. A great deal of blood, sweat, and tears has been invested in the engineering showpiece we are here to celebrate, and I'm not even talking about the actual construction of the project. All of you who have been and remain closely involved with the implementation of this process, and there are too many to mention by name, know what I'm talking about. You all have earned a great pat on the back, and you're all to be commended for helping to get us this far. It is my great hope that we can continue to set aside what policy differences some of us may have, and focus on the bottom line that we all share—that is putting our money where our mouths are, walking the walk and not just talking the talk, and working together to establish functioning public health strategies that will keep our children healthy and our beaches open."

"It is a testimony to the magnitude of this project that we have such a strong and diverse alliance here today to mark its opening. Mayor Golding and I have been working on the border pollution problem for longer than either of us care to remember. Bob Filner and I have, with one or two notable exceptions, been able to work together so well on the pollution issue that we've managed to earn the scorn of our more strident and partisan colleagues in *both* parties. And all the dignitaries with us up here today have done so much of the heavy lifting that I will leave the telling of it to them."

"With EPA, well, most of you know that I've done battle with EPA in the past on other issues. But I've said from day one, when EPA is right, I'll be in their corner; when they aren't, then they'll hear from me. I think EPA, like the other groups and individuals here today who care about the South Bay, has during this process learned the value of soliciting public input, listening to people's concerns, and incorporating them into the final analysis. Without these basic building blocks, without talking to the man and woman on the street, all the finest Agency planning in the world counts for nothing. This goes both ways—those who choose to roll up their sleeves and participate in a constructive manner in the planning and implementation process will earn the credibility of their neighbors and their peers, whether or not they agree 100%. Those who prefer to set up obstacles to progress risk losing their own credibility, if the greater good suffers as a result."

"And this treatment plant is clearly devoted to serving the public good."

"And so it goes forward from today—we must be guided both by the people and by the science as it applies to the South Bay. We must all be prepared—President Clinton, his departments and agencies, Congress, and the communities—to move forward with the next step. In order to provide the needed level of protection to the public health, the environment, and our ocean resources, we must especially be led by sound science."

"I have put my colleagues in the House of Representatives on notice from Day One, and will be working in the months to come to educate them to the threat which this facility, and its future components, will help allay. The Administration is well aware of the lengths to which I'm prepared to go—I will do whatever is necessary to provide the appropriate and required level of treatment at this facility. As it now stands, the Clean Water Act requires certain standards be met to protect the public health, and I expect nothing less than a full commitment to this from the federal government—it has entered into a pact with the people which must be kept."

"For too long, it was easy to make excuses and hold these border issues at arms length; there were other priorities, other needs, and the border was far away—someone else's problem. Now, we've thrown a rock through the proverbial window, and served out notice that the time for excuses has long passed. We have accomplished a great deal with the official opening of this facility today, but we aren't done yet. I look forward to continued cooperation and productivity in ensuring that we can have another ceremony, not too long from now, to celebrate the fact that this plant is operating at the level it needs to be to protect our communities and our oceans."

"Thank you."

Mr. LUTHER. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. FILNER).

Mr. FILNER. Mr. Speaker, I thank the gentleman for yielding this time to me, and I rise reluctantly to oppose this measure this evening. I thank the chairman of the committee for his outline of the situation. He is correct. The situation is as he described, as someone who represents the adjacent district to the gentleman from California (Mr. BILBRAY) and whose district has that sewage flowing through it to Mr. BILBRAY's. And I thank him for his attention to it, and what I heard was his commitment to resolve it.

And when I say reluctantly, I say that to my friend, the gentleman from California (Mr. BILBRAY) because my colleagues should know that there have not been probably two people who have worked more closely or, I think, more effectively to resolve this issue over the last decade than the gentleman from California (Mr. BILBRAY) and myself. He was a county supervisor before he became a Member of Congress. I was a city councilman. Our districts completely interlocked, and we worked hand in hand to address this issue, and we had success. Nobody has made more progress over the last decade than we were able to do working together, working together in local government, working together in the Congress, working together with Mexico.

We have seen the building of the international wastewater treatment plant which, when the out fall is completed by the end of November, we will open and go a long way toward resolving that problem. And that treatment plant was built in San Diego with the cooperation of Mexico and the City of Tijuana and the State of Baja. So the gentleman knows that we have worked hand in hand on these issues.

I agree with the gentleman from California (Mr. BILBRAY) when he says he wants a forum to educate Congress and he wants to raise awareness, and we are doing that, but this is the wrong way to complete that job. It is only a sense of Congress, as the gentleman pointed out. It is not legally binding. So there is not much effect if it does pass.

The language that the gentleman from California (Mr. BILBRAY) uses threatens sanctions with Mexico. It implies that we are going to look at loan guarantees and foreign aid. I will tell the gentleman, though, even if we eliminated the foreign aid, direct foreign assistance to Mexico, tomorrow, it constitutes less than 0.001 percent of our total trade. So I am not sure what effect it has in the real world, except the way Mexico and its officials take it and how they will react in the kinds of discussions that we have participated in for over a decade, and I am sure we will be continuing to participate in in the next decade.

The resolution of the gentleman does nothing to clean up the pollution and the sewage that he so eloquently describes. It is a real problem for the gentleman's constituents, for my constituents. That is why we have worked together to develop infrastructure. That is why NAD Bank recently granted $16 million to develop a parallel sewage conveyance system and to help Tijuana upgrade its sewage treatment plant.

That is why as I have a letter here from the commissioner of the International Boundary and Water Commission, Mr. Bernal, who we both know very well, who is reporting on an agreement on the Mexicali II project that was just executed. Mexicali working with both countries have put in the money for a wastewater system capacity for the city of Mexicali for a pump station and wastewater treatment plant. The U.S. is providing 55 percent; Mexico 45 percent. I think that is the kind of cooperation that we need.

The problem is real. We have heard it. The answer is cooperation, not threats, not sanctions. We have made great progress. The gentleman knows that. The gentleman is one of the chief

architects of that cooperation. Let us not put that cooperation in jeopardy.

The administration, the State Department, opposes this bill. The Mexican Government opposes the bill. I would say to the gentleman from California (Mr. BILBRAY) we have correspondence from the embassy and our good friend the consul in San Diego wondering why, after just having attended meetings with him, the gentleman has taken a position which seems to be very hostile. It puts people in a very difficult situation when we try and negotiate agreements all across our border.

So I rise reluctantly because the gentleman and I have worked for so long together on these issues and I look forward to working with the gentleman over the next years on these to solve them but let us work with a cooperative tone and not a tone that threatens sanctions.

Mr. GILMAN. Mr. Speaker, I yield 2 additional minutes to the gentleman from California (Mr. BILBRAY).

Mr. BILBRAY. Mr. Speaker, I want to respond to my colleague from California (Mr. FILNER) and point out that on environmental issues we should never threaten, but we should also never be afraid to hold people to standards. We should just be cooperative. Frankly, let us recognize about this, is that we have to date been very cooperative.

The fact is, Mexico City and Washington, D.C. have not been as sensitive to the problem. As my colleague has pointed out, we have built a lot of projects, but the beaches are still polluted.

A $2 million project for a pipeline by itself does not make the beaches any cleaner and does not make the public any safer. Let me point out to my colleague, he may not be aware of the meeting we had this August, but I participated in that meeting. Showing the lack of sensitivity we can get on both sides, we still have 9 million gallons of drinking water pouring into raw sewage, spreading the pollution more onto Mexico's side.

The word I have gotten on this is that the resources and the commitment by Mexico City has been lacking. The frustration of the people in Tijuana is that Mexico City needs to be more aware of this. I appreciate the fact that the gentleman participated in this discussion, because the International Boundary and Water commissioner mentioned by the gentleman from California (Mr. FILNER) has this week delivered this sense of Congress to Mexico City. So hopefully it will tell everybody—let us work together.

Let me point out that my reference to reviewing treaties and existing commitments may not necessarily mean reductions, but may also mean increases in resources under existing relationships. But it does mean that we will look at this substantially.

I challenge my colleagues again to say that outcome does not matter here. All I am saying is, all the treatment plants, all the talk, all the negotiations, all of the relationships are fabulous, but if they do not make the environment safe for the children of Tijuana and San Diego and Imperial Beach, then all we are is a bunch of diplomats and politicians sitting around talking, patting ourselves on the back while our children are exposed to hepatitis, and God knows what else.

Mr. Speaker, I would ask my colleagues to consider that and consider the kids that continue to be exposed. All I am asking is a sense of Congress that says this is important enough for us to review everything and let us talk about it, let us look it over. Let us set the standard that ending pollution is what we care about, not just the building of projects.

The SPEAKER pro tempore (Mr. BLUNT). The gentleman from Minnesota (Mr. LUTHER) has 13½ minutes remaining. The gentleman from New York (Mr. GILMAN) has 5½ minutes remaining.

Mr. LUTHER. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. RODRIGUEZ).

Mr. RODRIGUEZ. Mr. Speaker, I rise today in opposition to the resolution that is before us. The problems do exist in Tijuana but they also exist along the entire length of the U.S.-Mexican border, including my south Texas district. I represent probably the next largest sector next to one additional Congressman in Texas. I want my colleagues to know that I have problems also with potable water. I have problems with sewage. I have problems with Third World conditions and I am not talking about Mexico; I am talking about the United States.

We also have an obligation to make sure that our cities have appropriate sewage plants, and we do not.

□ 2215

We are having a serious problem. I recognize that the efforts that are being made, and hopefully this will be an opportunity to bring to light what occurs in the area. But if anyone has received most of the NAD Bank money it has been Tijuana and not south Texas where we are suffering also for some of those same conditions.

At this time is not the time to start pointing fingers at Mexico. We need to look at ourselves and what we are also doing to the river, what we are also doing to the environment, and in the way we are also allowing Maquilladoras to go across the border and create part that have pollution.

This resolution is a heavy-handed, counterproductive approach that could set back existing cooperations with Mexico to deal with serious environmental issues along the entire border. I would attest to my colleagues that Mexico is making a sincere effort at moving in some of those areas, just like we are trying to do.

I am frustrated because I recognize that my communities do not have the resources. I need 30 million in 1 little community, and I am talking again about the U.S. I am not talking about Mexico that requires some money for potable water.

So, as I indicated to my colleagues, I do represent constituents on the U.S.-Mexico in south Texas who are facing pressing environmental problems on both sides of the border.

Through the International Boundary Water Commission, the Border Environmental Cooperation Commission, and the NAD Bank, we are working to solve some of these problems. I know it is going to take a long time.

I am hoping that the U.S. provides assistance to those Third World conditions that exist in the United States, and that we should take the initiative, and we should set the example, also, before we start to throwing stones across the river.

The Board of environmental Cooperation Commission has approved 24 environmental projects on both sides of the border with 14 in construction phase and eight pending construction. For every dollar we appropriate to the Board of Environmental Cooperation Commission, Mexico has been matching that. Do we want to jeopardize that ongoing projects? I do not think so.

Sure, three or more problems are delayed with these projects, but the bottom line is this particular resolution will not solve those existing problems that we have there, and we need to begin to work cooperatively as we move forward.

I want to also emphasize that the U.S. Department of State has indicated that they oppose this effort and that this is not the way of going about making things happen. I would ask that, as we move forward, that we look at that infrastructure that needs to be developed.

I would also attest to my colleagues that we have got to be careful when we do that. We are right now at the verge of putting a waste site which is nuclear and right on the Sierra Blanca, right on the border. That has direct impact. Mexico has protested the fact because it violates certain other treaties.

When my colleagues talk about the language on their particular, it does talk about treaties. What are we talking about? Look at all the treaties that we have had with Mexico ever since. Are we going to go back to the treaty of Guadalupe Hidalgo.

I think we need to be realistic about some of these items. I think we need to really look at the problems. But it does give us an opportunity to hold our own government accountable for Third World conditions that exist in the border.

I am hoping that, if nothing else, this issue allows us an opportunity to look at that. But I would also ask my colleagues to vote against this effort. I want to thank the gentleman from Minnesota (Mr. LUTHER) for allowing me this opportunity to say a few words. I ask my colleagues to vote no.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Pennsylvania (Mr. FOX), a member of our committee.

Mr. FOX of Pennsylvania. Mr. Speaker, I appreciate the opportunity to rise in support of H.Con.Res. 331, the legislation introduced by the gentleman from California (Mr. BILBRAY).

Certainly this is the kind of legislation that is positive. It is going to bring forth, hopefully, the kind of environmental improvement that is much needed in California.

The flow of sewage from Tijuana has forced the beach closures. Certainly by bringing this problem to the attention of the Mexican government does not in any way jeopardize our relationship with them. We have a very close relationship with Mexico, working together with them on port access, loan guarantees, foreign aid. We have a very close relationship.

However, we need to work jointly on this problem, and we will, because this just highlights the need of, frankly, the White House, I am sure working with Congress, can take the leadership of the gentleman from California (Mr. BILBRAY) and others, bring up how we need to solve this issue.

The gentleman from Texas (Mr. RODRIGUEZ) raises a very important point about the problems we have in Texas. That does not mean we should not work on the problem with Texas; but this resolution deals with Mexico, and we need to a make sure that we work on this particular resolution now, and we will deal with Texas next. That does not mean we should forsake one for the other.

I frankly feel that the gentleman from California (Mr. BILBRAY) has, for a long time, brought to our attention, Mr. Speaker, the importance of environmental protection, the importance of saving our beaches and making sure the air and water are pure. I have to compliment him on bringing this issue forward and making sure we deal with it in a sensitive matter.

This resolution, frankly, only advances that inquiry, brings us toward a solution, and we should support H. Con. Res. 331 in a bipartisan fashion.

The SPEAKER pro tempore (Mr. BLUNT). The gentleman from Minnesota (Mr. LUTHER) has 9½ minutes remaining. The gentleman from New York (Mr. GILMAN) has 3½ minutes remaining.

Mr. GILMAN. Mr. Speaker, we have the right to close, I believe, in which case, we suggest the gentleman go ahead. We have only one more speaker.

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

Mr. LUTHER. Mr. Speaker, I yield 6 minutes to the gentleman from California (Mr. BECERRA).

Mr. BECERRA. Mr. Speaker, I would like to thank the gentleman for yielding and for being here at this late hour managing this bill along with the chairman and my other colleagues who have taken the time to speak on this matter.

Let me also thank my colleague and friend, the gentleman from San Diego, California (Mr. BILBRAY), for raising this issue. But, unfortunately, I must disagree with the way he has done this.

As the gentleman from California (Mr. BILBRAY) said, this is only a sense of Congress. This bill will not have any practical legal affect on our laws and how we conduct our affairs, at least not immediately.

It is, in essence, a message bill. Unfortunately, the message it sends is not that this is just a sense of Congress that there is a problem between our two countries of Mexico and the U.S. along our borders, but it sends a different message. The message that will be received, not here, but in Mexico will be one of threats.

While the gentleman from California (Mr. BILBRAY) raises a very important point that we must take care of our environmental matters between two sovereign nations, in this case, our country and the country of Mexico, I do not believe that anyone south of the border reading this sense of Congress would believe that this is a cooperative, collaborative approach to resolving the problems that are disturbing the folks in San Diego.

Let us make it clear, the folks in San Diego have every right to be concerned. The folks in Tijuana, Mexico have every right to be concerned. But what we should not do is say that we will unilaterally take action if we do not believe the Mexican government and the Tijuana government have done enough to resolve this problem.

That is what we are faced with in this sense of Congress, which will have no immediate legal effect. It is a message bill. But the message it sends is that we are doing this today. The message we may get back from the Mexican government and the Tijuana government is, tomorrow we will do something similar.

Let me give my colleagues an example. For many decades, the Mexican public, the Mexican government has complained that the U.S. Government allows its people, its State governments, and local governments to extract too much water from the Colorado River, the best of the Colorado River; and also that our people, our governments, our industry is depositing too much into the Colorado River, which is not good. So that by the time the Colorado River crosses the southern border and gets into Mexico, what they have left of a very rich vibrant river is not much. They say you, U.S., you should be doing more about this. They have been saying this for decades.

Would we want to see a resolution from the Mexican government that says they unilaterally are sending us a sense of their Mexican Congress that the U.S. has not done enough, and because it has not done enough, then the Mexican government can unilaterally start reviewing all its treaties, all its agreements with our country that it has signed?

I do not believe we would take kindly to that, because we would say we are trying. I do not believe anybody thinks that the U.S. Government and its people are trying to give Mexico polluted, unusable, nonpotable water. But the Mexican government and the Mexican people probably would say, well, you may not believe it to be the case, but what we see is much different.

Let me give my colleagues another example. Recently this Congress voted, this year this Congress voted, as the gentleman from Texas (Mr. RODRIGUEZ) mentioned, voted to site a hazardous waste deposit site along the Texas Mexico border, the Sierra Blanca site in Texas.

The Mexican government protested to the U.S. Government and to the State governments of the States involved that would be depositing this hazardous waste along the border that this was unjust, it was unfair, that much of the hazardous waste would migrate at the end into Mexican territory and affect the lives of Mexican people.

They also pointed out, as we here pointed out, that this hazardous site is on top of an existing earthquake fault. And if ruptures as a result of any earth quake would occur, that could expose many people, Mexican and U.S. individuals, to the effects of this hazardous waste.

All of that is to say this, we all have examples of how our governments, our peoples perhaps are not working in the fashion that the other people and the other government would like to see. What we should be doing is what we have done, and in the case of this particular environmental problem in and around Tijuana, the two governments have done, and they have worked cooperatively.

Mexico and the United States have been working cooperatively for a number of years on the South International Wastewater Treatment Plant, which is about to start up its operation. In addition, the United States and Mexican governments are working through the International Boundary and Water Commission to clean sewer lines and also to construct a back-up system to the current coastal sewage conveyance and treatment system.

They are doing things. But we can certainly argue that we have not seen

enough done. But is this the way we treat a partner, someone we say we cooperate with? I think that is the problem.

If we are going to use threats, if we are going to use our muscle, then we should realize that we should be prepared to face the consequences of someone responding in kind. I do not believe that is what we should do with a solid trading partner.

I do believe we send messages, but send messages as a partner would send a message that we want to work with them and we want to improve the conditions. We want to do it together. Because there are people on both sides of the border who will be affected.

I believe the intent of the gentleman from San Diego is eminently good, well-intended, but I do not believe, unfortunately, this sense of Congress gets us there. I would urge my colleagues to vote against this resolution.

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

Mr. Speaker, I simply want to say that I think this has been a good, healthy discussion. I appreciate the various points of view that have been presented. We all clearly wants to clean up the environment. That is not the issue here.

I commend the gentleman from California (Mr. BILBRAY) for coming forth. I think it has been terrific that we have heard this debate because, clearly, it is a more complex issue than what initially meets the eye.

There are many facets to this discussion, this debate. Of course that is why the administration has concerns about this legislation.

I think the real issue here is how do we best clean up the environment. How do we best approach this? Do we do it through this approach in this legislation, or do we continue the cooperative efforts that the administration has embarked upon in the past and are continuing to undertake?

So I would simply ask the Members to vote their conscience, vote their point of view on this particular issue. I know there is a variety of points of view within our caucus as I am sure there are in the gentleman's.

I thank the Members again, the gentleman from New York (Mr. GILMAN), for his bringing this before us. I urge everyone to look at this issue carefully and to simply vote their point of view on the issue.

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

□ 2230

Mr. GILMAN. Mr. Speaker, I want to thank the gentleman from Minnesota (Mr. LUTHER) for conducting a very good debate on this measure.

Mr. Speaker, to close our arguments on our side, I yield such time as he may consume to the gentleman from California (Mr. BILBRAY).

Mr. BILBRAY. Mr. Speaker, I want to thank my colleagues. I really want to thank my colleagues who have experience related to the Fronteras pollution problems. Let me just tell my colleagues, this is 20 years that I have been trying to address this issue. The reason why I came to Congress probably more so than anything else is the reputation I have had trying to confront the environmental problems.

The fact is that in 1980 I almost went to jail over this issue. Somebody that was willing to stand up, and senior citizens and children stood up and said, enough is enough. Our government has to start addressing this issue. They were frustrated because they were just a working-class community. They did not have a lot of political clout, a lot of influence, but they felt, we are Americans. We have as much right to be defended and protected from environmental problems as wealthy people. Just because the color of our skin may be a little darker, we may be a little poorer, does not mean we do not have environmental rights.

Now, I say to my colleague from Texas, I agree with him, and I want to work with him, and I will commit myself to working with him. The fact is that the Clean Water Act should apply just as much for pollution across the border as it does for within the border. But the frustration of a working-class neighborhood that is told by EPA that they will go to jail if they dump their sewage while that same working community is polluted by somebody else, and the EPA does not clean it up.

The NAD Bank, there can be more things done with the NAD Bank, and I would really point out that there is agreements by the bank to build projects in the Republic of Mexico 60 miles from the border, which I think ought to be taken care of, the landfill at Punta Penasco and the sewer treatment plant in Ensenada. But the border problems should be given the highest priority, because they are the ones that are really the threat to our growing prosperity.

Now, let me get back to this issue. I met with Mexico, articulated to Mexico that this is as much a message to the Federal Government of the United States as it is to Mexico. They understand the concerns. Those who say that we do not want to disturb Mexico or they might take it inappropriately, let me assure my colleague, in 1978, that is exactly what the young neighbor at Imperial Beach was told by the Carter administration, because an oil deal was going through, and they did not want to jeopardize an economic oil deal over just an environmental problem in a working-class neighborhood in the corner of the United States.

Now, Mr. Speaker, I do not think anyone here believes that we should be selling out the environment for any economic deal. Those days are over with. The fact is, we need to send a very clear message, not just to Mexico, but to ourselves, that we will not allow the continuation of the pollution of our environment just because it is convenient to look the other way for economic or political reasons; that every neighborhood in the United States has the right to a clean, healthy environment, and the Federal Government of the United States has as much responsibility to the environment along the border as it does anywhere else in this country.

Mr. Speaker, I am not half as concerned as the message this body could send to Mexico. We have already sent it, it has been delivered. What I am concerned about is the message we send to our fellow citizens here in the United States. There is much prejudice against Mexico, and I want to stop that, and I think the one way we stop it is by sending a clear message to American citizens that this body, the sense of Congress, is that we will not sell out the environment of America for economic advantage. We will place the environment of the United States and the citizens who live in that environment first and foremost in all of our relationships.

I ask my colleagues, please, to pull together and just say, let us work together so that we make sure our relationships with Mexico and the United States and the environment are all cleaned up together. That kind of commitment is what I am asking for today.

I ask for approval of this resolution, Mr. Speaker.

Mr. GILMAN. Mr. Speaker, I want to thank the gentleman from California for his very eloquent argument.

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

The SPEAKER pro tempore (Mr. BLUNT). The question is on the motion offered by the gentleman from New York (Mr. GILMAN) that the House suspend the rules and agree to the resolution, H. Con. Res. 331.

The question was taken.

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

The SPEAKER pro tempore. Pursuant to clause 5 of rule 1 and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

EXPRESSING SUPPORT FOR U.S. GOVERNMENT EFFORTS TO IDENTIFY HOLOCAUST-ERA ASSETS, URGING THE RESTITUTION OF INDIVIDUAL AND COMMUNAL PROPERTY

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 557) expressing support

for U.S. Government efforts to identify Holocaust-era assets, urging the restitution of individual and communal property, and for other purposes.

The Clerk read as follows:

H. RES. 557

Whereas the Holocaust was one of the most tragic and complex horrors in this century, and survivors of that catastrophe are now reaching the end of their lives;

Whereas among the many atrocities committed by the Nazis was their systematic effort to confiscate property illegally and wrongfully from individuals, institutions, and communities solely because of religion or ethnicity;

Whereas the Nazi regime used foreign financial institutions to launder and hold property illegally confiscated from Holocaust victims, and some foreign financial institutions violated their fiduciary duty to their customers by converting to their own use financial assets belonging to Holocaust victims and denying heirs of these victims access to these assets through restrictive regulations and unreasonable interpretation of those regulations;

Whereas in the post-Communist period of transition many of the countries of Central and Eastern Europe have begun to enact legal procedures for the restitution of property confiscated or stolen from victims of the holocaust to communities and to individual survivors of the Holocaust and their heirs;

Whereas, despite the enactment of legislation and the establishment of institutions to restore confiscated property in a number of countries, progress has been slow, difficult, and painful, and some countries have established restrictions which require those whose properties have been wrongfully plundered to reside in or be a current citizen of the country from which they now seek restitution or compensation;

Whereas the Tripartite Gold Commission has now concluded its activities, and under the leadership of the United States established an international Nazi Persecutees' Relief Fund, reached agreement with most of the countries which had gold on deposit with the Tripartite Gold Commission to donate their shares to this Persecutees' Fund, and the United States has pledged to contribute $25 million to this fund;

Whereas two significant agreements have recently been reached, the first between Holocaust survivors and private Swiss banks and the second between Holocaust survivors and European insurance companies, which represent significant first steps in the international effort to provide belated justice to survivors and victims of the Holocaust and their heirs;

Whereas the Department of State and the United States Holocaust Memorial Museum will co-host the Washington Conference on Holocaust-Era Assets later this year in order to review current efforts, share research across national borders, renew efforts to open Nazi-era archives, and spur greater progress on the restitution of Holocaust-era assets; and

Whereas there is a growing international consensus and sense of urgency that, after a half century of indifference and inaction, justice must be obtained for victims and survivors of the holocaust and their heirs; Now, therefore, be it

Resolved, That the House of Representatives—

(1) recognizes the great responsibility which the United States has to Holocaust survivors and their families, many of whom are American citizens, to continue to treat the issue of Holocaust-era assets as a high priority and to encourage other governments to do the same;

(2) commends the agencies of the United States government for their untiring efforts and for the example they have set, including the publication of the May 1997 and June 1998 reports on U.S. and Allied Efforts to Recover or Restore Gold and Other Assets Stolen or Hidden by Germany in World War II and the efforts to return such assets to their rightful owners;

(3) commends those organizations which have played a critical role in the effort to assure compensation and/or restitution for survivors of the Holocaust, and in particular to the World Jewish Congress and the World Jewish Restitution Organization;

(4) welcomes the convening of the Washington Conference on Holocaust-Era Assets later this year by the United States Holocaust Memorial Museum and the Department of State and expresses the hope that this conference will contribute to the sharing of information and will spur greater progress on the restitution of Holocaust-era assets;

(5) commends those countries which have instituted procedures for the restitution of individual and communal property confiscated from Holocaust victims, and urges those governments which have not established such procedures to adopt fair and transparent legislation and regulations necessary for such restitution;

(6) calls upon countries in transition in Central and Eastern Europe to remove certain citizenship or residency prerequisites for individual survivors of the Holocaust seeking restitution of confiscated property;

(7) notes that former Communist countries which seek to become members of the North Atlantic Alliance and other international organizations must recognize that a part of the process of international integration involves the enactment of laws which safeguard and protect property rights that are similar to those in democratic countries which do not require artificial citizenship and residency requirements for restitution or compensation;

(8) commends those countries which have established significant commissions, such as the Presidential Advisory Commission on Holocaust Assets in the United States, to conduct research into matters relating to Holocaust-era assets, to assure that information developed by these commissions is publicly available, to complete their major historical research efforts, and to contribute to the major funds established to benefit needy Holocaust survivors no later than December 31, 1999;

(9) commends those countries and organizations which have opened their archives and made public records and documents relating to the Nazi era, and urges all countries and organizations, including the United Nations, the Holy See, the International Committee of the Red Cross and national Red Cross organizations, to assure that all materials relating to that era are fully accessible to the public;

(10) urges all countries to develop and include as a part of their educational curriculum material on the Holocaust, the history of the Second World War, the evils of discrimination and persecution of racial, ethnic or religious minorities, and the consequences of the failure to respect human rights;

(11) appreciates the efforts of the government of Germany for successfully concluding an agreement with the Conference on Material Claims Against Germany on matters concerning restitution for Holocaust survivors from Central and Eastern Europe who have not yet received restitution, and urges the government of Germany to continue to negotiate with the Claims Conference to expand the eligibility criteria to ensure that all needy Holocaust survivors receive restitution;

(12) urges all countries to continue aggressive investigation and prosecution of individuals who may have been involved in Nazi-era war crimes, such as the Government of Germany which should investigate Dr. Hans Joachim Sewering for war crimes of active euthanasia and crimes against humanity committed during World War II;

(13) urges countries, especial Israel, Russia, Poland, and other Central and East European nations, and organizations such as the International Committee of the Red Cross and Israel's Jewish Agency to coordinate efforts to help reunite family members separated during the Holocaust; and

(14) directs the Clerk of the House to transmit a copy of this resolution to the Secretary of State and requests that the Secretary transmit copies to all relevant parties.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. GILMAN) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. GILMAN).

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 557 now under consideration.

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

There was no objection.

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

Mr. Speaker, H. Res. 557 is sponsored by our committee colleague, the gentleman from California (Mr. LANTOS), the only Holocaust survivor serving in this body. We commend the gentleman from California (Mr. LANTOS) for his long abiding commitment to ensuring justice for Holocaust survivors and for their heirs.

H.R. 557 commends agencies of the United States Government for their efforts to recover and restitute Holocaust-related assets and expresses support for the upcoming Washington Conference on Holocaust-Era Assets.

It urges those governments which have not established restitution procedures to do so, and to ensure that citizenship or residency requirements do not become impediments. The bill wants information to be made public and specifically mentions the Holy See, which has not been cooperative in opening its archives.

H. Res. 557 also incorporates the thrust of some measures introduced by colleagues of ours. It urges Germany to expand the eligibility criteria for

needy Holocaust survivors, and it recommends that Germany investigate Dr. Hans Joachim Sewering for crimes against humanity. The measure also urges everyone to work together to unify family members separated during the Holocaust.

Mr. Speaker, these clauses are the result of legislative support expressed by the gentlewoman from California (Mrs. MALONEY), the gentlewoman from California (Ms. WOOLSEY) and the gentleman from New Jersey (Mr. FRANKS), and we thank them for their commitment.

Mr. Speaker, we must continue to make our voices heard on these important Holocaust-related issues. It is imperative that the countries involved in these matters understand that their response is seen as a measure of their commitment to basic human rights, to justice, and to the rule of law, and it is one of several standards by which our Nation assesses its bilateral relations. Those who perished, those who survived, and their descendents deserve nothing less.

Accordingly, Mr. Speaker, I urge my colleagues to support this measure, H.R. 557.

Mr. Speaker. H. Res. 557 is a measure which has many original co-sponsors, and for good reason. While its thrust concerns Holocaust-era communal property and assets as a result of a hearing our international Relations Committee held with Under Secretary of State Stuart Eizenstat, it also expresses the concerns of a number of Members of Congress regarding a number of Holocaust related issues.

H. Res. 557 is sponsored by our Committee colleague the gentleman from California, Mr. LANTOS, who bears the distinction of being the only Holocaust survivor serving in this body. We commend Mr. LANTOS and his staff for their deep seated commitment to ensuring justice for Holocaust survivors and their heirs. Their work in drafting this sense of the House resolution is greatly appreciated, and I wish to specifically recognize Dr. Bob King and Dr. Kay King for their untiring efforts behind the scenes.

H. Res. 557 commends agencies of the United States governments for their efforts to recover and to restitute Holocaust-related assets.

It also commends the World Jewish Congress and the World Jewish Restitution Organization for their efforts in the many negotiations that have been underway.

This measure expresses support for the upcoming Washington Conference on Holocaust-Era Assets at the end of November, and urges those governments which have not established restitution procedures to do so—to ensure that citizenship or residency requirements do not become impediments.

H. Res. 557 wants information to be made public, and specifically mentions the Holy See. I wish to point out to our Members that the Vatican has not been cooperative in opening its archives.

Additionally, H. Res. 557 incorporates the thrust of a number of measures introduced by some of our colleagues. It urges Germany to expand the eligibility criteria to ensure that all needy Holocaust survivors receive restitution, and recommends that Germany investigate Dr. Hans Joachim Sewering (pronounced Hanz Yo-ach-eem Soo-wer-ing) for crimes against humanity committed during World War II. The measure also urges countries and international organizations to work together to reunify family members separated during the Holocaust.

These clauses are the result of legislative support expressed by Mrs. MALONEY of New York, Mrs. WOOLSEY of California, and Mr. FRANK of New Jersey.

We thank them for their commitment to Holocaust survivors, and appreciate their involvement in these critically important issues.

Lastly, Mr. Speaker, H. Res. 557 directs the Clerk of the House to send a copy of this resolution to the Secretary of State and requests the Secretary to transmit copies to all relevant parties.

Mr. Speaker, we must continue to make our voices heard on these important Holocaust-related issues. It is imperative that the countries involved in these matters understand that their response is seen as a measure of their commitment to basic human rights, justice and the rule of law, and as one of several standards by which the United States assesses its bilateral relations.

Those who perished, those who survived, and their descendants, deserve nothing less. Accordingly, Mr. Speaker, I urge unanimous support for H. Res. 557.

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

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

Mr. Speaker, at the outset, let me express my appreciation to my good friend, the gentleman from New York (Mr. GILMAN), for his leadership on this matter. Let me also thank the gentleman from Indiana (Mr. HAMILTON), the gentleman from New Jersey (Mr. SMITH), the gentlewoman from California (Ms. WOOLSEY), and all the other colleagues across the political spectrum who have chosen to cosponsor my legislation.

Given the lateness of time, Mr. Speaker, I shall be very brief.

The Holocaust clearly was one of the most horrific crimes against humanity in this or, indeed, in any century. Most of the individuals who survived the Holocaust are no longer here. We are dealing with a passing generation, and we are dealing with their heirs.

No legislation can compensate for the death of 6 million innocent people; no legislation can compensate for the unspeakable horrors and suffering that millions of innocent people have suffered. But we find a half a century after the end of the Holocaust that governmental organizations and private institutions like banks and insurance companies have seen fit to hide and to use for their own purposes assets wrongfully and illegally taken from victims of the Holocaust, from institutions that these individuals created, and from entire communities.

The Nazi regime used foreign financial institutions to launder and to hold illegally confiscated assets from Holocaust victims. And some banking and insurance companies and some governments have seen fit to appropriate these assets.

Mr. Speaker, in the post-Communist period, some of the countries of Central and Eastern Europe have begun to take legal action to attempt to find and return a small portion of these assets, and I commend them. Some of the private institutions, like a few banks in Switzerland and some insurance companies, have begun this same process.

But I must share with my colleagues, Mr. Speaker, my outrage and my horror at noting that some allegedly civilized institutions demand the death certificates from heirs of survivors so they can prove that people who perished at Auschwitz in fact have died. Auschwitz did not issue death certificates, and to see banks and insurance companies in 1998 hiding behind some preposterous and outrageous pseudolegal claim is beyond comprehension.

Now, in a couple of months our Department of State and the Holocaust Museum here in Washington will cohost a Conference on Holocaust-Era Assets, and as is the case with all such developments, it is our government that is taking the lead in attempting to identify and then to see that these assets are returned, either to the heirs of Holocaust victims, or to charitable and educational institutions in case there are no heirs.

I want to commend our government, and I particularly want to commend Under Secretary of State Stuart Eizenstat for the leadership he has taken in working on this significant moral issue. I want to thank all of my colleagues for their support of my legislation.

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

Mr. GILMAN. Mr. Speaker, I am pleased to yield such time as he may consume to the distinguished gentleman from New Jersey (Mr. SMITH), chairman of the Subcommittee on International Operations and Human Rights of our Committee on International Relations.

Mr. SMITH of New Jersey. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, in the aftermath of the Holocaust, survivors struggled to build their lives, and nobody knows this better than the gentleman from California (Mr. LANTOS), and I want to commend him for bringing this legislation to the floor, for authoring it and for the very important provisions that it contains.

Mr. Speaker, Holocaust victims in Western countries generally received some compensation, some monetary compensation, from Germany, albeit very limited. Those victims whose

homelands fell behind the Iron Curtain after World War II did not receive even this slight measure of justice. Other issues related to the Holocaust era, including the disposition of assets such as real or financial property, artwork, insurance policy proceeds, went unresolved for all of these individuals, as well as for religious communities.

Mr. Speaker, a belated measure of justice, and again, this is infinitesimally small compared to the unparalleled, horrific nature of the Holocaust, is within reach. Much has been achieved, including unprecedented settlements between Holocaust survivors, Swiss banks and European insurance companies.

Building on this momentum, as was pointed out, the State Department and the U.S. Holocaust Memorial Museum will convene a Washington Conference on Holocaust-Era Assets next month to address issues of Nazi-confiscated assets, including art, insurance, communal property, libraries and archives, as well as Holocaust education, research and remembrance. Conference participants will include government officials from over 40 countries, historians, experts and representatives of major NGOs, including the survivor community.

Mr. Speaker, this resolution should not and could not be considered at a more opportune moment. The resolution calls on countries to return expropriated properties to Holocaust victims or their heirs without arbitrary discrimination.

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It calls for the opening of archives relating to the Nazi-era and for the continued prosecution of Nazi-era war criminals. It calls on Germany to provide reparations to all Holocaust victims without delay and without the use of unreasonable eligibility criteria. And of very real importance, this resolution calls on all countries to encourage education on the history of the Holocaust and the consequences of the failure to respect human rights.

It is a great resolution, very timely and important and I urge its passage.

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

Mr. Speaker, I would just like to add a footnote to what the gentleman from New Jersey (Mr. SMITH) has just said. It is beneath contempt that major art museums in major European countries should have on display on their walls stolen property, but that is in fact the case. Priceless works of art, plundered from family collections or collections of institutions, are as we speak tonight on the walls of important art institutes across Europe.

My resolution calls for the return of these works of art, either to their owners or the heirs of the original owners or to the appropriate philanthropic and educational institutions or museums to which they properly belong.

Mr. Speaker, I yield 5 minutes to the gentlewoman from California (Ms. WOOLSEY), my friend and colleague who has been so deeply concerned with this issue and has been a prominent fighter to right this wrong.

Ms. WOOLSEY. Mr. Speaker, I rise in strong support of H. Res. 557. This resolution reflects the growing consensus that real justice must be obtained for the victims and survivors of the Nazi Holocaust.

Mr. Speaker, the world has an obligation to provide justice and dignity to all Holocaust victims and their survivors. I commend the gentleman from California (Mr. LANTOS) and the gentleman from New York (Chairman GILMAN) for bringing the House resolution before us so we can begin to address this need for justice.

I am particularly pleased that this resolution urges all countries to continue aggressive investigation and prosecution of individuals who have been involved in Nazi-era war crimes, because we must bring these individuals to justice and never forget their horrible crimes.

One individual that we must bring to justice is Dr. Hans Severing. Today, in 1998, Dr. Severing practices medicine in Germany, just as he has for the last 55 years. In 1943, Dr. Severing was engaged in a different kind of medical practice. He was a staff physician and the director of the SS at the Schoenbrunn Sanitarium. This sanitarium was meant to treat children with special needs, but it was just a brief stop before a more terrible fate for these children.

The stop was brief because during World War II, Dr. Severing participated in the Nazi euthanasia program. Under Dr. Severing's orders, over 900 mentally and physically disabled children were sent to a so-called "healing center" where physicians starved and drugged these children until their death. Over 900 innocent children.

After the war, Dr. Severing was not punished. He was not even exposed. He was not charged with any crime. He thought that the world would forget the children he sent to death. In fact, until recently it appeared that the world had forgotten.

Since the war, Dr. Severing enjoyed a full and rewarding medical career in Bavaria. In 1993, he became the President-elect of the World Medical Association, until controversy stemming from his crimes forced him to resign. It was at this time that four Franciscan nuns who were witness to these atrocities broke their vows of silence in order to bring Dr. Severing to justice.

After this, the U.S. Department of Justice placed Dr. Severing on our watch list, preventing his entry into the United States. But the Bavarian government refuses to investigate this matter. They refuse to press charges.

Thanks to the Anti-Defamation League, along with the leading pursuer of Dr. Severing, Dr. Michael Franzblau, the world does not forget these crimes that have gone unpunished. Dr. Hans Severing and every other Nazi war criminal must be investigated and exposed for what they really are and they must be brought to justice for their crimes.

Today, along with Michael Franzblau and my colleagues, I demand justice for 900 children who died at the hand of Dr. Severing and for every other individual and family that has suffered as a result of the Holocaust. It is not too late to provide the remaining survivors of the Holocaust with justice and dignity.

Today by passing this resolution we can begin the process. I support H. Res. 557 because we can begin that process.

Mr. GILMAN. Mr. Speaker, I thank the gentlewoman from California (Ms. WOOLSEY) for her strong supportive arguments.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. FOX), a member of our Committee on International Relations.

Mr. FOX of Pennsylvania. Mr. Speaker, I commend the gentleman from California (Mr. LANTOS) for his outstanding bill, along with the gentleman from New York (Mr. GILMAN) for bringing this forward today. They have been together a team working on this important issue for the U.S. Government to identify Holocaust-era assets and urging the restitution of individual and communal property for some time.

So the resolution offered by the gentleman from California (Mr. LANTOS), with the great support of the gentleman from New York, together have forged a great alliance in the Committee on International Relations and we appreciate their leadership and this is a resolution that deserves 100 percent support from this body.

Mr. Speaker, the resolution specifically expresses support of the U.S. Government to identify Holocaust-era assets. It was only in recent months and years that we have learned about some of these assets that the public did not know about that people did not realize were there. And because of their efforts, we have now gone forward to identify those assets.

The Holocaust, as we know, was one of the most tragic and complex horrors of this century; an era we never want to see repeated ever in this world ever in our time. Whereas among their many atrocities committed by the Nazis was their systematic effort to confiscate property wrongfully from individuals, many of whom never lived, but their families and heirs have never received.

The Nazi regime used foreign financial institutions to launder and hold the property illegally confiscated. In the post-communist period of transition, many of the countries in Europe have begun to enact legal procedures

for the restitution of this property. But this resolution, Mr. Speaker, will help us forge efforts in the House and the Senate, in banking circles and other economic circles, to make sure that the restitution will come about and that the heirs and survivors of the Holocaust will be able to get what is rightfully theirs, because of this resolution and the other items and initiatives that will follow.

Whereas the two significant agreements have recently been reached, the first between Holocaust survivors and private Swiss banks and the second between Holocaust survivors and European insurance companies, we will see that the Holocaust survivors' families will be recognized.

Nothing can ever take back all the hurt, the pain, the suffering, the loss of life. But the House of Representatives can certainly, working together with the Senate and the President, take strides to make sure that we recognize our responsibility to the Holocaust survivors and to end this sad chapter of the world and at least do what we can to help those victims put their lives back together.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. GILMAN) that the House suspend the rules and agree to the resolution, H. Res. 557.

The question was taken.

Mr. LANTOS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on the motion will be postponed.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4309. An act to provide a comprehensive program of support for victims of torture.

The message also announced that the Senate agrees to the report of the Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1853) "An Act to amend the Carl D. Perkins Vocational and Applied Technology Education Act.".

CONDEMNING THE FORCED ABDUCTION OF UGANDAN CHILDREN AND THEIR USE AS SOLDIERS

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 309) condemning the forced abduction of Ugandan children and their use as soldiers, as amended.

The Clerk read as follows:

H. CON. RES. 309

Whereas the rebel Lord's Resistance Army (LRA) has abducted approximately 10,000 children, some as young as 8 years old, in northern Uganda to support its efforts to overthrow the Government of Uganda;

Whereas the United Nations Commission on Human Rights in March 1998 condemned "in the strongest terms" the LRA's child abductions;

Whereas children kidnapped by the LRA are forced to raid and loot villages, fight in the front lines against the Ugandan army, serve as sexual slaves to rebel commanders, and help kill other abducted children who try to escape;

Whereas the LRA, led by Joseph Kony, has continued to kill, torture, maim, rape, and abduct large numbers of civilians, virtually enslaving numerous children;

Whereas LRA child abductees serve as surrogates for Sudanese government forces against the south;

Whereas Sudanese government soldiers deliver food supplies, vehicles, ammunition, and arms to LRA base camps in government-controlled southern Sudan;

Whereas children who manage to escape from LRA captivity find their families displaced or deceased and have little access to rehabilitation programs, and in many instances their families are afraid for their children turned toy soldiers to return home;

Whereas children are conscripted, coaxed, or tricked into volunteering for the armed forces and are sometimes sold to armies and armed groups by impoverished families;

Whereas the United Nations has recommended the establishment, through the Optional Protocol to the Convention on the Rights of the Child, of age 18 as the minimum age for recruitment and participation of individuals in armed forces; and

Whereas the International Committee of the Red Cross, the United Nations Children's Fund (UNICEF), the United Nations High Commission on Refugees, and the United Nations High Commissioner on Human Rights, as well as many nongovernmental organizations such as Amnesty International and Human Rights Watch, also support the establishment of 18 as the minimum age for military recruitment and participation in armed conflict: Now, therefore, be it

Resolved, That the House of Representatives—

(1) condemns the abduction of children by the Lord's Resistance Army (LRA) in northern Uganda and calls for the immediate release of all LRA child captives;

(2) urges Olara Otunnu, the recently appointed United Nations Special Representative on Children and Armed Conflict, to take appropriate measures to resolve the LRA problem;

(3) encourages the United Nations Committee on the Rights of the Child to investigate the situation in northern Uganda;

(4) calls on the Al-Bashir government to cease supporting the LRA in the abductions and kidnapping of children in Northern Uganda;

(5) calls on the President and the Secretary of State to support efforts to end the abduction of children by the LRA and obtain their release; and

(6) asks the President to provide more support to United Nations agencies and nongovernmental organizations working to rehabilitate former child soldiers and reintegrate them into society.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. GILMAN) and the gentleman from New Jersey (Mr. PAYNE) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. GILMAN).

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this measure.

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

There was no objection.

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

Mr. Speaker, I would like to thank the gentleman from New Jersey (Mr. PAYNE), a member of our Committee on International Relations, for introducing this resolution. I am pleased to be a cosponsor.

This resolution calls our attention to one of the most abhorrent human rights abuses in the world today. The government of Sudan actively supports a rebel group in northern Uganda that calls itself the Lord's Resistance Army. That terrorist group kidnaps the children of innocent Ugandan villagers and turns them into slaves or soldiers who then prey upon their families or their communities.

In a report called "Scars of Death," Human Rights Watch states that, "In effect, children abducted by the Lord's Resistance Army become slaves: their labor, their bodies, and their lives are all at the disposal of their rebel captors."

Accordingly, I urge my colleagues to support this resolution and speak out against these horrible practices.

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

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

Mr. Speaker, I rise in support of H. Con. Res. 309, condemning the forced abduction of Ugandan children and their use as soldiers. I thank the gentleman from New York (Mr. GILMAN), the chairman of the Committee on International Relations, and the gentleman from Indiana (Mr. HAMILTON), ranking member, for helping to bring this important resolution to the House Floor.

Let me also thank my colleagues, the gentleman from California (Mr. BERMAN); the gentleman from New Jersey (Mr. MENENDEZ), the ranking member of our committee; the gentleman from California (Mr. LANTOS); and the gentleman from Florida (Mr. HASTINGS) for

being as concerned as I am about the plight of children in northern Uganda.

Since 1994, it is estimated that from 8,000 to 10,000 children have been abducted in northern Uganda. They are the innocent victims, some as young as 4 years old, whose situation is exacerbated by internal and regional conflicts.

I had an opportunity to speak to a mother whose daughter was taken by the Lord's Resistance Army from a local school. The little girl's name was Mary. Mary was not the only one taken. She and 139 of her classmates were taken at gun point by the Lord's Resistance Army.

Some of the children were rescued and told the story of what happened to Mary. They said that when Mary tried to run away, she was caught by the soldiers. When the soldiers caught her, they made an example of her so that other children would not run away. They forced one of her peers, another girl, to kill her.

Mr. Speaker, forcing children to kill their friends is used as a tool to instill fear and to break the spirit and ensure that they will continue to be little rebels, to be slaves, to be obedient to the military leaders. And by instilling fear, they reduce the possibility of children attempting to escape.

So, it does not come as any surprise that 90 percent of the casualties in the conflict in the northern part of Uganda where the Lord's Resistance Army is operating are women and children. They are the most vulnerable.

The leader of the LRA is Joseph Kony, who has committed a series of human rights abuses. He is supported by the Sudan government, the National Islamic Front, the NIF, led by Ali Bashir and his pariah government that supports militarily and financially the Lord's Resistance Army movement in northern Uganda.

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And so I think that we have to certainly shed light on this tragic example of what is happening in Uganda. Once again, Sudan, a pariah government which harbors terrorists, who has worked to destabilize countries in their region, is also continuing to commit high crimes.

This resolution calls for more support to aid in the recovery and rehabilitation of children that go back into their community, and it would also help to stop these egregious violations of individual rights.

This problem has been discussed by our President and the First Lady when we were in Uganda and visited some areas where these children live. Recently our Secretary of State, Madeleine Albright, has also shed light on this problem. And so I am now bringing this to the House of Representatives to ask that we join in the chorus of those who are outraged by this egregious and barbaric situation which is happening.

Once again, Mr. Speaker, I thank the chairman for this opportunity to present this.

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

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume to commend the gentleman from New Jersey (Mr. PAYNE) for his leadership role in this very important human rights measure.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. SMITH), the distinguished chairman of the Subcommittee on International Operations and Human Rights of our Committee on International Relations.

Mr. SMITH of New Jersey. Mr. Speaker, given the lateness of the hour, I will be very brief.

I do want to thank the gentleman from New Jersey (Mr. Payne) for authoring this legislation. I think it sends a very clear and unmistakable message about the Lord's Resistance Army. One has to wonder what Lord they are serving with the kind of atrocities that are committed, stealing upwards of 10,000 kids and then forcing kids, as was pointed out in the resolution, as young as 8 years of age, to carry weapons and to commit atrocities and to try to overthrow the government. It is absolutely appalling.

We have had hearings in our Subcommittee on International Operations and Human Rights and have heard from some witnesses who spoke firsthand about these atrocities committed by the Lord's Resistance Army. Humanitarian aid workers as well. This resolution is very timely, and again I want to commend my good friend from New Jersey for authoring it and bringing to the full House's attention this terrible situation.

Mr. BERMAN. Mr. Speaker, today I speak in strong support of H. Con. Res. 309, which condemns the forced abduction of children by the rebel Lord's Resistance Army (LRA) in northern Uganda. I thank my esteemed colleague Mr. PAYNE for introducing this resolution. I also thank my fellow cosponsors: International Relations Committee Chairman GILMAN, Mr. LANTOS, Mr. MENENDEZ, Mr. SMITH of New Jersey, Mr. HASTINGS, Ms. MCKINNEY, Ms. BROWN and Ms. NORTON. It is time for the U.S. Congress to add its voice to those demanding an end to the atrocities suffered by children in northern Uganda.

The LRA, a bizarre Christian group supported by the fundamentalist Islamic government of Sudan, has kidnapped some 10,000 Ugandan children and forced them to fight as insurgents. Some of these children are as young as eight years old. Captive children raid and loot villages and serve in the front lines against the Ugandan army. They are also forced to help kill other abducted children who try to escape. Young teenage girls suffer the additional horror of serving as "wives" to ranking rebel soldiers. If they resist, they are beaten, sometimes severely. Girls may be given to several men in the course of a year.

In July, the International Relations Committee heard moving firsthand testimony about the abductions from Sister Mary Rose Atuu, from the Little Sisters of Mary Immaculate of Gulu. Sister Atuu told of the harrowing 1992 abduction of 44 girls by LRA rebels from the school where she was a teacher. With great dignity, she begged the United States to stop the "war" being waged against innocent children in Uganda. We must not let her plea go unanswered.

The children's plight is finally getting more international attention, which I believe is vital to ending their nightmare. Earlier this year, the U.N. Commission on Human Rights condemned "in the strongest terms" the abduction of children in northern Uganda, and First Lady Hillary Clinton addressed the issue in a speech while visiting the country in March. We must do much more, however, to increase international pressure on Joseph Kony, the leader of the LRA, and the Al-Bashir government in Sudan that supports him.

This resolution condemns the abduction of children by the LRA in northern Uganda and calls for the immediate release of all LRA child captives. It urges the recently-appointed U.N. Special Representative on Children and Armed Conflict to aggressively address the situation, and encourages the U.N. Committee on the Rights of the Child to investigate. The resolution also calls on the Al-Bashir Government in Sudan to stop supporting the LRA and asks President Clinton to provide more support to U.N. agencies and non-governmental organizations working to rehabilitate and reintegrate former child soldiers into society.

I am proud to be an original cosponsor of this important legislation and I urge all my colleagues to support it.

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

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

The SPEAKER pro tempore (Mr. BLUNT). The question is on the motion offered by the gentleman from New York (Mr. GILMAN) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 309, as amended.

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

A motion to reconsider was laid on the table.

ANNOUNCEMENT OF BILLS TO BE CONSIDERED UNDER SUSPENSION OF THE RULES ON FRIDAY, OCTOBER 9, 1998

Mr. MICA. Mr. Speaker, pursuant to House Resolution 575, I am pleased to announce the following suspensions to be considered Friday, October 9:

H.R. 4651.
H.R. 1197 or S. 1072.
H.R. 2431.
House Concurrent Resolution 334.
House Concurrent Resolution 320.

S. 2094.
S. 2505.
House Concurrent Resolution 214.
S. 2432.
H.R. 2616.
H.R. to be determined, bill entitled Veterans Programs Enhancement Act of 1998.
S. 852.
S. 1260.
H.R. 4567.
H.R. 4052.
S. 2370.
H.R. 2187.
H.R. 2560.

The list, Mr. Speaker, with the titles follows:

1. H.R. 4651—A Bill to Make Minor and Technical Amendments Relating to Federal Criminal Law and Procedure (McCollum—Judiciary).
2. H.R. 1197 or S. 1072—Plane Patent Amendments Act (Bob Smith—Judiciary).
3. H.R. 2431—Freedom From Religious Persecution Act (Wolf—IR).
4. H. Con. Res. 334—Taiwan World Health Organization (Solomon—IR).
5. H. Con. Res. 320—Supporting the Baltic People of Estonia, Latvia, and Lithuania, and Condemning the Nazi-Soviet Pact of Non-Aggression of August 23, 1939 (Shimkus)—IR).
6. S. 2094—A bill to amend the Fish and Wildlife Improvement Act of 1978 to enable the Secretary of the Interior to more effectively use the proceeds of sales of certain items (Allard—Resources).
7. S. 2505—A bill to direct the Secretary of the Interior to convey title to the Tunnison Lab Hagerman Field Station in Gooding County, Idaho, to the University of Idaho (Craig—Resources).
8. H. Con. Res. 214—A concurrent resolution recognizing the contributions of the cities of Bristol, Tennessee, and Bristol, Virginia, and their people to the origins and development of Country Music (Jenkins—E&W).
9. S. 2432—Assistive Technology (Jeffords—E&W/SCI).
10. H.R. 2616—Charter Schools (E&W).
11. H.R. _____, Veterans Programs Enhancement Act of 1998 (VETS).
12. S. 852—National Salvage Motor Vehicle Consumer Protection Act (COM).
13. S. 1260—Securities Litigation Uniform Standards Act of 1998 (COM).
14. H.R. 4567—Medicare Home Health Care and Veterans Health Care Improvement Act of 1998 (Thomas—W&M/COM).
15. H.R. 4052—A bill to establish designations for United States Postal Service buildings located in Coconut Grove, Opa Locka, Carol City, and Miami, Florida (Meek—GRO).
16. S. 2370—Designating the Lieutenant Henry O. Flipper Station (Moynihan—GRO).
17. H.R. 2187—Designating the United State Courthouse located at 40 Foley Square in New York, New York, as the Thurgood Marshall United States Courthouse.
18. H.R. 2560—to award congressional gold medals to Jean Brown Trickey, Carlotta Walls LaNier, Melba Patillo Beals, Terrence Roberts, Gloria Ray Karlmark, Thelma Mothershed Wair, Ernest Green, Elizabeth Eckford, and Jefferson Thomas, commonly referred to collectively as the "Little Rock Nine" on the occasion of the 40th anniversary of the integration of Central High School in Little Rock, Arkansas.

VETERANS EMPLOYMENT OPPORTUNITIES ACT OF 1998

Mr. MICA. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1021) to amend title 5, United States Code, to provide that consideration may not be denied to preference eligibles applying for certain positions in the competitive service, and for other purposes.

The Clerk read as follows:

S. 1021

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 "Veterans Employment Opportunities Act of 1998".

SEC. 2. ACCESS FOR VETERANS.

Section 3304 of title 5, United States Code, is amended by adding at the end the following:

"(f)(1) Preference eligibles or veterans who have been separated from the armed forces under honorable conditions after 3 years or more of active service may not be denied the opportunity to compete for vacant positions for which the agency making the announcement will accept applications from individuals outside its own workforce under merit promotion procedures.

"(2) This subsection shall not be construed to confer an entitlement to veterans' preference that is not otherwise required by law.

"(3) The area of consideration for all merit promotion announcements which include consideration of individuals of the Federal workforce shall indicate that preference eligibles and veterans who have been separated from the armed forces under honorable conditions after 3 years or more of active service are eligible to apply. The announcements shall be publicized in accordance with section 3327.

"(4) The Office of Personnel and Management shall establish an appointing authority to appoint such preference eligibles and veterans.".

SEC. 3. IMPROVED REDRESS FOR PREFERENCE ELIGIBLES.

(a) IN GENERAL.—Subchapter I of chapter 33 of title 5, United States Code, is amended by adding at the end the following:

"§ 3330a. Preference eligibles; administrative redress

"(a)(1) A preference eligible who alleges that an agency has violated such individual's rights under any statute or regulation relating to veterans' preference may file a complaint with the Secretary of Labor.

"(2)(A) A complaint under this subsection must be filed within 60 days after the date of the alleged violation.

"(B) Such complaint shall be in writing, be in such form as the Secretary may prescribe, specify the agency against which the complaint is filed, and contain a summary of the allegations that form the basis for the complaint.

"(3) The Secretary shall, upon request, provide technical assistance to a potential complainant with respect to a complaint under this subsection.

"(b)(1) The Secretary of Labor shall investigate each complaint under subsection (a).

"(2) In carrying out any investigation under this subsection, the Secretary's duly authorized representatives shall, at all reasonable times, have reasonable access to, for purposes of examination, and the right to copy and receive, any documents of any person or agency that the Secretary considers relevant to the investigation.

"(3) In carrying out any investigation under this subsection, the Secretary may require by subpoena the attendance and testimony of witnesses and the production of documents relating to any matter under investigation. In case of disobedience of the subpoena or contumacy and on request of the Secretary, the Attorney General may apply to any district court of the United States in whose jurisdiction such disobedience or contumacy occurs for an order enforcing the subpoena.

"(4) Upon application, the district courts of the United States shall have jurisdiction to issue writs commanding any person or agency to comply with the subpoena of the Secretary or to comply with any order of the Secretary made pursuant to a lawful investigation under this subsection and the district courts shall have jurisdiction to punish failure to obey a subpoena or other lawful order of the Secretary as a contempt of court.

"(c)(1)(A) If the Secretary of Labor determines as a result of an investigation under subsection (b) that the action alleged in a complaint under subsection (a) occurred, the Secretary shall attempt to resolve the complaint by making reasonable efforts to ensure that the agency specified in the complaint complies with applicable provisions of statute or regulation relating to veterans' preference.

"(B) The Secretary of Labor shall make determinations referred to in subparagraph (A) based on a preponderance of the evidence.

"(2) If the efforts of the Secretary under subsection (b) with respect to a complaint under subsection (a) do not result in the resolution of the complaint, the Secretary shall notify the person who submitted the complaint, in writing, of the results of the Secretary's investigation under subsection (b).

"(d)(1) If the Secretary of Labor is unable to resolve a complaint under subsection (a) within 60 days after the date on which it is filed, the complainant may elect to appeal the alleged violation to the Merit Systems Protection Board in accordance with such procedures as the Merit Systems Protection Board shall prescribe, except that in no event may any such appeal be brought—

"(A) before the 61st day after the date on which the complaint is filed; or

"(B) later than 15 days after the date on which the complainant receives written notification from the Secretary under subsection (c)(2).

"(2) An appeal under this subsection may not be brought unless—

"(A) the complainant first provides written notification to the Secretary of such complainant's intention to bring such appeal; and

"(B) appropriate evidence of compliance with subparagraph (A) is included (in such

form and manner as the Merit Systems Protection Board may prescribe) with the notice of appeal under this subsection.

"(3) Upon receiving notification under paragraph (2)(A), the Secretary shall not continue to investigate or further attempt to resolve the complaint to which the notification relates.

"(e)(1) This section shall not be construed to prohibit a preference eligible from appealing directly to the Merit Systems Protection Board from any action which is appealable to the Board under any other law, rule, or regulation, in lieu of administrative redress under this section.

"(2) A preference eligible may not pursue redress for an alleged violation described in subsection (a) under this section at the same time the preference eligible pursues redress for such violation under any other law, rule, or regulation.

"§ 3330b. Preference eligibles; judicial redress

"(a) In lieu of continuing the administrative redress procedure provided under section 3330a(d), a preference eligible may elect, in accordance with this section, to terminate those administrative proceedings and file an action with the appropriate United States district court not later than 60 days after the date of the election.

"(b) An election under this section may not be made—

"(1) before the 121st day after the date on which the appeal is filed with the Merit Systems Protection Board under section 3330a(d); or

"(2) after the Merit Systems Protection Board has issued a judicially reviewable decision on the merits of the appeal.

"(c) An election under this section shall be made, in writing, in such form and manner as the Merit Systems Protection Board shall by regulation prescribe. The election shall be effective as of the date on which it is received, and the administrative proceeding to which it relates shall terminate immediately upon the receipt of such election.

"§ 3330c. Preference eligibles; remedy

"(a) If the Merit Systems Protection Board (in a proceeding under section 3330a) or a court (in a proceeding under section 3330b) determines that an agency has violated a right described in section 3330a, the Board or court (as the case may be) shall order the agency to comply with such provisions and award compensation for any loss of wages or benefits suffered by the individual by reason of the violation involved. If the Board or court determines that such violation was willful, it shall award an amount equal to backpay as liquidated damages.

"(b) A preference eligible who prevails in an action under section 3330a or 3330b shall be awarded reasonable attorney fees, expert witness fees, and other litigation expenses.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 33 of title 5, United States Code, is amended by adding after the item relating to section 3330 the following:

"3330a. Preference eligibles; administrative redress.
"3330b. Preference eligibles; judicial redress.
"3330c. Preference eligibles; remedy.".

SEC. 4. EXTENSION OF VETERANS' PREFERENCE.

(a) AMENDMENT TO TITLE 5, UNITED STATES CODE.—Paragraph (3) of section 2108 of title 5, United States Code, is amended by striking "the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service, or the General Accounting Office;" and inserting "or the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service;".

(b) AMENDMENTS TO TITLE 3, UNITED STATES CODE.—

(1) IN GENERAL.—Chapter 2 of title 3, United States Code, is amended by adding at the end the following:

"§ 115. Veterans' preference

"(a) Subject to subsection (b), appointments under sections 105, 106, and 107 shall be made in accordance with section 2108, and sections 3309 through 3312, of title 5.

"(b) Subsection (a) shall not apply to any appointment to a position the rate of basic pay for which is at least equal to the minimum rate established for positions in the Senior Executive Service under section 5382 of title 5 and the duties of which are comparable to those described in section 3132(a)(2) of such title or to any other position if, with respect to such position, the President makes certification—

"(1) that such position is—

"(A) a confidential or policy-making position; or

"(B) a position for which political affiliation or political philosophy is otherwise an important qualification; and

"(2) that any individual selected for such position is expected to vacate the position at or before the end of the President's term (or terms) of office.

Each individual appointed to a position described in the preceding sentence as to which the expectation described in paragraph (2) applies shall be notified as to such expectation, in writing, at the time of appointment to such position.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 2 of title 3, United States Code, is amended by adding at the end the following:

"115. Veterans' preference.".

(c) LEGISLATIVE BRANCH APPOINTMENTS.—

(1) DEFINITIONS.—For the purposes of this subsection, the terms "covered employee" and "Board" shall each have the meaning given such term by section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301).

(2) RIGHTS AND PROTECTIONS.—The rights and protections established under section 2108, sections 3309 through 3312, and subchapter I of chapter 35, of title 5, United States Code, shall apply to covered employees.

(3) REMEDIES.—

(A) IN GENERAL.—The remedy for a violation of paragraph (2) shall be such remedy as would be appropriate if awarded under applicable provisions of title 5, United States Code, in the case of a violation of the relevant corresponding provision (referred to in paragraph (2)) of such title.

(B) PROCEDURE.—The procedure for consideration of alleged violations of paragraph (2) shall be the same as apply under section 401 of the Congressional Accountability Act of 1995 (and the provisions of law referred to therein) in the case of an alleged violation of part A of title II of such Act.

(4) REGULATIONS TO IMPLEMENT SUBSECTION.—

(A) IN GENERAL.—The Board shall, pursuant to section 304 of the Congressional Accountability Act of 1995 (2 U.S.C. 1384), issue regulations to implement this subsection.

(B) AGENCY REGULATIONS.—The regulations issued under subparagraph (A) shall be the same as the most relevant substantive regulations (applicable with respect to the executive branch) promulgated to implement the statutory provisions referred to in paragraph (2) except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this subsection.

(C) COORDINATION.—The regulations issued under subparagraph (A) shall be consistent with section 225 of the Congressional Accountability Act of 1995 (2 U.S.C. 1361).

(5) APPLICABILITY.—Notwithstanding any other provision of this subsection, the term "covered employee" shall not, for purposes of this subsection, include an employee—

(A) whose appointment is made by the President with the advice and consent of the Senate;

(B) whose appointment is made by a Member of Congress or by a committee or subcommittee of either House of Congress; or

(C) who is appointed to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5, United States Code).

(6) EFFECTIVE DATE.—Paragraphs (2) and (3) shall be effective as of the effective date of the regulations under paragraph (4).

(d) JUDICIAL BRANCH APPOINTMENTS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Judicial Conference of the United States shall prescribe procedures to provide for—

(A) veterans' preference in the consideration of applicants for employment, and in the conduct of any reductions in force, within the judicial branch; and

(B) redress for alleged violations of any rights provided for under subparagraph (A).

(2) PROCEDURES.—Under the procedures, a preference eligible (as defined by section 2108 of title 5, United States Code) shall be afforded preferences in a manner and to the extent consistent with preferences afforded to preference eligibles in the executive branch.

(3) EXCLUSIONS.—Nothing in the procedures shall apply with respect to an applicant or employee—

(A) whose appointment is made by the President with the advice and consent of the Senate;

(B) whose appointment is as a judicial officer;

(C) whose appointment is required by statute to be made by or with the approval of a court or judicial officer; or

(D) whose appointment is to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5, United States Code).

(4) DEFINITIONS.—For purposes of this subsection, the term "judicial officer" means a justice, judge, or magistrate judge listed in subparagraph (A), (B), (F), or (G) of section 376(a)(1) of title 28, United States Code.

(5) SUBMISSION TO CONGRESS; EFFECTIVE DATE.—

(A) SUBMISSION TO CONGRESS.—Not later than 12 months after the date of enactment of this Act, the Judicial Conference of the United States shall submit a copy of the procedures prescribed under this subsection to the Committee on Government Reform and Oversight and the Committee on the Judiciary of the House of Representatives and the Committee on Governmental Affairs and the Committee on the Judiciary of the Senate.

(B) EFFECTIVE DATE.—The procedures prescribed under this subsection shall take effect 13 months after the date of enactment of this Act.

SEC. 5. VETERANS' PREFERENCE REQUIRED FOR REDUCTIONS IN FORCE IN THE FEDERAL AVIATION ADMINISTRATION.

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 3501–3504, as such sections relate to veterans' preference.".

SEC. 6. FAILURE TO COMPLY WITH VETERANS' PREFERENCE REQUIREMENTS TO BE TREATED AS A PROHIBITED PERSONNEL PRACTICE FOR CERTAIN PURPOSES.

(a) IN GENERAL.—Subsection (b) of section 2302 of title 5, United States Code, is amended—

(1) by striking "or" at the end of paragraph (10);

(2) by redesignating paragraph (11) as paragraph (12); and

(3) by inserting after paragraph (10) the following:

"(11)(A) knowingly take, recommend, or approve any personnel action if the taking of such action would violate a veterans' preference requirement; or

"(B) knowingly fail to take, recommend, or approve any personnel action if the failure to take such action would violate a veterans' preference requirement; or".

(b) DEFINITION; LIMITATION.—Section 2302 of title 5, United States Code, is amended by adding at the end the following:

"(e)(1) For the purpose of this section, the term 'veterans' preference requirement' means any of the following provisions of law:

"(A) Sections 2108, 3305(b), 3309, 3310, 3311, 3312, 3313, 3314, 3315, 3316, 3317(b), 3318, 3320, 3351, 3352, 3363, 3501, 3502(b), 3504, and 4303(e) and (with respect to a preference eligible referred to in section 7511(a)(1)(B)) subchapter II of chapter 75 and section 7701.

"(B) Sections 943(c)(2) and 1784(c) of title 10.

"(C) Section 1308(b) of the Alaska National Interest Lands Conservation Act.

"(D) Section 301(c) of the Foreign Service Act of 1980.

"(E) Sections 106(f), 7281(e), and 7802(5) of title 38.

"(F) Section 1005(a) of title 39.

"(G) Any other provision of law that the Director of the Office of Personnel Management designates in regulations as being a veterans' preference requirement for the purposes of this subsection.

"(H) Any regulation prescribed under subsection (b) or (c) of section 1302 and any other regulation that implements a provision of law referred to in any of the preceding subparagraphs.

"(2) Notwithstanding any other provision of this title, no authority to order corrective action shall be available in connection with a prohibited personnel practice described in subsection (b)(11). Nothing in this paragraph shall be considered to affect any authority under section 1215 (relating to disciplinary action).".

(c) REPEALS.—

(1) SECTION 1599C OF TITLE 10, UNITED STATES CODE.—

(A) REPEAL.—Section 1599c of title 10, United States Code, is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 81 of such title is amended by striking out the item relating to section 1599c.

(2) SECTION 2302(a)(1) OF TITLE 5, UNITED STATES CODE.—Subsection (a)(1) of section 2302 of title 5, United States Code, is amended to read as follows:

"(a)(1) For the purpose of this title, 'prohibited personnel practice' means any action described in subsection (b).".

(d) SAVINGS PROVISION.—This section shall be treated as if it had never been enacted for purposes of any personnel action (within the meaning of section 2302 of title 5, United States Code) preceding the date of enactment of this Act.

SEC. 7. EXPANSION AND IMPROVEMENT OF VETERANS' EMPLOYMENT EMPHASIS UNDER FEDERAL CONTRACTS.

(a) COVERED VETERANS.—Section 4212 of title 38, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "$10,000" and inserting in lieu thereof "$25,000"; and

(B) by striking out "special disabled veterans and veterans of the Vietnam era" and inserting in lieu thereof "special disabled veterans, veterans of the Vietnam era, and any other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized";

(2) in subsection (b), by striking out "special disabled veteran or veteran of the Vietnam era" and inserting in lieu thereof "veteran covered by the first sentence of subsection (a)"; and

(3) in subsection (d)(1), by striking out "veterans of the Vietnam era or special disabled veterans" both places it appears and inserting in lieu thereof "special disabled veterans, veterans of the Vietnam era, or other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized".

(b) PROHIBITION ON CONTRACTING WITH ENTITIES NOT MEETING REPORTING REQUIREMENTS.—(1) Subchapter III of chapter 13 of title 31, United States Code, is amended by adding at the end the following:

"§ 1354. Limitation on use of appropriated funds for contracts with entities not meeting veterans' employment reporting requirements

"(a)(1) Subject to paragraph (2), no agency may obligate or expend funds appropriated for the agency for a fiscal year to enter into a contract described in section 4212(a) of title 38 with a contractor from which a report was required under section 4212(d) of that title with respect to the preceding fiscal year if such contractor did not submit such report.

"(2) Paragraph (1) shall cease to apply with respect to a contractor otherwise covered by that paragraph on the date on which the contractor submits the report required by such section 4212(d) for the fiscal year concerned.

"(b) The Secretary of Labor shall make available in a database a list of the contractors that have complied with the provisions of such section 4212(d).".

(2) The table of sections at the beginning of chapter 13 of such title is amended by adding at the end the following:

"1354. Limitation on use of appropriated funds for contracts with entities not meeting veterans' employment reporting requirements.".

SEC. 8. REQUIREMENT FOR ADDITIONAL INFORMATION IN ANNUAL REPORTS FROM FEDERAL CONTRACTORS ON VETERANS EMPLOYMENT.

Section 4212(d)(1) of title 38, United States Code, as amended by section 7(a)(3) of this Act, is further amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(C) the maximum number and the minimum number of employees of such contractor during the period covered by the report.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. MICA) and the gentleman from Maryland (Mr. CUMMINGS) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. MICA).

GENERAL LEAVE

Mr. MICA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 1021, the Senate bill under consideration.

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

There was no objection.

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

My colleagues, I am very pleased to be here this evening. It has taken us two Congresses, but this House is finally in a position to legislate long overdue relief for the men and women who have defended our Nation.

This process began in the last Congress when I was pleased to introduce H.R. 3586, the Veterans Employment Opportunities Act of 1996. The House passed that bill twice, once as a standalone bill and once as an amendment to a Senate bill, S. 8668. Unfortunately, the other body did not act on either of those bills before that Congress adjourned.

On the first day of this Congress, Mr. Speaker, I introduced essentially the same bill, H.R. 240, the Veterans Employment Act of 1997. The House passed H.R. 240 on April 9, 1997. The Senate has passed the bill before us today, S. 1021, which was a companion bill to H.R. 240, introduced by Senators HAGEL and CLELAND, two very distinguished Vietnam veterans.

Mr. Speaker, there are many to thank for their hard work and leadership on this bipartisan issue. I want to particularly point out and thank for their strong support the current chairman of the committee, the gentleman from Indiana (Mr. DAN BURTON), and former chairman Bill Clinger, both of whom led the Committee on Government Reform and Oversight during this Congress and the last one.

I also want to take a moment to thank for their leadership the distinguished gentleman from Arizona (Mr. STUMP), the chairman of the House Committee on Veterans' Affairs, and the distinguished gentleman from Indiana (Mr. STEVE BUYER), who chaired the Subcommittee on Education, Training, Employment and Housing, during the last Congress.

And I must give special appreciation to the gentleman from New York (Mr.

SOLOMON), who has been a strong and tireless supporter of this legislation and a tremendous fighter for our veterans. I appreciate both his support and his leadership.

I also want to thank three gentlemen on the other side of the aisle who have served as ranking members of the Subcommittee on Civil Service during my tenure as chairman. First, unquestionably, we thank for his leadership the gentleman from Maryland (Mr. ELIJAH CUMMINGS), who has done a tremendous job working with me hand-in-hand during the past years. Also, I want to thank former ranking members, one from Pennsylvania, Mr. TIM HOLDEN, and the distinguished gentleman from Virginia (Mr. MORAN), both of whom have supported this legislation, and I thank them for their untiring leadership.

Mr. Speaker, this bill does not resolve all of the problems relating to veterans preference in our Federal workplace. It does not contain all the protections for veterans that were in the bill that the House passed. Nonetheless, Mr. Speaker, there are some very important protections in this legislation.

Foremost among them is the creation of an effective and user-friendly redress system for our veterans who believe their rights have been violated. This has been sought by our veterans for many, many years.

In addition, veterans entitled to preference and other veterans who have 3 years of honorable service in the military will receive expanded opportunities to compete for Federal jobs.

□ 2310

Very often, Mr. Speaker, Federal agencies will only allow current civilian employees to apply for vacancies. Veterans who do not work for the Federal Government are barred from even competing on their merits for these jobs. That will change when this legislation is enacted. Under this bill whenever an agency opens the competition to civilian employees outside of its own workforce, it must also allow these qualified veterans to compete.

S. 1021 is a significant step forward for our veterans. It opens many jobs that were previously closed to them. It also advances the principle of open competition for Federal jobs. Most important, this provision recognizes that the men and women who served in our armed forces have indeed served as Federal employees and it honors and recognizes that service.

Like the House bill, S. 1021 also makes the violation of veterans' preference laws a prohibited personnel practice. This means that bureaucrats who violate veterans' rights do so at their own peril. They can be subjected in fact to disciplinary action before the Merit Systems Protection Board under this legislation.

Mr. Speaker, this bill also expands veterans' employment opportunities with Federal contractors and it also prohibits Federal agencies from contracting with companies that have not complied with the Department of Labor reporting requirements with respect to hiring Vietnam-era, Persian Gulf and our disabled veterans. The House bill contained no similar provisions. These are welcome additions that certainly embody the spirit of the House bill. They will open new job opportunities for our veterans, particularly our Persian Gulf veterans. However, just today the Society for Human Resource Management and other employer organizations have raised certain questions about the potential burden that may be imposed on employers by section 8 of the bill, this provision that I said was included by the other body.

Mr. Speaker, this is a question that should carefully be examined by, among others, the Committee on Education and the Workforce which has jurisdiction over the office of Federal contract compliance programs.

Mr. Speaker, I include for the RECORD a letter I received today from the Society for Human Resource Management.

SOCIETY FOR
HUMAN RESOURCE MANAGEMENT,
Alexandria, VA, October 8, 1998.

U.S. House of Representatives,
Washington, DC.

DEAR MEMBER OF CONGRESS: On behalf of the Society for Human Resource Management (SHRM), I am writing to express concerns regarding Section 8 of S. 1021, the Veterans Employment Opportunities Act, entitled, "Requirement for Additional Information in Annual Reports from Federal Contractors in Veterans Employment". This provision was not included in the House-passed bill or in the original Senate legislation. We understand that the full House is likely to consider S. 1021 by suspending the rules later today.

SHRM is the leading voice of the human resource profession, representing more than 104,000 human resource professionals and student members from across the country and around the globe.

Currently, a federal contractor is required to report the total number of veterans whom the contractor employs on a particular date. S. 1021, Section 8, would further require federal contractors to report the maximum and the minimum number of all employees during the entire one year period covered by the report. The bill would prohibit federal agencies from obligating or expending funds to enter into a contract with a contractor who has not complied with reporting requirements.

The reporting requirements proposed in Section 8 do not currently exist under any federal statute. Information for all employees in the entire workforce, from every payroll period would need to be captured, stored, analyzed and extrapolated to determine the minimum and maximum number of employees for the entire year.

Changes to the current reporting requirements for the VETS-100 report would represent a major effort and expense for federal contractors. New surveying of the current workforce would be required. Internal procedures and forms associated with the hiring process would have to be changed to reflect the new categories of veterans. Processes would need to be implemented to insure that each employee provides a response, even if that response is that he or she does not wish to self-identify. In addition, historical data that currently resides in computer systems would need to be altered.

This requirement raises a whole host of unanswered questions, including, how "employees" will be defined and what constitutes a reported work site. While it may be assumed that the same definition of what constitutes a reported work site would apply to this new mandate, the legislation does not specifically address that issue.

Employers are already confronting significant and costly changes to their Human Resource Information Systems (HRIS) because of a whole host of increased reporting requirements. For example, changes to the 2000 Census will require significant changes to employers' collection reporting processes for employee information. The Office of Federal Contract Compliance Programs (OFCCP) is also reportedly actively considering changes to its reporting requirements. The cumulative impact of these changes in unbearable.

We recognize the importance of protecting American Veterans and the underlying legislation, but hope that you will understand these practical concerns and the impact that Section 8 will have on reporting processes for all federal contractors in the private sector. Please contact Deanna Gelak, Director of Government Affairs if you would like to further discuss these issues and the need to further examine the employment implications of Section 8 of S. 1021 in the next Congressional session.

Sincerely,

SUSAN R. MEISINGER, SPHR,
Senior Vice President.

Mr. Speaker, in short and finally, S. 1021 is a good bill. It is a strong bipartisan measure that in fact will benefit our veterans. I urge all Members to support it.

Unfortunately our Federal workplace has become a barrier to employment opportunity where veterans sometimes are the very last hired and the first fired. This bill changes that practice. This is the most important and significant veterans legislation to pass Congress in nearly a decade. This effort in fact culminates years of efforts by numerous veterans service organizations to recognize Federal service as Federal employment by our veterans.

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

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

Mr. Speaker, I rise today to express my strong support for S. 1021, the Veterans Employment Opportunity Act. I would first like to congratulate the chairman of the Subcommittee on Civil Service the gentleman from Florida (Mr. MICA) for his leadership and his spirit of bipartisanship in an effort to expand and strengthen veterans' preference. I also want to thank the chairman of the committee the gentleman from Indiana (Mr. BURTON) and our ranking member of the Committee on Government Reform and Oversight the

gentleman from California (Mr. WAXMAN) for their cooperation in making this moment possible as we present this legislation tonight.

The spirit of cooperation on both sides of the aisle has been critical in bringing forward this important legislation. S. 1021 improves the ability of veterans to compete during the Federal hiring process, extends veterans' preference to all branches of the Federal Government, and instructs the Secretary of Labor to maintain a database of contractors who have filed reports on the number of veterans they have hired. The bill also makes knowing violations of veterans' preference laws a prohibited personnel practice. Finally, it makes improvements in the system for investigating and redressing violations of veterans preference whenever they occur.

The Federal Government is the Nation's leader in veterans' employment, with 27 percent of the Federal workforce made up of veterans. 506,939 veterans were employed by the government as of September 30, 1996. Compared to the private sector, the Federal Government employs two times the percentage of veterans. Yet testimony in previous Civil Service Subcommittee hearings has revealed that veterans' preference in the Federal workforce is sometimes ignored or circumvented and that its continued viability in the workplace is threatened on several fronts.

For example, a 1992 General Accounting Office study of veterans' preference revealed that certificates, that is the list of candidates from which agencies may hire, headed by a veteran entitled to preference were returned unused at almost 1.4 times the return rate of certificates headed by nonveterans. According to another GAO study, one-quarter of selecting officials who returned a certificate unused to their personnel office in 1992 did so when they could not hire the candidate they wanted because a preference-eligible veteran was ranked higher.

Mr. Speaker, the Congress has repeatedly declared that our veterans deserve special consideration in Federal employment decisions because of their vital contributions to our Nation's security. This bill continues that tradition.

Mr. Speaker, S. 1021 is a good bipartisan bill that strengthens veterans' preference in the Federal Government. It will give our veterans the help they deserve in obtaining and retaining civilian employment within the Federal Government. Our veterans have given so much to allow us to live the wonderful lives that we live. They have given so much of their lives to make it possible for us to have the freedom that we have. Therefore, I urge all my colleagues to support this very important legislation.

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

Mr. MICA. Mr. Speaker, I yield 2 minutes to the gentlewoman from Maryland (Mrs. MORELLA), a tireless worker and advocate on behalf of our veterans and our Federal employees.

Mrs. MORELLA. I thank the gentleman for yielding me this time, Mr. Speaker. I must say, I am so pleased to see this bill come back under suspension because, as was mentioned, this will be the fourth time around. Twice during the 104th Congress did we pass it in this House and last year in the 105th Congress, and now as we are in our waning days of the 105th Congress, it has come back from the Senate slightly changed but one that will indeed enhance veterans employment opportunities, something that is quite needed.

I want to commend the gentleman from Florida (Mr. MICA). He has been there from the very start. Really it has been his concept that he developed and he crafted, and he has kind of guided it through so many years where there have been tremendous difficulties. And so congratulations to the gentleman from Florida (Mr. MICA) on a great job. He has already indicated our commendation to the chairman of the committee and the ranking member and also the ranking member of the subcommittee the gentleman from Maryland (Mr. CUMMINGS) who is here and the others who have cared about this particular issue.

Basically what it does is it simply, I guess I would call it a bill that enhances and enforces employment opportunities for veterans. It does not do anything about special, I will not say efforts but special privileges for them, but it gives them what they deserve, to make sure that they are getting equal access, a kind of a fair, level playing field and fairness in employment. I like the fact that it sets up also an accountability concept where, for instance, Federal agencies will notify OPM, the Office of Personnel Management and U.S. employment offices of each vacant position for which competition would include those individuals having competitive service which means our veterans. So that is the kind of accountability. And the fact that violations of veterans' preferences would be prohibited under personnel policies and especially the redress mechanism, to ensure that veterans' rights are protected.

□ 2320

So I am pleased, Mr. Speaker, that this bill is finally getting through under suspension, and it is important because it makes us remember the veterans who have given so much to us and so much to this country. They deserve no less. And so I support S. 1021.

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

I just want to say we have no speakers, Mr. Speaker, but I just wanted to pause to again express my appreciation to our entire subcommittee and our committee for all that has been done for our veterans. They are very, very important people, and I know in my State of Maryland when I visit with veterans and they come to visit me, I am constantly reminded of the role that they play in making our lives the best that they can be. So, Mr. Speaker, since we have no further speakers, again I want to thank the gentleman from Florida (Mr. MICA) him for his cooperation.

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

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

I have no further speakers, but I would like to take this opportunity to close. Mr. Speaker, this legislation indeed is a significant step forward for all of America's veterans. That is why all of the major veterans service organizations in the United States support this bill. They and the 12 million veterans they represent know how much veterans will benefit when we pass this legislation this evening. I thank these organizations and the many, many veterans who have contacted me and other Members for their very strong support, active participation and hard work to make this legislation possible. Their efforts were indispensable.

Mr. Speaker, America owes a very great and deep debt of gratitude to the men and women who have kept our Nation free and strong and who fought our battles and served in lonely and harsh outposts around the world to preserve the peace. This bill will not repay that debt. No measure this Congress can enact will ever fully repay that debt. But S. 1021 is a down payment and, in fact, a good one.

The gentleman from Arizona (Mr. STUMP) has called my bill the most significant advance in veterans' preference in 50 years. That can also be said of this legislation, S. 1021. The relief and benefit it will bring to those who have served our Nation under arms is long overdue. This bill commands the support of every Member of the House.

So in closing I urge my colleagues to pass this legislation this evening so it can be made the law of the land. We can do no less for those who have done so much.

Mr. SESSIONS. Mr. Speaker, I am proud to give my support for S. 1021, the Veterans Employment Act of 1998. As a member of the Government Reform and Oversight Committee, I actively supported and voted for passage of H.R. 240, the Veterans Employment Opportunities Act of 1997. I am pleased to see the successful negotiations between the House and Senate have allowed a vote on this important reform of the federal employment hiring system.

This legislation equalizes the treatment of military and civilian employees when seeking employment within the federal government. The bill provides preference to our veterans—

the same preference that civilian employees currently receive in the federal employment system. I supported this effort to instill fairness in the employment process and reward those veterans who provided us with our most sacred principle—freedom.

I am very pleased that we are going to pass this bill today and encourage all of my colleagues to vote for its passage.

Mr. STUMP. Mr. Speaker, I rise today to voice my support for S. 1021, the Veterans Employment Opportunities Act of 1998. This bill originated in the House as H.R. 240 under the guidance of Representative JOHN MICA, Chairman of the Subcommittee on Civil Service, and passed the House on April 9, 1997. S. 1021 provides improvements to veterans' preference and employment opportunities and strengthens veterans' employment rights with federal contractors.

Mr. Speaker, through veterans' preference, wartime and disabled veterans get a small advantage competing for federal jobs, along with promotion and retention protection. To date, veterans comprise 27.6 percent of the federal workforce. The bill in its entirety demonstrates the commitment of the Congress to America's 26 million veterans that preference for federal jobs is an important way to share the sacrifices of war.

I'd like to thank Chairman SPECTER of the Senate Veterans Affairs Committee for two provisions in particular. Section 6 expands and improves veterans' employment under federal contracts, and expands the definition of who is a 'covered veteran' by including veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been awarded. Section 7 requires federal contractors to include the maximum number and the minimum number of employees in their annual reports on veteran's employment. Both of these provisions are designed to afford additional protection to preference eligible veterans employed by Federal contractors.

This bill is the most significant improvement in veterans' preference in my memory and it deserves the strong support of the House. I urge my colleagues to support S. 1021.

Finally, Mr. Speaker, on behalf of all veterans, I'd like to express my thanks and sincere appreciation to Chairman JOHN MICA as well the Ranking Member, ELIJAH CUMMINGS, and all of their staff for the commitment that they continue to show to our men and women who have proudly served our country in the U.S. Armed Forces.

Mr. PAPPAS. Mr. Speaker, I rise today to support our veterans by calling for the passage of the S. 1021, the Veterans Employment Opportunity Act of 1998. Last year, the House did the right thing by passing H.R. 240 introduced by Representative MICA. This legislation is the Senate's long awaited companion bill and, while I wish it had gone further in its protection of veterans from Reductions In Force, nonetheless it also deserves our passage today.

For too long many of our nation's veterans have been neglected by our own government when it comes to obtaining federal employment. Our nation's veterans, who served so selflessly and risked their lives, face unnecessary restrictions that preclude them from federal employment. All they simply desire is the opportunity to continue serving their nation.

As the result of this legislation, veterans can apply for federal jobs on a more competitive basis at a time when their employment within the federal workforce is declining and approaching an historically low level.

This is a bipartisan bill and one that reflects the interests of the people who have served our country so courageously. I am proud that this legislation has the support of the American Legion. I commend Mr. MICA for his work and urge my colleagues to support it.

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

The SPEAKER pro tempore (Mr. BLUNT). The question is on the motion offered by the gentleman from Florida (Mr. MICA) that the House suspend the rules and pass the Senate bill, H.R. S. 1021.

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.

FEDERAL EMPLOYEES LIFE INSURANCE IMPROVEMENT ACT

Mr. MICA. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 2675) to require that the Office of Personnel Management submit proposed legislation under which group universal life insurance and group variable universal life insurance would be available under chapter 87 of title 5, United States Code, and for other purposes.

The Clerk read as follows:

Senate amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Employees Life Insurance Improvement Act".

SEC. 2. STUDY AND REPORT ON CERTAIN LIFE INSURANCE OPTIONS OFFERED TO FEDERAL EMPLOYEES.

(a) IN GENERAL.—Not later than July 31, 1998, the Office of Personnel Management shall conduct a study on life insurance options for Federal employees described under subsection (b) and submit a report to Congress.

(b) STUDY AND REPORT.—The study and report referred to under subsection (a) shall—

(1) survey and ascertain the interest of Federal employees in an offering under chapter 87 of title 5, United States Code, of insurance coverage options relating to—

(A) group universal life insurance;

(B) group variable universal life insurance; and

(C) additional voluntary accidental death and dismemberment insurance; and

(2) include any comments, analysis, and recommendations of the Office of Personnel Management relating to such options.

SEC. 3. REPEAL OF MAXIMUM LIMITATION ON EMPLOYEE INSURANCE.

Chapter 87 of title 5, United States Code, is amended—

(1) in section 8701(c), in the first sentence, by striking the comma immediately following "$10,000" and all that follows and inserting a period; and

(2) in section 8714b(b), in the first sentence, by striking "except" and all that follows and inserting a period.

SEC. 4. FOSTER CHILD COVERAGE.

Section 8701(d)(1)(B) of title 5, United States Code, is amended by inserting "or foster child" after "stepchild" both places it appears.

SEC. 5. INCONTESTABILITY OF ERRONEOUS COVERAGE.

Section 8706 of title 5, United States Code, as amended by section 5(2), is further amended by adding at the end the following new subsection:

"(g) The insurance of an employee under a policy purchased under section 8709 shall not be invalidated based on a finding that the employee erroneously became insured, or erroneously continued insurance upon retirement or entitlement to compensation under subchapter I of chapter 81 of this title, if such finding occurs after the erroneous insurance and applicable withholdings have been in force for 2 years during the employee's lifetime.".

SEC. 6. DIRECT PAYMENT OF INSURANCE CONTRIBUTIONS.

Chapter 87 of title 5, United States Code, is amended—

(1) in section 8707—

(A) in subsection (a), by striking "(a) During" and inserting "(a) Subject to subsection (c)(2), during";

(B) in subsection (b), by striking "(b)(1) Whenever" and inserting "(b)(1) Subject to subsection (c)(2), whenever"; and

(C) in subsection (c), by inserting "(1)" immediately after "(c)" and by adding at the end the following new paragraph:

"(2) An employee who is subject to withholdings under this section and whose pay, annuity, or compensation is insufficient to cover such withholdings may nevertheless continue insurance if the employee arranges to pay currently into the Employees' Life Insurance Fund, through the agency or retirement system that administers pay, annuity, or compensation, an amount equal to the withholdings that would otherwise be required under this section.";

(2) in section 8714a(d), by adding at the end the following new paragraph:

"(3) Notwithstanding paragraph (1), an employee who is subject to withholdings under this subsection and whose pay, annuity, or compensation is insufficient to cover such withholdings may nevertheless continue optional insurance if the employee arranges to pay currently into the Employees' Life Insurance Fund, through the agency or retirement system which administers pay, annuity, or compensation, an amount equal to the withholdings that would otherwise be required under this subsection.";

(3) in section 8714b(d), by adding at the end the following new paragraph:

"(3) Notwithstanding paragraph (1), an employee who is subject to withholdings under this subsection and whose pay, annuity, or compensation is insufficient to cover such withholdings may nevertheless continue additional optional insurance if the employee arranges to pay currently into the Employees' Life Insurance Fund, through the agency or retirement system which administers pay, annuity, or compensation, an amount equal to the withholdings that would otherwise be required under this subsection."; and

(4) in section 8714c(d), by adding at the end the following new paragraph:

"(3) Notwithstanding paragraph (1), an employee who is subject to withholdings under this subsection and whose pay, annuity, or compensation is insufficient to cover such withholdings may nevertheless continue optional life insurance on family members if the employee arranges to pay currently into the Employees' Life Insurance Fund, through the

agency or retirement system that administers pay, annuity, or compensation, an amount equal to the withholdings that would otherwise be required under this subsection.".

SEC. 7. ADDITIONAL OPTIONAL LIFE INSURANCE CONTINUATION AND PORTABILITY.

(a) IN GENERAL.—Section 8714b of title 5, United States Code, is amended—

(1) in subsection (c)—

(A) by striking the last 2 sentences of paragraph (2); and

(B) by adding at the end the following:

"(3) The amount of additional optional insurance continued under paragraph (2) shall be continued, with or without reduction, in accordance with the employee's written election at the time eligibility to continue insurance during retirement or receipt of compensation arises, as follows:

"(A) The employee may elect to have withholdings cease in accordance with subsection (d), in which case—

"(i) the amount of additional optional insurance continued under paragraph (2) shall be reduced each month by 2 percent effective at the beginning of the second calendar month after the date the employee becomes 65 years of age and is retired or is in receipt of compensation; and

"(ii) the reduction under clause (i) shall continue for 50 months at which time the insurance shall stop.

"(B) The employee may, instead of the option under subparagraph (A), elect to have the full cost of additional optional insurance continue to be withheld from such employee's annuity or compensation on and after the date such withholdings would otherwise cease pursuant to an election under subparagraph (A), in which case the amount of additional optional insurance continued under paragraph (2) shall not be reduced, subject to paragraph (4).

"(C) An employee who does not make any election under the preceding provisions of this paragraph shall be treated as if such employee had made an election under subparagraph (A).

"(4) If an employee makes an election under paragraph (3)(B), that individual may subsequently cancel such election, in which case additional optional insurance shall be determined as if the individual had originally made an election under paragraph (3)(A).

"(5)(A) An employee whose additional optional insurance under this section would otherwise stop in accordance with paragraph (1) and who is not eligible to continue insurance under paragraph (2) may elect, under conditions prescribed by the Office of Personnel Management, to continue all or a portion of so much of the additional optional insurance as has been in force for not less than—

"(i) the 5 years of service immediately preceding the date of the event which would cause insurance to stop under paragraph (1); or

"(ii) the full period or periods of service during which the insurance was available to the employee, if fewer than 5 years,

at group rates established for purposes of this section, in lieu of conversion to an individual policy. The amount of insurance continued under this paragraph shall be reduced by 50 percent effective at the beginning of the second calendar month after the date the employee or former employee attains age 70 and shall stop at the beginning of the second calendar month after attainment of age 80, subject to a provision for temporary extension of life insurance coverage and for conversion to an individual policy of life insurance under conditions approved by the Office. Alternatively, insurance continued under this paragraph may be reduced or stopped at any time the employee or former employee elects.

"(B) When an employee or former employee elects to continue additional optional insurance under this paragraph following separation from service or 12 months without pay, the insured individual shall submit timely payment of the full cost thereof, plus any amount the Office determines necessary to cover associated administrative expenses, in such manner as the Office shall prescribe by regulation. Amounts required under this subparagraph shall be deposited, used, and invested as provided under section 8714 and shall be reported and accounted for together with amounts withheld under section 8714a(d).

"(C)(i) Subject to clause (ii), no election to continue additional optional insurance may be made under this paragraph 3 years after the effective date of this paragraph.

"(ii) On and after the date on which an election may not be made under clause (i), all additional optional insurance under this paragraph for former employees shall terminate, subject to a provision for temporary extension of life insurance coverage and for conversion to an individual policy of life insurance under conditions approved by the Office."; and

(2) in the second sentence of subsection (d)(1) by inserting "if insurance is continued as provided under subsection (c)(3)(A)," after "except that,".

(b) REPORT.—Not later than 3 years after the date of enactment of this Act, the Office of Personnel Management shall submit a report to Congress on additional optional insurance provided under section 8714b(c)(5) of title 5, United States Code (as added by subsection (a) of this section). Such report shall include recommendations on whether continuation for such additional optional insurance should terminate as provided under such section, be extended, or be made permanent.

(c) TECHNICAL AMENDMENT.—The last sentence of section 8714b(d)(1) of title 5, United States Code, is amended by inserting "(and any amounts withheld as provided in subsection (c)(3)(B))" after "Amounts so withheld".

SEC. 8. IMPROVED OPTIONAL LIFE INSURANCE ON FAMILY MEMBERS.

(a) IN GENERAL.—Section 8714c(b) of title 5, United States Code, is amended to read as follows:

"(b)(1) The optional life insurance on family members provided under this section shall be made available to each eligible employee who has elected coverage under this section, under conditions the Office shall prescribe, in multiples, at the employee's election, of 1, 2, 3, 4, or 5 times—

"(A) $5,000 for a spouse; and

"(B) $2,500 for each child described under section 8701(d).

"(2) An employee may reduce or stop coverage elected pursuant to this section at any time.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 8714c of title 5, United States Code, is amended—

(1) in subsection (c)(2), by striking "section 8714b(c)(2) of this title" and inserting "section 8714b(c) (2) through (4)"; and

(2) in subsection (d)(1), by inserting before the last sentence the following: "Notwithstanding the preceding sentence, the full cost shall be continued after the calendar month in which the former employee becomes 65 years of age if, and for so long as, an election under this section corresponding to that described in section 8714b(c)(3)(B) remains in effect with respect to such former employee.".

SEC. 9. OPEN SEASON.

Beginning not later than 180 days after the date of enactment of this Act, the Office of Personnel Management shall conduct an open enrollment opportunity for purposes of chapter 87 of title 5, United States Code, over a period of not less than 8 weeks. During this period, an employee (as defined under section 8701(a) of such title)—

(1) may, if the employee previously declined or voluntarily terminated any coverage under chapter 87 of such title, elect to begin, resume, or increase group life insurance (and acquire applicable accidental death and dismemberment insurance) under all sections of such chapter without submitting evidence of insurability; and

(2) may, if currently insured for optional life insurance on family members, elect an amount above the minimum insurance on a spouse.

SEC. 10. MERIT SYSTEM JUDICIAL REVIEW.

(a) IN GENERAL.—Section 7703 of title 5, United States Code, is amended—

(1) in subsection (b)(1) by striking "within 30 days" and inserting "within 60 days"; and

(2) in subsection (d) in the first sentence, by inserting after "filing" the following: ", within 60 days after the date the Director received notice of the final order or decision of the Board,".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act, and apply to any suit, action, or other administrative or judicial proceeding pending on such date or commenced on or after such date.

SEC. 11. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this Act, the amendments made by this Act shall take effect on the date of enactment of this Act.

(b) MAXIMUM LIMITATION ON EMPLOYEE INSURANCE.—Section 3 shall take effect on the first day of the first applicable pay period beginning on or after the date of enactment of this Act.

(c) ERRONEOUS COVERAGE.—Section 5 shall be effective in any case in which a finding of erroneous insurance coverage is made on or after the date of enactment of this Act.

(d) DIRECT PAYMENT OF INSURANCE CONTRIBUTIONS.—Section 6 shall take effect on the first day of the first applicable pay period beginning on or after the date of enactment of this Act.

(e) ADDITIONAL OPTIONAL LIFE INSURANCE.—

(1) IN GENERAL.—Section 7 shall take effect on the first day of the first pay period that begins on or after the 180th day following the date of enactment of this Act, or on any earlier date that the Office of Personnel Management may prescribe that is at least 60 days after the date of enactment of this Act.

(2) REGULATIONS.—The Office shall prescribe regulations under which an employee may elect to continue additional optional insurance that remains in force on such effective date without subsequent reduction and with the full cost withheld from annuity or compensation on and after such effective date if that employee—

(A) separated from service before such effective date due to retirement or entitlement to compensation under subchapter I of chapter 81 of title 5, United States Code; and

(B) continued additional optional insurance pursuant to section 8714b(c)(2) as in effect immediately before such effective date.

(f) IMPROVED OPTIONAL LIFE INSURANCE ON FAMILY MEMBERS.—The amendments made by section 8 shall take effect on the first day of the first pay period which begins on or after the 180th day following the date of enactment of this Act or on any earlier date that the Office of Personnel Management may prescribe.

(g) OPEN SEASON.—Any election made by an employee under section 9, and applicable withholdings, shall be effective on the first day of the first applicable pay period that—

(1) begins on or after the date occurring 365 days after the first day of the election period authorized under section 9; and

(2) follows a pay period in which the employee was in a pay and duty status.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. MICA) and the gentleman

from Maryland (Mr. CUMMINGS) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. MICA).

GENERAL LEAVE

Mr. MICA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill, H.R. 2675.

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

There was no objection.

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

My colleagues, this legislation makes improvements in the Federal Employees Group Life Insurance program generally called FEGLI. The House passed this bill after the Subcommittee on Post Office Civil Service conducted the most comprehensive review of benefits under this program in over 40 years.

As a result of this legislation, there will be major improvements in the life insurance benefits for our Federal employees for the first time in 16 years. Our Federal employees will be able to obtain better life insurance for themselves, their spouses and their children. They will also be able to carry more insurance into retirement.

The House bill required the Office of Personnel Management to submit a legislative proposal for offering group universal life insurance, group variable life insurance and voluntary additional accidental death and dismemberment to Federal employees. The Senate has substituted a requirement that the Office of Personnel Management review and study this matter. I believe OPM can and should submit that study within 6 months and recommend to the Congress legislative language to make these life insurance options available to our Federal employees.

The Office of Personnel Management will not be required to establish a new Federal program to make this insurance available. Commercial insurance carriers have been offering these products to private sector employees for years. The Office of Personnel Management should be able to find suitable products virtually off the shelf. There is no need, in fact, to reinvent the wheel.

It is important that Federal employees and also our Federal retirees be given these up-to-date choices. It would be the first time since the program was started in 1954 that employees would have a life insurance choice other than just term insurance.

The Senate amendment also allows Federal employees to purchase life insurance for their foster children and allows them to pay their life insurance premiums directly under certain circumstances. The amendments also allow individuals who are wrongly covered by life insurance to remain covered if the policy has been in force for 2 years. The Senate also expanded the open season during which our Federal employees may begin or increase their life insurance.

One final amendment, not related to life insurance, provides the Office of Personnel Management employees with an additional 30 days to appeal Merit Systems Protection Board decisions to the United States Court of Appeals for the Federal circuit.

This is a good bill. A long overdue review of this program and Federal employees will benefit from the improvements we make with this legislation. I urge all Members to support this legislation.

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

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

Mr. Speaker, H.R. 2675 is designed to improve the structure and administration of the Federal Employees Group Life Insurance program provided by the Federal Government for its civilian employees and retirees. FEGLI was established in 1952 and is managed by the Office of Personnel Management. Since 1954 it has been administered by Metropolitan Life Insurance Company through a contract with OPM. FEGLI provides low cost life insurance coverage to Federal employees and retirees.

Enrollees have a choice of basic life insurance, six levels of additional life insurance, family insurance, three options with respect to post-retirement basic insurance and accelerated payments options for the terminally ill.

□ 2330

Nearly 90 percent of the eligible Federal work force participates in the program. The gentleman from Florida (Chairman MICA) and I, along with all of the members of the Subcommittee on Civil Service, were able to work together to develop legislation that would have implemented some excellent recommendations we receive from the witnesses at an oversight hearing we held on FEGLI last year.

However, some of the provisions implementing these recommendations were dropped when the Senate considered the bill. The House bill directed the Office of Personnel Management to submit draft legislative proposals for group universal life, group variable life, and accidental death and dismemberment insurance coverage within 6 months of passage of this legislation.

The Senate version requires OPM to merely conduct a study on these additional forms of insurance, rather than submit legislative proposals. While we can accept the Senate language on this issue, we strongly urge OPM to include in their study recommendations for legislative changes that may provide new life insurance options for Federal employees.

Included in the bill is a provision that will give enrollees the opportunity to continue the full extent of their life insurance coverage after they reach 65. By doing this, we will be providing a measure of comfort and convenience to many who would still have a desire to provide for the security of their loved ones. They will no longer have to seek out a new insurance company from which to purchase life insurance, something often difficult and expensive to do at that late stage in life.

I offered an amendment to H.R. 2675 during our subcommittee's markup of the bill, which added a provision that would enable enrollees to purchase an increased amount of insurance coverage for their spouse and dependent children.

Clearly the present levels of coverage available, $5,000 for one's spouse and $2,500 for each child are inadequate. They neither compensate for the loss nor cover average burial expenses. My amendment would make it possible for enrollees to obtain coverage for their spouse and dependent children up to five times the current levels. I am pleased to see that this important provision is still in the bill.

Additional provisions added to the bill by the Senate were to eliminate Basic insurance maximum limitation, make erroneous FEGLI coverage incontestible if discovered after 2 years of withholding, allow direct payment option for any enrollee whose pay or annuity will not cover withholdings, implements a 3-year demonstration program that would allow employees who separate before retirement to continue Option B coverage for 5 years, by paying usual group rates, covers a foster child in the Family Optional insurance, and provides for open enrollment period following enactment of the bill.

Mr. Speaker, once again, I believe that we still have a very good bipartisan bill. I strongly urge all Members to give their support, Mr. Speaker.

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

Mr. MICA. Mr. Speaker, I am pleased to yield 3 minutes to the gentlewoman from Maryland (Mrs. MORELLA), a member of our Subcommittee on Civil Service and, again, a tireless advocate for our Federal employees and retirees.

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

Mr. Speaker, I rise in strong support of the Federal Employees Life Improvement Act, and I want to thank our chairman of the Subcommittee on Civil Service, the gentleman from Florida (Mr. MICA), and the ranking member, the gentleman from Maryland (Mr. CUMMINGS) for their leadership on this issue.

This issue coming up at this hour of the night may just be the kind of the insomnia that people who are watching might well need. However, for Federal

employees, it is critically, critically important.

The legislation will provide better life insurance benefits to Federal employees under the Federal Employees Group Life Insurance Program, the FEGLI Program. It is an important program. It provides Basic and Optional Life insurance coverage for almost 2.5 million Federal employees and 1.6 million retirees.

The legislation fulfills the legislative goal that I began to pursue in 1993 through legislation I introduced, H.R. 3297. The goal of that legislation was to extend the treatment currently afforded to Federal judges under FEGLI to other judicial officials.

Since 1993, I worked to get this important provision enacted into law, and now this important goal is realized through the increase in the class of eligible Federal employees who may choose this coverage during open enrollment that this bill provides.

The version of the bill we passed in the House of Representatives directed the Office of Personnel Management to conduct a study of Federal employees' interest in additional insurance proposals and to submit a legislative proposal to offer group universal life insurance and group variable universal life insurance policies under FEGLI within 6 months.

The Senate language differs from the House version in that it does not mandate that OPM submit a legislative proposal, but instead requires OPM to submit findings to Congress by July 31.

While I think it is beneficial to compel OPM to submit a legislative proposal, this difference does not affect my support for this legislation because of its many other benefits. The legislation also incorporates a component of legislation I introduced in the last Congress to increase the amount of additional optional life insurance for dependents from the present level.

Although it does not mirror my proposal exactly, my proposal would have only included dependents with severe disabilities. This approach makes sense in that it will include a larger risk pool and reduce the costs. I thank the chairman for introducing this measure.

Finally, the bill provides Federal employees with the opportunity to continue the full extent of their life insurance coverage after they reach age 65. Under current law, when Federal employees reach age 65, they cease making premium payments, and the face value of the employees life insurance is reduced by 2 percent each month for 50 months. Giving Federal retirees the opportunity to purchase life insurance benefits is a great accomplishment. I simply encourage my colleagues to support this bill, H.R. 2675.

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

I want to thank my colleague, the gentlewoman from Maryland, when she talked about insomnia. I am sure, hopefully, we will be able to wake some people up with all this good news we are imparting here tonight.

But with that, Mr. Speaker, I just want to again reiterate this is another piece of legislation that would not have been possible without the bipartisanship efforts on the part of our subcommittee.

This is a very important piece of legislation because it once again sheds light on the fact that we care about our Federal employees who make it possible for us to do our jobs the way we do them and certainly to support our Nation.

Mr. Speaker, I urge all of my colleagues to support this legislation.

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

Mr. MICA. Mr. Speaker, I have no additional speakers, and I yield myself the balance of my time.

Mr. Speaker, first I just want to take a moment to thank again the ranking member, the gentlewoman from Maryland (Mrs. MORELLA) and other members of our subcommittee.

Tonight we brought before the House two pieces of legislation, the Veterans Employment Opportunity Act, which provides veterans preference, which is something our veterans have sought for decades since really World War II. It is an important piece of legislation. The staff and Members, in a bipartisan fashion, showed today what we can do working together.

Today has been a difficult day for the Congress and for the American people. It does show, in fact, what we can all do for the benefit of those who served us.

Finally, on this bill, this bill is important because we have over 4 million Federal employees and retirees.

□ 2340

This bill saves money for the taxpayer. This program has not been bid or really examined in some number of decades, and we can provide better benefits at lower cost to those who are actively serving us in Federal employment now.

So I ask my colleagues to support this legislation, and I urge all Members to support this bill tonight.

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

The SPEAKER pro tempore (Mr. BLUNT). The question is on the motion offered by the gentleman from Florida (Mr. MICA) that the House suspend the rules and concur in the Senate amendments to the bill H.R. 2675.

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

A motion to reconsider was laid on the table.

RECOGNIZING THE IMPORTANCE OF CHILDREN AND FAMILIES

Mrs. MORELLA. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 302) recognizing the importance of children and families in the United States and expressing support for the goals of National KidsDay and National Family Month.

The Clerk read as follows:

H. CON. RES. 302

Whereas there is an epidemic of children in crisis in the United States caused by the increased stresses on children from contemporary society, which can even include instances of child abuse and neglect;

Whereas newspaper headlines, news reports, and various studies provide evidence that children are more frequently committing acts of violence, taking illegal drugs, and committing suicide, indicating that the future of the children of the United States, and therefore the future of the Nation, is at risk;

Whereas all families in the United States, regardless of their economic status, ethnic or cultural heritage, or geographic location, are experiencing the pressures caused by contemporary society while trying to raise and nurture their children;

Whereas it is imperative that the people of the United States act boldly to secure the future of the Nation by halting and healing the pain of children in crisis;

Whereas KidsPeace is the oldest, most successful, and most comprehensive not-for-profit organization dedicated solely to helping children attain the confidence and develop the courage necessary to confront and overcome crises;

Whereas KidsPeace has more than 1,500 caregivers helping more than 2,000 children each day in 25 locations across the United States;

Whereas KidsPeace established National KidsDay and National Family Month to recognize and focus attention on relationships between parents and children;

Whereas National KidsDay is celebrated on the third Saturday of September, during the period when children are returning to school, when children are subject to a very high level of stress, and when there is a critical need for children to feel honored, valued, supported, and loved;

Whereas National Family Month is celebrated during the five-week period between Mother's Day in May and Father's Day in June, which is a critical adjustment period for families to prepare for children to return to the home at the end of the school year and can provide a wonderful opportunity for families to prepare to use their time together during the summer to grow and strengthen as a family unit; and

Whereas these celebrations can provide opportunities for parents, grandparents, and caregivers to recognize the importance of being involved in the physical and emotional lives of their children: Now, therefore be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) recognizes the importance of children and families to the future of the United States;

(2) expresses support for the goals of National KidsDay and National Family Month, as established by KidsPeace; and

(3) encourages the people of the United States to participate in local and national activities and celebrations recognizing National KidsDay and National Family Month.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Maryland (Mrs. MORELLA) and the gentleman from Maryland (Mr. CUMMINGS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Maryland Mrs. MORELLA).

GENERAL LEAVE

Mrs. MORELLA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Con. Res. 302.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

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

Mr. Speaker, I rise in support of H. Con. Res. 302, which recognizes the importance of children and families in the United States, and I express my support for Kidsday and National Family Month. I particularly want to commend the sponsor of the bill, the gentleman from Pennsylvania (Mr. MCHALE) and the chairman and ranking member for bringing this bill to the floor.

Kidsday and National Family Month were established by KidsPeace, a special organization dedicated to helping children in crisis. KidsPeace believes that every child is unique, and that children are helped the most by their mothers and fathers, the people who are closest to them.

We all have a responsibility to protect and support America's children. Mr. Speaker, 1 out of every 4 Americans is a child. Children are our hope for the future, our chance for renewal. They carry on our values and our ideals.

Childhood should be a time of learning and of play, and a time to be sheltered from the wickedness of the outside world. However, children and youth today are coping with increasingly serious problems that are robbing them of their innocence, security and physical safety. Violence in the schools as well as on the streets, the availability of drugs, greater numbers of working parents, and soaring divorce rates are taking a toll on kids far sooner than in past generations.

Today, many children spend long hours after school and on weekends unsupervised. They need and often admit wanting some guidance in facing the many challenges of their lives.

One in 5 children entering school this year is living in poverty. Half a million of those children were born to teenage mothers. Analysis of U.S. census data indicates that if the single parent family trend continues, half of all children born in the United States last year will live with a single parent by the time they are 18 years old.

As Americans, we enjoy the highest standard of living in the world. Our economy is one of the most dynamic and diverse in history. We have achieved a level of technological advancement and individual opportunity that is unequaled around the globe. Without a doubt, America is on top of the world.

But the future of America's greatness depends upon how we care for and support our children in the present. Setting aside a time to focus on children and families is important to America's future. National Kidsday is celebrated on the third Saturday of September, and National Family Month is celebrated during the 5-week period between Mother's and Father's day. I encourage all Americans to participate in local activities during the celebration of these 2 commemoratives, and I encourage my colleagues to support wholeheartedly this important resolution.

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

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

Mr. Speaker, as ranking member of the Subcommittee on Civil Service I would like to commend the gentleman from Pennsylvania (Mr. MCHALE) for the development of this bipartisan resolution.

House concurrent resolution 302 will help to address challenges children a generation ago did not have to face: Drugs, violence, separation from parents, failing schools, peer group demands, and much, much more.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. MCHALE) for a further explanation of this bipartisan resolution.

Mr. MCHALE. Mr. Speaker, I rise this evening in strong support of H. Con. Res. 302, and I begin by thanking the gentlewoman from Maryland (Mrs. MORELLA), my former chair of the Committee on Science on which I had the privilege to serve, and most especially the gentleman from Maryland (Mr. CUMMINGS) for both the opportunity to speak this evening and their willingness to bring this legislation to the floor.

I will be leaving in just a few days to return to what matters most to me: my wife and my children. It is with great pride that I have served in this body and with some sadness that I near my final days as a Member of Congress. About a year ago, Mr. Speaker, my 7-year-old approached me as I was leaving for Washington on a Monday morning, and with recognition, not really complaint, he said, "Dad, you have been gone my whole life," and at that point I realized that at least for this Member of Congress, it was time to go home.

Today's society, as noted by the gentlewoman from Maryland (Mrs. MORELLA) places increasing demands on children and families and has unfortunately left many children in crisis and feeling that they have nowhere to turn for help. News of children becoming involved in violence, crime, drugs and so on indicates that we as a Nation must pay greater attention to the needs of children and families.

For this reason, I urge my colleagues to support this resolution which recognizes the importance of children and families in the United States. I introduced this resolution with the gentleman from Virginia (Mr. WOLF), the gentleman from Indiana (Mr. ROEMER), the gentlewoman from Ohio (Ms. PRYCE), the gentleman from Tennessee (Mr. FORD), and numerous other Members who have been such strong advocates for children. I would also like to extend my special thanks to the gentleman from North Carolina (Mr. JONES) who is on the floor as I speak, as well as the gentleman from Indiana (Mr. BURTON), chairman of the Committee on Government Reform and Oversight, and the ranking member, the gentleman from California (Mr. WAXMAN) who helped to bring this resolution to the floor.

Mr. Speaker, H. Con. Res. 302 which has 44 bipartisan cosponsors, also expresses support for the goals of National Kids Day and National Family Month. These events were launched by KidsPeace, the National Center for Kids Overcoming Crisis, the largest, most comprehensive private nonprofit organization in the Nation dedicated to serving the critical needs of children and teens.

Headquartered in my district, KidsPeace has become a model of community involvement and improvement. KidsPeace programs include residential treatment centers, the National Hospital for kids in Crisis, foster care in 6 States, community and diagnostic programs, a 24-hour help line, and an accredited school system for grades 1 through 12, and a referral network of thousands of health care providers across the country.

For more than 115 years, KidsPeace has been helping kids develop the confidence and skills to overcome developmental and situational crises in their lives. KidsPeace serves more than 2,000 children every day with 32 programs in 25 locations across the United States.

Mr. Speaker, let me deviate from my prepared text for just a moment. KidsPeace's ability to serve our Nation and my community in particular has not always been a resource available to us. I had the privilege of serving in our State legislature before I came to the Congress, and I remember very clearly about a decade ago when I received a phone call from a family absolutely desperate because they had a teenager in crisis. That child had nowhere to turn. There was no medical facility in our region of the State able to provide the care that that child and that that family needed at that very desperate time. KidsPeace addresses that need

today with professional medical care under circumstances where it did not previously exist.

KidsPeace has demonstrated an extraordinary commitment to assisting children and families across the country. National Kids Day and National Family Month were developed by KidsPeace as events to focus on parent-child and family relationships and provide positive encouragement for children to face successfully life's challenges. As a parent who has participated in National Kids Day activities in my district, I strongly support the establishment of these events as recognition of the importance of children and families.

Margaret Mead once said, "We must have a place where children can have a whole group of adults they can trust."

□ 2350

These words very poignantly describe the work of KidsPeace in helping children overcome the challenges and crises in their lives. Helping children feel safe, trusted, loved, and empowered is the heart of the KidsPeace mission.

It is my hope that this resolution will call attention to the needs of children and families in the United States and throughout National KidsDay and National Family Month and thereby help families affirm their love and support for their children. I urge my colleagues to vote for this bipartisan resolution.

Mr. Speaker, I am going to conclude simply by saying that this Member of Congress realized that I could continue serving in this body or I could be a decent husband and father. And under the unique circumstances of my family, I realized that I could not do both. I made the decision to return home with enormous feelings of gratitude and respect for this institution.

This is probably the last time I will speak at a microphone in the House of Representatives, and I could not find a better topic than to address the needs, the love, the support that we as a Nation and we as an individual need to bring to the families of our country. I am pleased to close my career in this House on that note.

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

Mr. Speaker, I wish the 7-year-old child of the gentleman from Pennsylvania (Mr. MCHALE) could have heard him this evening. And, indeed, I hope the gentleman will save the CONGRESSIONAL RECORD that will have ensconced the speech that he just gave, because it was from the bottom of his heart.

Mr. Speaker, I would use this opportunity to express my warm feelings and respect for the gentleman from Pennsylvania and for the dedication that he has given to this body, knowing him from his service on the Committee on Science with me and as an individual and as a colleague, and knowing the courage that he has shown and the commitment that he made to our country.

So, we wish the gentleman well and thank him very much for what he has done. I think this is a nice commemoration to PAUL MCHALE.

Mr. Speaker, I yield 3 minutes to the distinguished gentleman from North Carolina (Mr. JONES).

Mr. JONES. Mr. Speaker, I thank the gentlewoman from Maryland (Mrs. MORELLA) for yielding me the time.

Mr. Speaker, I rise tonight to commend the gentleman from Pennsylvania (Mr. MCHALE), my good friend and colleague, for introducing this resolution. Our cshildren are our future. They are tomorrow's leaders. My colleagues who are parents like myself know that when a child is upset or frustrated or feeling low, it is painful.

There are outside pressures that can affect our children's everyday life: academic stresses, struggles to feel accepted, and teen violence just to name a few. These are the issues that put our children at a crossroads and these are the issues that KidsPeace helps our children and Nation's families solve.

KidsPeace is a nonprofit organization that offers educational awareness programs and tools dedicated to help our families anticipate, intervene in, and overcome the crises that affect America's children. For our Nation's most rural communities, like those in eastern North Carolina which I have the privilege to serve, these are valuable programs that can provide our children with relief from the problems they face growing up.

Too many of our rural schools have limited resources which make it difficult to maintain the number of school counselors that are needed to help our children build the confidence to overcome their problems. Because of this, as KidsPeace continues to grow, it is vital that it continues to reach out to America's rural communities and communities throughout the Nation.

Even with a strong faith in God and the support of family and friends, our children sometimes need extra encouragement. This is what KidsPeace is working to do, to build confidence in our Nation's children through sharing and learning.

The organization has established a KidsDay in September for communities and families to honor our children during the stressful time of returning to school. KidsPeace also dedicates time each summer to National Family Month, a time for parents and children to build and strengthen the family bond.

Mr. Speaker, our children are our future, and that reminds me somewhere along the way I have heard that if one wants to touch the past, they touch a rock. If they want to touch the present, they touch a flower. If they want to touch the future, they touch a child.

So, in closing, Mr. Speaker, I would like to say to my colleague who is leaving us, PAUL, you have made a tremendous impact on America because of the type of man that you are. A man of character, a man of integrity. You will long be remembered and appreciated for your contribution to this Nation.

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

Mrs. MORELLA. Mr. Speaker, I want to thank the gentleman from North Carolina (Mr. JONES) for his splendid commentary on the importance of recognizing families and children and programs in the system.

Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Pennsylvania (Mr. FOX).

Mr. FOX of Pennsylvania. Mr. Speaker, I rise tonight to express my support for H. Con. Res. 302, which is a piece of legislation which deals with the importance of children and families in the United States and expresses our support for the goals of the National KidsDay and National Family Month.

This legislation was sponsored by, of course, the gentleman from Pennsylvania (Mr. MCHALE) our good friend. The gentleman is a great U.S. Congressman who is retiring from this body, and I join with the others tonight in saluting him as a great patriot.

Mr. Speaker, I knew the gentleman when I served together with him in the Pennsylvania State House of Representatives. He left that service to go on active duty for the Desert Storm conflict, where he served as an outstanding Marine officer. He has been serving with that particular military organization for at least two decades.

PAUL MCHALE has always been a principled leader, an advocate for children and families in Pennsylvania as well as in this U.S. Congress, and a member and strong leader of the Children's Legislative Caucus, and a pioneer in public-private partnerships such as KidsDay and other legislation dealing with children, for which this legislation is enunciated.

But the gentleman has always been a bipartisan statesman, a role model who has shown that courage and honesty count. I hope that we will soon see, years after his children grow up, and as they do I hope they will allow us to have the gentleman return to public service where he could become Secretary of Defense or to another elected official position.

Certainly, we need him in this country. His family may need him, but the country needs him as well. We certainly acknowledge his service today as being exemplary. We are proud to know him as our colleague and proud to have him as our friend. We know that his family is proud of what he has done as well.

God bless him. Godspeed.

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

Mr. Speaker, I wish to commend KidsPeace for its work over the past century helping children overcome all sorts of crises. National KidsDay and National Family Month, both established by KidsPeace, compel all Americans to focus on parent, child, and family relationships. These celebrations encourage parents and grandparents and caregivers to be involved in the lives of their children.

I believe we should all spend time every day nurturing and encouraging the children that we encounter in our lives. This Member of Congress can certainly appreciate the work of KidsPeace. Every child, which is not always the case, has four fundamental needs that must be fulfilled to lead a peaceful and healthy life: Safety to feel safe and protected; trust to be confident, hopeful and assured; love to be valued and unconditionally accepted; and power to be a child and pursue a purpose, skill, or challenge.

This resolution recognizes KidsPeace, an organization that works hard to meet those needs. Through its good work, KidsPeace helps restore the health and happiness of children who are suffering through crises and traumas.

The demand for organizations such as KidsPeace is apparent. From 1991 to 1992, the organization saw a 150 percent increase in the number of kids coming to it for help. That is when KidsPeace stepped forward on a national level with public initiatives to help prevent and overcome crises that can strike any child.

This extra push to alert Americans to the needs of our children could not come at a better time. Between 1990 and 1996, the number of children rose by more than 5 million to 69.4 million. The United States Census Bureau projects that the number of children will continue to rise over the next several decades reaching 77.6 million by the year 2000.

This resolution is worthy of our support and I urge the Members of this body to do so.

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

□ 0000

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

I think it is appropriate for Congress to recognize the importance of children and families. My husband and I have been very fortunate to have been able to raise nine children, six who were the children of my late sister, and we now have 15 grandchildren. And so I can value and appreciate children and the need for families. KidsPeace really performs that kind of function.

It is an honor to be managing this particular resolution, which I think is so very important. The institution of the family is, indeed, the bedrock of our society and of civilization, and without strong families, the outlook for children is bleak.

Mr. CUMMINGS. Mr. Speaker, I yield myself the balance of my time for just one brief statement.

On the stationery for KidsPeace there is a quote by George McDonald, and I think that it pretty much summarizes the life of our colleague, the gentleman from Pennsylvania (Mr. MCHALE), and the things that he talked about just a moment ago, and certainly I salute him. But the quote is very simple. It says: "A man must learn to love his children not because they are his but because they are simply children."

Mr. ROEMER. Mr. Speaker, I rise in strong support of H. Con. Res. 302, recognizing the importance of children and families in the United States and expressing support for the goals of National KidsDay and National Family Month. I want to thank Reps. PAUL MCHALE, FRANK WOLF, HAROLD FORD, NANCY JOHNSON and DEBORAH PRYCE, who joined me in introducing this resolution last July, as well as Rep. WALTER JONES and the many other Members who helped bring it to the floor today.

We live in an increasingly stressful society these days. Perhaps no one feels this stress more acutely than our nation's children. The pressures of crime, drugs, violence and broken homes are robbing many children of the joys of childhood. There is a growing concern that too many kids are in crisis, and that no one is speaking out for them or trying to help.

That is what this resolution is all about. It is a simple, straightforward, bipartisan appeal on behalf of the children in our nation to pay more attention to their needs, to provide them with a healthy and safe environment, and to give them hope for a secure and prosperous future. The resolution also expresses support for two particular initiatives which are being undertaken on behalf of kids: National KidsDay and National Family Month. Both of these initiatives have been created by KidsPeace, our nation's oldest and largest not-for-profit organization dedicated solely to serving the needs of kids in crisis.

National KidsDay, observed on the third Saturday in September, encourages parents, grandparents and caregivers to spend a day with their children just having fun, and giving them a break from the strains of everyday life. National Family Month is celebrated during the five-week period between Mother's Day and Father's Day. Each week focuses on a specific value that families should provide to their children, including; a safe and secure home; people they can trust; love and value; the power and freedom to grow; and hope for the future.

Mr. Speaker, children are our most precious gift. We cannot afford to let even one child slip through the cracks. KidsPeace and other organizations are doing a wonderful job of reaching out to those children who are most at risk in society, and helping them develop the courage and skills necessary to overcome crisis. But no matter how hard they try, these organizations cannot take the place of loving parents, stable homes, and a healthy environment in which kids can feel safe, loved and positive about their lives and their futures.

This resolution is small in scope but it is large in symbolism. It sends a message to children that we care about them, we understand their problems, we share their dreams, and we want them to enjoy life to the fullest. As Robert Kennedy said: "When one of us prospers, all of us prosper. When one of us fails, so do we all." I urge my colleagues to support this resolution and five all our children a chance to prosper.

Mr. PAPPAS. Mr. Speaker, I rise today to support our veterans by calling for the passage of the S.1021, the Veterans Employment Opportunity Act of 1998. Last year, the House did the right thing by passing H.R. 240 introduced by Representative MICA. This legislation is the Senate's long awaited companion bill and, while I wish it had gone further in its protection of veterans from Reductions In Force, nonetheless it also deserves our passage today.

For too long many of our nation's veterans have been neglected by our own government when it comes to obtaining federal employment. Our nation's veterans, who served so selflessly and risked their lives, face unnecessary restrictions that preclude them from federal employment. All they simply desire is the opportunity to continue serving their nation.

As the result of this legislation, veterans can apply for federal jobs on a more competitive basis at a time when their employment within the federal workforce is declining and approaching an historically low level.

This is a bipartisan bill and one that reflects the interests of the people who have served our country so courageously. I am proud that this legislation has the support of the American Legion. I commend Mr. MICA for his work and urge my colleagues to support it.

Mr. CUMMINGS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time, and urge my colleagues to support this resolution.

Mrs. MORELLA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time and urge all Members to support this resolution.

The SPEAKER pro tempore (Mr. BLUNT). The question is on the motion offered by the gentlewoman from Maryland (Mrs. MORELLA) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 302.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

CAMPAIGN FINANCE SUNSHINE ACT OF 1998

Mr. MICA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2109) to amend the Federal Election Campaign Act of 1971 to require reports filed under such Act to be filed electronically and to require the Federal Election Commission to make such reports available to the public within 24 hours of receipt, as amended.

The Clerk read as follows:

H.R. 2109

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 "Campaign Finance Sunshine Act of 1998".

SEC. 2. FILING OF REPORTS USING COMPUTERS AND FACSIMILE MACHINES.

Section 302(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)) is amended by striking paragraph (11) and inserting the following:

"(11)(A) The Commission shall promulgate a regulation under which a person required to file a designation, statement, or report under this Act—

"(i) is required to maintain and file a designation, statement, or report for any calendar year in electronic form accessible by computers if the person has, or has reason to expect to have, aggregate contributions or expenditures in excess of a threshold amount determined by the Commission; and

"(ii) may maintain and file a designation, statement, or report in electronic form or an alternative form, including the use of a facsimile machine, if not required to do so under the regulation promulgated under clause (i).

"(B) The Commission shall make a designation, statement, report, or notification that is filed electronically with the Commission accessible to the public on the Internet not later than 24 hours after the designation, statement, report, or notification is received by the Commission.

"(C) In promulgating a regulation under this paragraph, the Commission shall provide methods (other than requiring a signature on the document being filed) for verifying designations, statements, and reports covered by the regulation. Any document verified under any of the methods shall be treated for all purposes (including penalties for perjury) in the same manner as a document verified by signature.".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall apply with respect to reports for periods beginning on or after January 1, 2000.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. MICA) will control 20 minutes, and a Member opposed will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. MICA).

Mr. MICA. Mr. Speaker, I ask unanimous consent that I be allowed to yield the balance of my time to the gentleman from Utah (Mr. COOK) and that he be allowed to manage that time, as I am about to lose my most valuable asset as a Member of Congress, and that is my voice.

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

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Utah (Mr. COOK).

Mr. COOK. Mr. Speaker, I yield myself such time as I may consume, and I thank the gentleman from Florida for yielding me this time.

Mr. Speaker, last year I introduced H.R. 2109, the Campaign Finance Reform Sunshine Act. H.R. 2109 requires candidates to file campaign finance disclosure forms electronically with the Federal Elections Commission. The FEC, in turn, would be required to post these disclosures on the internet within 24 hours. My bill is not comprehensive reform, but it is reform Congress can enact this year. Equally important, the Supreme Court would not strike down my bill's reform because of first amendment issues.

I was heartened to see in January of this year the Federal Elections Commission decided to post reports on the internet. The FEC has posted all 1997 and 1998 reports filed by PACs, political parties, and presidential and House campaigns on its web site. Information dating back to 1993 will soon be available.

This move by the FEC is a giant step in the right direction. Computers and the internet are increasingly part of Americans' daily lives. Computers and the internet make it easier and less expensive for people to track fund-raising donations across the Nation. Until now, people have had to pay for a subscription service or come to the FEC headquarters here in Washington to examine the records. State residents would have to go to a lieutenant governor's office to review the records of Federal candidates from their States.

Now, as the saying goes, "Sunshine is the best disinfectant." This rings true with H.R. 2109. Facilitation of public scrutiny provided in this legislation will do more to ensure ethical fundraising than a half dozen committee investigations. It is a fact of life that scrutiny breeds compliance.

Now, some may think the FEC decision this year makes my legislation unnecessary. But, really, the opposite is true. Currently, the FEC has no mandatory obligation or deadline for posting these reports. Now, while I am confident that FEC officials will post reports as quickly as possible in the final weeks of a nationwide campaign, like the House campaign this year, it may take days or weeks to get reports posted on the web at a time when the largest contributions are being made and the public interest is at its height.

In my view, the goal of any reform proposal would be to make it easier for citizens to know who funds their political campaigns, without trampling on any American's constitutional right to participate in the political process.

I want to thank majority and minority staff of the Committee on House Oversight, who worked with my staff to make technical changes that will bring bipartisan support for this important legislation.

In short, this legislation is progressive reform that can be passed by Congress with bipartisan support, can be signed into law, withstand judicial scrutiny, and it will benefit all Americans.

Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Mr. Speaker, I thank my colleague from Utah for yielding me this time.

Mr. Speaker, I should note at this juncture in the RECORD that the illness which afflicts our good friend from Florida, I suppose there are some in this chamber, indeed, perhaps quite a few in this chamber, who do not wish ill upon anyone, but perhaps would like to see that affliction of the voice visited upon this Congressman from Arizona from time to time.

Be that as it may, and mindful, perhaps, of that situation, let me, in all sincerity and seriousness, thank my colleague from Utah for having the foresight to offer this common sense piece of legislation.

Mr. Speaker, my colleague quoted the words that came to us I believe in history from Mr. Justice Brandice, who pointed out that time and again, in the public interest, sunshine is the best disinfectant. Indeed, Mr. Speaker, in much the same way that we invited television into this chamber, so that these remarks are seen throughout the Nation by our fellow citizens, so, too, as we move through new communications capabilities to involve and disperse data upon the internet, we offer the American people another glimpse of sunshine and more than just a ray of hope, because this legislation compels the Federal Election Commission to carry the step of sunshine a step further and to post these contributions on the internet within 24 hours.

My colleague from Utah pointed out, and, indeed, if the truth be told, as many of us are involved in spirited campaigns where we champion differences in philosophies, to have these contributions available for public scrutiny, or at least disclosed by candidates within a 48-hour period down the stretch of a campaign, how much more vital it is, Mr. Speaker, to make sure that that information is available to every American on the internet.

My colleague pointed out that already the FEC has made strides, but this legislation will ensure that we go the extra mile to give voice to the notion of genuine reform by bringing in the sunshine of full disclosure and living up to the spirit of what Mr. Justice Brandice advocated.

So it is in that spirit, again thanking my colleague from Utah, because I believe the Nation owes him a debt of gratitude for seizing upon this common sense piece of legislation, that I urge the House and Members of both parties to join with us in its passage. I would advocate strong support for H.R. 2109.

Mr. COOK. Mr. Speaker, I yield myself such time as I may consume, and I certainly want to thank my colleague from Arizona for those words.

Mr. Speaker, the House today can take a small step toward increasing accountability to those whom we represent. The House spent many hours debating campaign finance legislation this year. It appears that the product passed by the House has little chance of becoming law. That is why I think this legislation is so important. It is a significant yet noncontroversial reform that we owe to our constituents, and I urge my colleagues to support the Campaign Finance Sunshine Act.

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

□ 0010

The SPEAKER pro tempore (Mr. BLUNT). The question is on the motion offered by the gentleman from Florida (Mr. MICA) that the House suspend the rules and pass the bill, H.R. 2109, 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.

CONFERENCE REPORT ON H.R. 3874, WILLIAM F. GOODLING CHILD NUTRITION REAUTHORIZATION ACT OF 1998

Mr. GOODLING. Mr. Speaker, I move to suspend the rules and agree to the conference report on the bill (H.R. 3874) to amend the National School Lunch Act and the Child Nutrition Act of 1966 to provide children with increased access to food and nutrition assistance, to simplify program operations and improve program management, to extend certain authorities contained in those Acts through fiscal year 2003, and for other purposes.

The Clerk read the title of the bill.

(For conference report and statement see proceedings of the House of October 6, 1998 at page 23847.)

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. GOODLING) and the gentleman from Missouri (Mr. Clay) each will control 20 minutes.

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

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume. I am not sure who is in charge of scheduling. Obviously it has nothing to do with the order of importance. The President says we do not do anything in education. Here we are at 10 minutes after midnight with three very, very substantive pieces of legislation. I am sure the President is not watching television, so he will not know that we did something again. This is number 15, 16 and 17, as a matter of fact, from this committee that we are doing at this wonderful hour in the morning.

Mr. Speaker, H.R. 3874 is the reauthorization act of 1998 and it is one of the most important bills we will enact. Its main purpose is to provide our Nation's children and participants in the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) with vital nutritional assistance.

Long before I came to the House, I was familiar with the School Lunch Program. As a former educator, I could see firsthand the importance of providing nutritious meals to children in order to ensure that they had the health and energy they needed to do well in school.

I believe the legislation we are considering this morning will go a long way toward improving the operation of these programs, freeing them from fraud and abuse and ensuring that children are provided with nutritious meals.

I would like to mention a few key provisions of the legislation. First, the legislation provides additional flexibility to States and local providers of nutrition programs. Second, the Summer Food Service Program is amended to encourage greater participation by private, nonprofit organizations. This change is particularly important to rural areas, some of which I represent, where it is otherwise difficult to find program sponsors. Third, this legislation includes key provisions that address fraud and abuse in both the Special Supplemental Nutrition Program for Women, Infants and Children and the Child and Adult Care Food Program. Next, this legislation modifies current nutrition programs in order to provide snacks to schoolchildren participating in school or community-based afterschool programs with an educational or enrichment purpose. Our Nation is currently undertaking efforts to reduce juvenile crime. Children participating in afterschool programs are less likely to engage in delinquent activities. I believe it is important that we support such programs by providing participants with a nutritious meal.

Last but certainly not least I am pleased this agreement makes permanent automatic eligibility under the Child and Adult Care Food Program for children participating in the Even Start Family Literacy Program. We will now be able to provide the children of some of our most needy families who are making an effort to improve the quality of their life and the lives of their children with nutritional assistance.

Mr. Speaker, this is a good bipartisan bill. I want to acknowledge those Members who contributed their time and effort to crafting this legislation. First I would like to thank the gentleman from Delaware (Mr. CASTLE) who spearheaded the development of this legislation in the Committee on Education and the Workforce. Working with him were the chairman of the Subcommittee on Early Childhood, Youth and Families the gentleman from California (Mr. RIGGS), the gentleman from Missouri (Mr. CLAY), the gentleman from California (Mr. MARTINEZ) and the gentlewoman from California (Ms. WOOLSEY).

From the Senate side, I would like to mention the efforts of RICHARD LUGAR, chairman of the Senate Subcommittee on Agriculture, Nutrition and Forestry, staff from both the House and the Senate who worked on this legislation, including Lynn Selmser, Vic Klatt, Alex Nock, Marci Phillips, Dave Johnson, Mike Ruffner, Dan Spellacy, Mark Halverson and Ed Barron.

Senators MITCH MCCONNELL, THAD COCHRAN, PATRICK LEAHY and TOM HARKIN have also contributed greatly to the final version of this important legislation.

On a personal note, I want to thank Senator LEAHY, whom I have sat across at many House-Senate conferences and have always found to be fair and respectful of our differences and working in the best interests of our children, for offering a motion in the conference to name this important reauthorization after me. I am deeply honored and profoundly humbled by his gesture and that of my colleagues.

Mr. Speaker, this bill goes a long way in improving our Nation's child nutrition programs. I would like to stress that it makes these changes without spending any additional Federal dollars. These are important programs that provide nutritional assistance to millions of individuals. By strengthening these programs, we will ensure that they will continue to feed children and provide nutritional assistance to participants in the Special Supplemental Nutrition Program for Women, Infants and Children for years to come.

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

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

Mr. Speaker, if the President were awake at this time of night and watching these proceedings, I am sure that he would say that while he is pleased that this important measure is moving forward, he is also disappointed that we have yet to tackle even more critical priorities in education. This Congress has failed to take action on reducing class sizes. This Congress has failed to take action to address crumbling and overcrowded schools. This Congress has failed to take action on revitalizing our public schools. If this Congress fails to take action on these critical education priorities, we are shortchanging America's schoolchildren. I am sure that would be the response that our President would make.

This bill, the William F. Goodling Child Nutrition Reauthorization Act of 1998, before the House is the product of bipartisan work and an excellent example of what can be accomplished when

we join forces to address problems facing our Nation's youth. This important legislation firmly places our child nutrition programs on the path to serve the needs of America's children in the 21st century.

H.R. 3874 expands and improves the focus of child nutrition programs in numerous ways. First, it ensures that the Summer Food Service Program will reach more needy children with more nutritious meals. Second, the bill adds provisions to guard against fraud in the WIC program. In addition, it establishes a universal school breakfast pilot project which will examine the close link between education and nutrition.

Finally, Mr. Speaker, and most importantly, this legislation enables institutions providing afterschool care to receive reimbursement for meal supplements served to children under the age of 18. This supplement is one more incentive for parents and children to participate in productive, afterschool programs.

In closing, Mr. Speaker, I want to extend my thanks for the hard work of the gentleman from Pennsylvania (Mr. GOODLING), the gentleman from Delaware (Mr. CASTLE) and the ranking subcommittee member the gentleman from California (Mr. MARTINEZ) for crafting this legislation. I especially want to thank the gentlewoman from California (Ms. WOOLSEY) who spearheaded much of the reauthorization on our committee. Her work has been invaluable and many of the bill's provisions are based on legislative proposals that she championed.

Mr. Speaker, this legislation is a positive step forward. I urge its adoption by the House.

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

Mr. GOODLING. Mr. Speaker, I yield such time as he may consume to the gentleman from Delaware (Mr. CASTLE) who championed this bill through our committee.

Mr. CASTLE. I thank the gentleman from Pennsylvania (Mr. GOODLING) and appreciate tremendously his effort in this direction. I do appreciate the work of the minority members on this bill as well as all the staff individuals as well.

I would say something to the ranking member before I get into the goodness of this bill, and I mean this very sincerely, because it really has bothered me because the President came here in January and he talked about reducing class size, as the gentleman has indicated, and I think he is committed to that.

□ 0020

He talked about rebuilding, revamping schools, which I think he is also committed to, but I think we all need to recall that the funding mechanism that he talked about, that was the tobacco legislation funding which would not be. Ever since it has been very apparent for at least 3 or 4 months that that was not going to pass, there has been no shift into any other kind of funding put forward by the White House or anybody else, and I think we need to recognize that fact.

I would like to do these things, too. Maybe the Federal Government should not be doing it but the President should not keep giving the illusion that this can be done because the funding is simply not there.

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

Mr. CASTLE. I yield to the gentleman from Missouri.

Mr. CLAY. Mr. Speaker, we find monies for all other kinds of products. I would think that we would find money for these most essential projects that the country needs.

Mr. CASTLE. Reclaiming my time, they always have been done by the State and local governments, and secondly it seems to me that if the White House is referencing them and wants to get them done and puts up the money in the source of the tobacco money and then loses that, they have some obligation to come back and try to help out.

I just make a point. I do not want to make a fight of it tonight. It is too late, but I do think we have to recognize that. Let us talk about something that is good, which is this bill, which the gentleman worked on, and I have comments which I will submit when I revise and extend, but I just want to comment that I am very pleased to support this legislation.

I truly am pleased with the work that everybody did on it. It could not have happened otherwise. This is not an easy piece of legislation. We have had some tremendous staff work on it. It has been, frankly, a real pleasure to shepherd the bill through the legislative process. It really was a collaborative effort with Republicans and Democrats, with the House and the Senate working on this, and with the U.S. Department of Agriculture which was tremendously helpful on this.

This is truly, I think, a strong bipartisan bill. It is the kind of bill we should do at 4:00 in the afternoon so people can see what we can do by working together. I would like to thank those who worked on it, particularly the chairman and certainly the gentleman from California (Mr. MARTINEZ) and the gentleman from Missouri (Mr. CLAY) who worked so very hard on this, and the gentlewoman from California (Ms. WOOLSEY) who is on the floor here, who worked so very hard on it.

The gentleman from Pennsylvania (Mr. GOODLING) deserves special recognition. He has been a long time supporter of child nutrition programs and it is why it was such a pleasure to vote in conference to name this bill after our distinguished chairman, and so now we have before us the William F. Goodling Child Nutrition Authorization Act.

While I realize that we have not been able to address everyone's concerns with this bill, although we got close to it, I do believe we have an excellent compromise that will go a long way towards improving our Nation's child nutrition programs by reducing red tape and bureaucracy, finding and punishing fraud and abuse, giving program providers more flexibility, ensuring our Nation's children have access to healthy meals in schools, in child care settings, in after-school programs and during the summer months, and providing low-income pregnant and postpartum women, their infants and young children, access to nutritious foods.

Frankly, one of the greatest accomplishments is the fact that we have been able to make these important changes without blowing the caps of our budget. I could go on about what else is in here but I think the people on the floor here tonight are generally familiar with it.

I would just like to close by thanking everybody who has worked on this because without that sincere bipartisan effort it is not the kind of bill we would be able to get done.

Mr. CLAY. Mr. Speaker, I yield 5 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I doubt that I will use 5 minutes. Mr. Speaker, it gives me such great pleasure to rise in support of H.R. 3874, the William F. Goodling Child Nutrition Reauthorization Act of 1998. That is a lot to say, Mr. Speaker. One has to be awake to do that.

This legislation will benefit children in schools and child care facilities across our Nation. Our teens will be safer because it will be easier for schools and community organizations to offer them after-school programs.

Elementary students are going to enter the classroom ready to learn and able to do better work in school because this legislation takes an important first step towards making breakfast available at school for all elementary school children.

H.R. 3874 will allow 5 states to provide school breakfasts to all their students free of charge. Two studies have proven that kids who eat breakfast improve both their grades and their school behavior.

In today's world, where two working parents are the norm and long commutes common, more and more families are out the door, on the road, early in the morning, with no time to sit down for breakfast. Whether we like it or not, children, even when they have food at home, leave their home and arrive at school hungry.

Unless we want to pass a law requiring every family to feed their kids breakfast before school and then hire a

bunch of breakfast police to enforce it, we need to start looking at school breakfast programs in a different way, and this bill does just that.

This bill also makes it easier for schools and community organizations to offer after-school programs to teenagers by making it easier to pay for their snacks.

We know that the vast majority of juvenile crime and teen pregnancies occur after the school bell and before the dinner bell. We desperately need more after-school programs for adolescents, but feeding adolescents, even when it is just a snack, can be expensive.

H.R. 3874 will open the child and adult care food programs to low income teens and to more after-school programs. This is not Twinkies for teens. The Police Athletic League and other law enforcement organizations have strongly endorsed the benefits of after-school programs for adolescents. This legislation will make more of these programs possible and give teens a place to be after school.

H.R. 3874 will benefit millions of children and I would say to the gentleman from Pennsylvania (Mr. GOODLING) that he can be proud to have this bill carry his name.

Children are only 25 percent of this country's population but they are 100 percent of our future. The William F. Goodling Child Nutrition Reauthorization Act is a sound investment in America's most precious resource: Our children. I urge my colleagues to support it.

Mr. CLAY. Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

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

Mr. Speaker, I will just close by reciting the 21 programs that came from our committee: Higher Education Act, Reading Excellence Act, Dollars to the Classroom Act, D.C. Scholarship, Prepaid College Tuition Plans, Job Training Reform, Emergency Student Loans, Quality Head Start, School Nutrition, Charter Schools, Drug Education Initiative, A-plus Savings Accounts, $500 million more for Special Education, Loan Forgiveness for New Teachers, Teacher Testing, Individuals with Disabilities Education Act, High-Tech Job Skills/Vocational Education, Bilingual Education Reform, Prohibition on New Federal School Tests, Equitable Child Care Resolution, Juvenile Justice.

That is a pretty healthy menu, I believe.

My friend from Delaware did not want to take the gentleman from Missouri on. I want to make very clear that the whole idea of pupil/teacher ratio has nothing to do with the Federal Government whatsoever. That is none of our business and if there are not quality teachers in the classroom, it would not matter whether they are one-on-one. If that is something we want to do, fine.

Secondly, I want to make very sure that everybody understands, the Federal Government has nothing to do with maintenance and building of school buildings.

What the Federal Government does have something to do with is putting the 40 percent that they promised 30 years ago into special education, and every year the Los Angeles Unified School District would have had $18 million more, every year, to do whatever they wanted to do about class size and to do whatever they wanted to do about maintaining buildings. That was a responsibility because we sent 100 percent of the mandate for special education.

What did the budget that came from the President of the United States do about special education? Cut it; did not even include an increase for inflation; cut it, when there are more and more students coming in constantly into special ed, the most expensive program that we have.

□ 0030

Not only the most expensive, but an injustice to an awful lot of youngsters who find themselves in that program simply because they have some reading difficulties.

So I do not take a back seat to anybody in relationship to what this committee has done during the last 2 years to try to improve education and job training in this country.

Mr. CLAY. Mr. Speaker, will the gentleman yield to me just for a short question?

Mr. GOODLING. I yield to the gentleman from Missouri.

Mr. CLAY. Mr. Speaker, how many of the 21 bills that the gentleman has cited have become law?

Mr. GOODLING. Mr. Speaker, we are going to have Higher Education, we are going to have Reading Excellence.

Mr. CLAY. Mr. Speaker, if the gentleman will yield, we are going to.

Mr. GOODLING. Mr. Speaker, we are going to have Prepaid College Tuition Plans. We are going to have Job Training Reform. We are going to have Emergency Student Loans. We are going to have Quality Head Start. We are going to have School Nutrition. We are going to have Charter Schools. We are going to have Drug Education Initiatives. We already have $500 million more for Special Education. We have a Loan Forgiveness for New Teachers. We had to bail out the department in order to get the loan situation straightened out.

All of those are there in law by the time we finish at 1 or 2 o'clock this morning. It will be a magnificent effort on the part of the committee of which the gentleman from Missouri was a part.

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

Mr. MARTINEZ. Mr. Speaker, I rise in strong support of the conference report on H.R. 3874, the William F. Goodling Child Nutrition Reauthorization Amendments of 1998. This legislation shows what we can do when we put partisanship aside in the name of commitment to our Nation's children.

The Federal child nutrition programs provide access to the healthy meals that are essential to the success of our children today, and well into the future. The reauthorization measure before us this morning strengthens and improves the nutrition programs to meet the needs of children and their families as we move into the 21st century. For instance, this legislation will reimburse schools and other institutions for snacks that they provide to children under age 18 in after-school programs.

The majority of violence and other crimes committed against and by youth occurs after school—between the hours of 3 p.m. and 8 p.m. I believe that the support we provide for after-school programs in this legislation renews our commitment to the prevention of juvenile crime and the provisions of positive alternatives for youth.

It is important that we take other steps to shape the nutrition programs to address the situation of today's families.

As we have all heard time and time again, the most important meal of the day is breakfast. An alarming number of children do not eat breakfast, and thus begin their school day lacking the nutrients and energy to effectively learn. This is not just a problem tied to poverty. In our society, more and more parents have to work, regardless of their economic status.

It is my opinion that one of the most important and cost-effective commitments we can make toward strengthening education in this country is by providing breakfast for every schoolchild. That is why I enthusiastically endorsed Congresswoman WOOLSEY's legislation to authorize universal school breakfast. Through her advocacy, we have been able to include in this legislation a pilot program, which would follow the implementation of universal school breakfast in six States and report on what I believe will be its strong success.

I would have preferred that this legislation authorize mandatory spending for this pilot, to ensure that dedicated, consistent funding is provided over the five years of the program and its accompanying study. I urge appropriations to commit themselves to funding this program for the length of this authorization, as some in the State already have pledged to do.

Mr. Speaker, H.R. 3874 renews our firm commitment to the health and success of our Nation's children, and I strongly support its passage.

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

The SPEAKER pro tempore (Mr. BLUNT). The question is on the motion offered by the gentleman from Pennsylvania (Mr. GOODLING) that the House suspend the rules and agree to the conference report on the bill, H.R. 3874.

The question was taken.

Mr. GOODLING. Mr. Speaker, on that I demand the yeas and nays.

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.

GENERAL LEAVE

Mr. GOODLING. 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. 3874.

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

There was no objection.

CONFERENCE REPORT ON H.R. 1853, CARL D. PERKINS VOCATIONAL-TECHNICAL EDUCATION ACT AMENDMENTS

Mr. GOODLING. Mr. Speaker, I call up the conference report on the bill (H.R. 1853), to amend the Carl D. Perkins Vocational and Applied Technology Education Act, and I ask unanimous consent for its immediate consideration; that all points of order be waived; and that the conference report be considered as read.

The Clerk read the title of the bill.

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

There was no objection.

The SPEAKER pro tempore. Pursuant to the unanimous consent request, the conference report is considered read.

(For conference report and statement, see prior proceedings of the House of today.)

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. GOODLING) and the gentleman from Missouri (Mr. CLAY) each will control 30 minutes.

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

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

Mr. Speaker, I rise in strong support of the Conference Agreement on H.R. 1853, the Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998.

I cannot think of a better gentleman to have this bill named. I do not want to put "for" at the end a sentence; I am an educator. But Carl was just a wonderful friend, a great chairman, and certainly a strong supporter of vocational education.

This agreement is based upon four overarching principles: Strengthening academics in this country's vocational-technical educational program; broadening opportunities for vocational education students, particularly in areas of high technology; sending more money to the classroom; and significantly increasing State and local flexibility for the design of innovative programs that are responsive to local needs.

This legislation will move our Nation's vocational-technical education programs into the 21st Century, and more importantly will assist the 75 percent of American youth who do not complete a 4-year college degree.

Our Nation's young people should receive a high quality education whether they are bound for college, the military, further training, or directly into the work force.

Today's vocational education students need a quality education, a strong academic foundation, and relevant skills in order to thrive in today's economy.

This legislation makes a number of important improvements to current law that authorizes vocational education programs.

First, the agreement will strengthen the academic component of vocational education. It asks States and local school districts to describe in their State and local applications how they plan to improve the academic and technical skills of students participating in vocational education.

It also asks States to tell us how vocational education students will be taught to the same challenging academic proficiencies as all other students. The legislation broadens opportunities for students participating in vocational education programs.

In 1950, 60 percent of all jobs in the Nation were unskilled. In 1990, this figure dropped to 35 percent. By the year 2000, it is projected to drop to 15 percent.

We need to make sure that vocational education students have opportunities to prepare for continued education and for high-skill high-wage jobs. For this reason, the agreement places an expanded emphasis on technology.

With the increased emphasis on academics and technology, vocational education students will be better prepared for expanded educational and employment opportunities.

Finally, the agreement not only sends more money to the local level than under current law, but it provides those at the local level with more flexibility in how to spend their money.

Local school districts and postsecondary institutions will be able to decide how to best meet the needs of their students. They will have the ability to create innovative programs to meet their individual local needs.

Under current law, only 75 percent of Federal vocational education dollars are required to go locally. This agreement requires that no less than 85 percent of the Federal education dollars go to local school districts or postsecondary programs.

If we are going to see true change occur in vocational-technical education, it is going to come from the local level, and that is where our money should be.

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

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

Mr. Speaker, I am pleased to rise in support of the conference report. This report represents nearly 4 years of dedicated work by the Members on both sides of the aisle.

During this Congress, we have worked closely with the gentleman from Pennsylvania (Chairman GOODLING) and our colleagues in the Senate to craft legislation to improve the vocational education system. In addition to extending the authorization of this program for 5 years, the bill improves the structure of our vocational education system.

We continue, under this bill, to target funds on poverty, ensuring that the most needy of school districts receive the assistance.

I want to compliment the gentleman from Pennsylvania (Chairman GOODLING), my ranking subcommittee members, the gentleman from Michigan (Mr. KILDEE), the gentleman from California (Mr. MARTINEZ), the gentleman from California (Mr. MCKEON), the gentleman from Pennsylvania (Mr. PETERSON), and the gentleman from Texas (Mr. JOHNSON) for their work on this legislation.

This bill deserves the strong support of all Members of this body.

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

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

Mr. Speaker, I want to thank Chairman JEFFORDS who led the Senate efforts on the legislation, and our House conferees the gentleman from California (Mr. RIGGS) who chairs the Subcommittee on Early Childhood, Youth, and Families, the gentleman from California (Mr. MCKEON), the gentleman from Pennsylvania (Mr. PETERSON), the gentleman from Texas (Mr. JOHNSON), the gentleman from Missouri (Mr. CLAY), the gentleman from Michigan (Mr. KILDEE), and the gentleman from California (Mr. MARTINEZ).

I would also like to thank staff who have worked very hard in helping us develop this legislation, including Krisann Pearce, Sally Lovejoy, Mary Clagett, Vic Klatt, June Harris, Alex Nock, and Marci Philips.

The conference agreement on H.R. 1853 is based on good public policy. The agreement expands opportunities for vocational education students, placing increased emphasis on academics, technology, and State and local innovation.

Mr. Speaker, I urge your support for this legislation.

Mr. MARTINEZ. Mr. Speaker, I rise in support of the conference report on H.R. 1853, the Carl Perkins Vocational and Applied Technology Amendments of 1998. The Perkins Act

has helped millions of students attain the education and training needed to compete in today's workforce.

In particular, the act has provided access to vocational education to a variety of underserved populations—women, including single mothers and displaced homemakers; individuals with disabilities; and students facing barriers to educational achievement, such as limited english proficiency. The reauthorization legislation before us today, I believe, strengthens the Federal Vocational Education Program.

We merge the best of the House and Senate bills to provide for a system that holds vocational education to high academic standards and accountability. We also reaffirm our commitment to special populations, and ensure that not only are they provided access to vocational education, but that they also are included in the quest for high quality.

I am also pleased that disagreements on the formula have been resolved, striking a balance between providing support for local schools and leveraging resources in leadership activities. Just as importantly, this new formula retains the Federal commitment to target scarce education dollars to the neediest students.

Finally, I would like to express my strong support for the provisions in the legislation that preserve the tech-prep program.

Tech-prep provides comprehensive links between vocational education and training in secondary schools and postsecondary education institutions.

As such, the tech-prep program enhances the Federal commitment to provide vocational education students with the skills and education to pursue a successful future after high school—whether it involves obtaining additional training, pursuing a baccalaureate degree, or entering the workforce.

I thank Chairman GOODLING and Chairman JEFFORDS for their commitment to reaching bipartisan, bicameral agreement on vocational education reauthorization.

While these negotiations were lengthy, and often contentious, I believe the final product was worth the effort.

I urge my colleagues to join me in support of passage of this conference report.

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

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 2206, COATS HUMAN SERVICES REAUTHORIZATION ACT OF 1998

Mr. GOODLING. Mr. Speaker, I move to suspend the rules and agree to the conference report on the Senate bill (S. 2206) to amend the Head Start Act, the Low-Income Home Energy Assistance Act of 1981, and the Community Services Block Grant Act to reauthorize and make improvements to those Acts, to establish demonstration projects that provide an opportunity for persons with limited means to accumulate assets, and for other purposes.

(For conference report and statement, see proceedings of the House of October 6, 1998 at page 23865.)

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. GOODLING) and the gentleman from Missouri (Mr. CLAY) each will control 20 minutes.

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

GENERAL LEAVE

Mr. GOODLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 2206.

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

There was no objection.

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

Mr. Speaker, I rise in support of the conference report on S. 2206, the Coats Human Services Reauthorization Act of 1998 named after the retiring Senator from Indiana.

I would like to take this opportunity to recognize Senator DAN COATS, not only for his remarkable efforts on what will be known as the Coats Human Services Act of 1998, but for his years of service and dedication to education and human services issues. He has been a staunch and compassionate advocate for children. We will miss his insight and wisdom that are reflected in dozens of laws that have and will continue to have positive impact on the lives of millions of American families.

I want to express my sincere appreciation to the members of the conference committee for their diligent efforts to resolve the differences between the House and the Senate bill. This has truly been a bipartisan and bicameral effort.

I want to thank the gentleman from Delaware (Mr. CASTLE), the gentleman from Indiana (Mr. SOUDER), the gentleman from California (Mr. MARTINEZ) and the gentleman from Missouri (Mr. CLAY), the ranking member of the committee, who have worked so diligently on this bipartisan bill. In addition I would like to recognize the gentleman from California (Mr. RIGGS) who was so very important to the development of the legislation.

Due to them and many others who worked with us in crafting this bill, we have before us today a bipartisan conference agreement, an agreement that will lead to better services for millions of disadvantaged families across the Nation.

The Senate has already passed the conference report. Senators JEFFORDS, COATS, KENNEDY and DODD led the Senate efforts on this legislation and have successfully ushered it through the Senate.

The efforts of all these Members have allowed us to move forward on a very important piece of legislation, to reform our Nation's Head Start, Community Service Block Grant and Low-Income Home Energy Assistance Programs.

The legislation makes important changes to these acts that will result in improved services, increased quality, and more accountability.

Title I of the legislation contains important changes to the Head Start program. This bill firmly establishes quality as the focus of the authorization through a variety of measures that strengthen the education component of Head Start. Namely, the bill ensures that local Head Start agencies will be held accountable for successfully preparing children to enter school ready to read by inserting new educational performance standards and measures by which individual Head Start program performance will be measured. The founder of Head Start said that this is the one area that has disappointed him, and that is the area of preparing children to enter school, and it is basically an education preparation program, and we think that in this bill that it will truly be that all over the country.

The bill requires that at least half of all Head Start teachers possess a college degree in early childhood education or related field by the end of the year 2003. It is an important requirement if we are to ensure that Head Start's education service rival those of the best preschools in the Nation.

The bill strikes the appropriate balance between quality and expansion. This is something I insisted on in our House-Senate conference. It slows the rate of growth of the program and it increases funding for quality in the initial years of the authorization, so that the Head Start program has the time and means to develop greater capacity to provide higher quality services.

Title II of the legislation extends the authorization and makes changes to the Community Service Block Grant Act program.

This bill will better enable States and local communities to eradicate poverty, revitalize high poverty neighborhoods, and empower low-income individuals to become self-sufficient.

As with Head Start, this bill increases program accountability and CSBG. It encourages the development of effective partnerships between government, local communities and charitable organizations, including faith-based organizations, to meet the needs of impoverished individuals, and it encourages innovative community-based approaches to attacking the causes and effects of poverty.

I have been a strong supporter for many years of CSBG and the programs

that it supports. I feel that this legislation will result in improvements in CSBG and will further improve services for the poor in each local community.

Title III of our legislation extends the authorization of another important program, the Low-Income Home Energy Assistance Program. LIHEAP provides heating and cooling assistance to almost 5 million low-income households each year. Individuals and families receiving this vital assistance include the working poor, individuals making the transition from welfare to work, individuals with disabilities, the elderly, and families with young children.

Finally, this legislation establishes a new demonstration program providing funding for individual development accounts, matched saving accounts for low-income individuals for post-secondary education, home purchases and business capitalization.

I commend Senator COATS and the gentleman from Indiana (Mr. SOUDER) for their insight in the development of this demonstration program.

Finally, I want to give special thanks to numerous staff who have worked for so many weeks, months, years to resolve the various differences on this bill. Their work has culminated in a strong bipartisan bill. Specifically, I would like to thank Sally Lovejoy, Vic Klatt, Mary Clagett, Denzel McGuire and Rich Stombres of our committee staff for their hard work on this bill, as well as Alex Nock and Marci Phillips of the Minority staff.

Let me close by saying that the legislation before us today is truly one of the most important pieces of legislation the 105th Congress will pass this year. It is a bipartisan bill that greatly improves the delivery of services provided under Head Start, CSBG and LIHEAP. It is my belief that many families will benefit from the improvements made under this act. I urge my colleagues to vote for the bipartisan conference report.

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

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

Mr. Speaker, this legislation reauthorizes Head Start, Low-Income Home Energy Assistance, and Community Services Block Grant programs. In addition, it establishes a new program, Assets for Independence, which will assist low-income families to achieve economic security.

The programs authorized in this bill are critical to children and to seniors. In addition to reauthorizing expiring programs, this legislation makes several needed improvements. In the Head Start section, the bill increases to 10 percent the setaside for early Head Start, the program providing services to low-income infants and toddlers and their families. This will ensure that thousands of additional infants can experience the benefits gained in this extraordinary program.

This bill reauthorizes the LIHEAP program for 5 years, but also concentrates its weatherization services for low-income individuals with higher energy needs.

Finally, Mr. Speaker, this legislation institutes important accountability provisions in the Community Services Block Grant program that will enable us to document its great successes.

In closing, I want to thank the gentleman from Pennsylvania (Mr. GOODLING), our chairman; the ranking subcommittee member, the gentleman from California (Mr. MARTINEZ); the gentleman from Delaware (Mr. CASTLE); and the gentleman from Indiana (Mr. SOUDER) for their hard work on this conference agreement. I believe this strong bipartisan measure, which deserves the support of all Members of this Chamber, should be enacted.

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

Mr. GOODLING. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. SOUDER), who was with Senator COATS for a long time before he came to the Congress of the United States, and who has been very important in putting together parts of this legislation

Mr. SOUDER. Mr. Speaker, I thank the chairman for his leadership and all of the others on the conference committee.

It is unfortunate that it is this late at night that we have one of the most important pieces of legislation that could possibly be before us. It addresses the most vulnerable Americans in our society, our children, the working poor and the elderly, and it is an innovative compromise that we have been able to work between the parties and between the bodies.

It is of special meaning to me in 3 different ways, and I want to briefly talk about those. One is my relationship to my former employer, Senator DAN COATS. Second is these issues are many of the things that motivated me to particularly run for Congress, and they are issues that as a staff member for 10 years I worked with, and now, to see some of them come to fruition as part of law is indeed a special honor and a privilege.

So let me touch on a couple of these issues together. Senator DAN COATS is retiring this year after many years in the House and Senate, and as a friend of his who worked in his first primary and general election campaign, we worked together with many goals. Part of those goals are very tied to our personal and deep religious commitments and how we as Christians would address issues facing the most vulnerable in our society. He has tried to be one of the more creative leaders on our side in looking at the balance of how do we work through the private sector, how do we work in joint cooperation in public and private, and what is the role of government in helping develop opportunities.

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When I served as Republican staff director on the House Select Committee on Children, Youth, and Families, we looked at the Head Start program and saw that it was a Federal program that was very effective in at least some areas. And what we have done in this bill is to try to make it even more effective by putting better educational standards in, through targeting better pay for Head Start teachers, and I think that is an example of a Federal program that has worked.

But there are several other things in this bill. Back when I was in the House and when I worked for Senator COATS in the Senate, we were trying to look for creative ways of how to empower private sector organizations, and one of those things is a charitable tax credit.

For the first time, working with the gentleman from Virginia (Mr. SCOTT) on the minority in our committee, we were able to pass in the 10 percent of the State's community service block grants they can use that money to help offset an expansion of the State charitable tax credit. We have not been able to pass other pieces of legislation at this point with it, but it is an important first step.

The gentleman from Ohio (Mr. HALL) and the gentleman from Virginia (Mr. WOLF) have been leaders in the individual development accounts, the Assets for Independence that DAN COATS has supported for a long time as I have. And this is another innovative way to help those who are less fortunate to develop the assets they need, whether they use them for their own personal expenses or whether it is for homes or housing or to develop a business. It is an important breakthrough.

It is something that we worked out when I was a house staffer for Congressman COATS and as a Senate staffer, and it is a tremendous victory for my fellow and former staffers, Stephanie Monroe and Sharon Soderstrom and Mike Gerson to see many of these dreams actually become part of law.

DAN COATS has been a personal model for me. It is so fitting and appropriate that this bill is named after him, because he is a beacon of light and a personal moral example. An example of leadership, of how someone in government can be in both their personal and public life a model for young people around the country; a model for legislators as to how to be creative in their legislation, of how to be a conservative and yet have a heart for the poor, a heart for the underprivileged.

It has been a great honor to both work for him and now with him in this United States Congress, and he is going to be deeply missed by me and many others.

Mr. CLAY. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I rise in support of the Human Services Reauthorization Act. The programs reauthorized by this legislation, Head Start, Community Service Block Grants, and LIHEAP, help our neediest Americans to live learn and grow.

I am particulary pleased that the Community Services Block Grants include reauthorization for a demonstration project to test the effectiveness of Individual Development Accounts, IDAs. IDAs are dedicated savings accounts that can be used for education. They can be used for first home purchase or to start a business. Each deposit made by the low-income account holder is matched by the community organization which sponsors the IDA.

I was able to leave welfare when I was in trouble at one point because I invested in myself. IDAs allow individuals in the same kind of circumstance I was in to invest in themselves. IDAs give low-income individuals a needed chance to invest in themselves and in their futures. Because their deposits are matched, IDA accounts grow and lives are changed for the better.

This country has been helping middle- and upper-income families invest in themselves and their future for years. For example, there are tax deductions for home mortgage. There are tax break for IRAs and tax breaks for other pension accounts. There are no breaks for low-income individuals who try to save. In fact, in some cases there are actually penalties if a low-income person accumulates assets.

So, Mr. Speaker, the Human Services Reauthorization Act will help millions of low-income Americans change their lives and I am proud to join my colleagues on both sides of the aisle in supporting it.

Mr. GOODLING. Mr. Speaker, I yield such time as he may consume to the gentleman from Delaware (Mr. CASTLE) an important member of the committee.

Mr. CASTLE. Mr. Speaker, I thank the gentleman from Pennsylvania (Mr. GOODLING) for yielding me this time, and I will try to be brief because of the hour.

Mr. Speaker, everything that has been said is so significant. And the Head Start program, the Community Services Block Grant which was heard about, and also the Low-Income Home Energy Assistance program which has struggled politically in this body a lot of times, have gone through strong reauthorizations.

I just would like to focus on the Head Start provisions of this bill for a couple of reasons for a moment. I believe that educational welfare for our children starts well before they even walk into kindergarten. It obviously starts the day kids are born. And some of the most crucial times are their first experiences in structured settings such as in day care or prekindergarten programs.

We are all seeing what is as least viewed as a decline in education in America, at least for some of our students out there today. And I think early intervention is very necessary if we are going to be able to address some of these problems, particularly at the earliest ages. Because that helps, of course, our students attain higher achievements throughout their lives.

What happened in this bill, and it was under the guidance of our chairman, is that we have strengthened the education component programs of Head Start. We are supportive to the whole concept of quality. We put more money into that area; into teacher certification and into making absolutely certain that the Head Start programs that we have would be able to upgrade in that circumstance.

It was a hard fight. It sounds simple, but it was relatively hard because there is a great force that wants more quantity and does not want us to set money aside for quality. We were able to do that working with both sides of the aisle and working with the Senate in order to achieve what I think is in the greater good for kids of this country.

Again, it is a shame that we are debating this bill at 12:55 in the morning as opposed to 2 o'clock in the afternoon. But the bottom line is this is good legislation. It is well thought out. Some excellent staff work went into it, and I hope that we could unanimously endorse it in the House of Representatives and the President could sign it into law soon.

Mr. Speaker. I am pleased to be able to stand up today in strong support of the conference report on the Human Services Reauthorization Act and proud to have been able to serve as a conferee on this very important piece of legislation.

The bills that came out of both Houses on Head Start, the Community Services Block Grant, and the Low Income Home Energy Assistance Programs were very strong and representative of very bipartisan efforts. During conference, we worked diligently to follow through on that bipartisan spirit and deliver a bill that will provide better assistance to some of our nation's neediest citizens.

As with most pieces of legislation, I realize we have not been able to meet everyone's needs, but I do believe we have made an excellent compromise that addresses a majority of this body's concerns. Throughout the process, I have been particularly concerned with the Head Start provisions of this bill. As you know, I come to the table with a deep concern for the welfare of our nation's students. I believe that their educational welfare starts well before they walk into kindergarten. It starts the day kids are born and some of the most crucial times are their first experiences in structured settings, such as in day care or pre-kindergarten programs.

In the past few years, as policy makers, we have been faced with the reality that our education system isn't working for many of our students. Among all of the different factors that we need to consider, one of them is those first few years and those first experiences kids have in structured settings. Early intervention is essential. We know this. If we can begin to address the needs of students at the earliest ages, then we have a better chance of helping them attain higher levels of achievement throughout life.

Along with my colleagues on the conference, I was dedicated to strengthening the current Head Start program so that children are getting the skills they need and are truly prepared for the challenges they will face in school. One of the key reforms in this bill is that we strengthen the education components of the program. Now, the purpose of Head Start is to promote school readiness. Make no mistake about it, this program was deliberately named, these kids need a 'head start' in life, and we have attempted to give them that in the conference report.

First, we are supportive of and committed to increasing funding for quality. This makes sense. We need to ensure that the programs our kids are attending are truly beneficial and deserving of their time. We need to be confident in the services Head Start is providing and confident that kids are learning while they are enrolled. One of the things we do with the increased funding for quality in the conference report is increase the percentage of teachers who have a degree in early childhood education. This is sheer logic. In fact, I think this is essential. Our kids need and deserve to have skilled teachers with an intimate knowledge of child development. The combination of increasing teacher certification levels and quality funds provided for in the conference report will go a long way toward addressing the failures we see in the system now.

As the governing body in this nation, we have a responsibility to ensure that the funds we provide States and locals are spent effectively and efficiently. I believe we have accomplished that in the conference report before the House today. This truly is an important bill, which will affect the future of many, many children and their families and in turn the welfare of our country.

Let me also note that this bill reauthorizes the Low Income Home Energy Assistance Program and the Community Services Block Grant programs, which I support. While I have not focused my comments on those provisions, I do strongly endorse the work of the conferees on both sections.

I encourage my colleagues on both sides of the aisle to support the hard fought compromises we reached during conference and vote in favor of passage. This legislation takes several great strides for the benefit of our nation's kids and families.

Mr. CLAY. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Speaker, I thank the gentleman from Missouri (Mr. CLAY), our ranking member, for yielding me this time.

Mr. Speaker, I rise to support the conference agreement reauthorizing

Head Start, Community Services Block Grant, and the Low-Income Home Energy Assistance Act. On balance, this bill does many positive things for children and low-income individuals. I am particularly proud of the fact that it contains a provision that I cosponsored with the gentleman from Indiana (Mr. SOUDER) which replicates a successful program I sponsored in Virginia, the Neighborhood Assistance Act, which offers tax credits for donations to approved programs fighting poverty.

Unfortunately, the conference agreement also contains a provision I find very troubling, the so-called "charitable choice" provision. This provision has serious constitutional and policy shortcomings. Specifically, the "charitable choice" program allows religious groups to be funded under the Community Services Block Grant, even though they may be pervasively sectarian.

The Community Services Block Grant provision also allows, because it allows pervasively sectarian organizations to be funded, it allows publicly funded employee discrimination. Because Title VII of the Civil Rights Act contains certain provisions exempting religious organizations, it allows faith-based organizations to proselytize to beneficiaries as they receive services. It also allows faith-based organizations to require beneficiaries to participate in religious activities in order to receive services. And it allows beneficiaries to be denied alternative service providers if none are available other than the faith-based organization.

With respect to these constitutional issues, Mr. Speaker, I submit a letter from the Department of Justice specifically outlining the constitutional problems with the "charitable choice" provision.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, September 24, 1998.

Hon. WILLIAM F. GOODLING,
Chairman, Committee on Education and the Workforce, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Senate and the House each recently passed versions of S. 2206, designated in the Senate as the Community Opportunities, Accountability, and Training and Educational Services Act of 1998 and in the House as the Human Services Reauthorization Act. We are informed that a conference committee will this week attempt to resolve differences between the two versions of the bill. S. 2206 would, *inter alia*, amend the Community Services Block Grant Act ("CSBGA"), 42 U.S.C. §9901, *et seq.* We are writing with respect to a proposed new section 679 of the CSBGA, which would be established by section 201 of the Senate-passed bill and by section 202 of the House-passed bill. We are concerned that the Senate version (that is, S. 2206 as passed by the Senate on July 27, 1998) could be construed to permit government funds to be provided to, and used by, pervasively sectarian organizations, which would violate the Establishment Clause of the First Amendment to the Constitution. Accordingly, we recommend that the Conference Committee amend the bill to ensure that funds are provided to religious organizations only if they are not pervasively sectarian.

The Act would authorize the Secretary of Health and Human Services ("the Secretary") to establish a program to make federal block grants to states for the purpose of ameliorating the causes of poverty in communities within the states. *See, e.g.*, S. 2206 (as passed by the Senate), §201 (proposing CSBGA §§672(1), 675). The states may, in turn, direct the funds to private, nonprofit organizations to assist in the provision of services. *See, e.g., id.* (proposing CSBGA §§675C(a)(3)(B), 676A(a)(1)(A)).

Proposed CSBGA section 679(a), in both the House and Senate bills, would provide that "the government shall consider, on the same basis as other nongovernmental organizations, faith-based organizations to provide the assistance under the program, so long as the program is implemented in a manner consistent with the Establishment Clause of the first amendment to the Constitution." Section 679(a) further would provide that "[n]either the Federal Government nor a State or local government receiving funds under this subtitle shall discriminate against an organization that provides assistance under, or applies to provide assistance under, this subtitle, on the basis that the organization has a faith-based character."

Section 679 apparently would reflect "Congress' considered judgment that religious organizations can help solve the problems" to which the proposed statute is addressed *Bowen v. Kendrick*, 487 U.S. 589, 606–07 (1988). *Kendrick* and other cases establish that the fact that an institution has religious affiliations does not mean that it may not participate equally in a neutral government financial aid program that benefits both religious and nonreligious entities. *Id.* at 608–11 (Adolescent Family Life Act grants, available to fairly "wide spectrum of public and private organizations" regardless of religious nature, may be awarded to religious institutions), *see also, e.g., Roemer v. Board of Public Works*, 426 U.S. 736 (1976) (plurality opinion) (upholding grant program for colleges and universities as applied to schools with religious affiliations). Nevertheless, the Establishment Clause does place two significant limitations on this general principle.

First, the Establishment Clause requires that federal financial assistance not be used in a way that would advance religious organizations' religious mission. The Court in *Kendrick* confirmed that, even though religious organizations may participate in government-funded social welfare programs, the government must ensure that government aid is not used to advance "'specifically religious activit[ies] in an otherwise substantially secular setting.'" *Kendrick*, 487 U.S. at 621 (quoting *Hunt v. McNair*, 413 U.S. 734 (1973)), *See Roemer*, 426 U.S. at 755 (plurality opinion). Indeed, in *Kendrick*, all nine Justices accepted the principle that government funding of religious activities would be impermissible.[1]

In conformity with this constitutional requirement, proposed section 679 of the House bill would provide that "[n]o funds provided to a faith-based organization to provide assistance under any program described in subsection (a) shall be expended for sectarian worship, instruction, or proselytization."[2]

Second, even where a statute includes (as S. 2206 does) an express condition that the federal aid not be used for sectarian worship, instruction, or proselytization, the government nevertheless may not provide aid directly to "pervasively sectarian" institutions, defined as institutions in which "'religion is so pervasive that a substantial portion of [their] functions are subsumed in the religious mission.'" *Id* at 610 (quoting *Hunt*, 413 U.S. at 743); *see also id.* at 621 (holding that, apart from the question whether aid was being used for religious purposes, Establishment Clause would be violated if the plaintiffs could show that aid flowed to grantees that could be considered "pervasively sectarian religious institutions").

As the Court has explained, the reason for the prohibition on direct governmental aid to pervasively sectarian institutions is the unacceptable risk that where—as in a pervasively sectarian organization—secular and religious functions are "inextricably intertwined," government aid, although designated for a secular purpose, in fact will invariably advance the institution's religious mission. *Id.* at 610. Again, it is immaterial to this part of the Court's analysis that the provision of assistance would serve a legitimate secular purpose. *See id.* at 602. What is critical is that the assistance also would have the effect of advancing religion because of the pervasively sectarian character of the recipients. And even if it were possible, as a theoretical matter, for a pervasively sectarian organization to use government assistance exclusively for secular functions in such institutions, the degree and kind of governmental monitoring necessary to ensure compliance with the requisite restrictions would itself create Establishment Clause problems. *Id.* at 616–17.

It is unclear which, if any, of the religious organizations that would receive funding under S. 2206 would be "pervasively sectarian." The boundaries of the "pervasively sectarian" category are not well-defined, and the Supreme Court has used it almost exclusively in connection with primary and secondary educational institutions. The Court has, however, indicated that numerous considerations are relevant in determining whether an institution is pervasively sectarian. Included among those considerations is whether an organization has explicit corporate ties to a particular religious faith, and bylaws or policies that prohibit any deviation from religious doctrine. *Kendrick*, 487 U.S. at 620 n. 16. The Court also has treated the existence of religious qualifications for admission and hiring as a relevant factor in determining whether a school is pervasively sectarian. Compare *Hunt*, 413 U.S. at 743–44 (no religious qualifications for faculty or students) and *Roemer*, 426 U.S. at 757–58 (plurality opinion) (same), with *Committee for*

[1] 487 U.S. at 611–12, 615, 621 (Establishment Clause would be violated if public monies were used to fund "'indoctrination into the beliefs of a particular religious faith'" or to "'advance the religious mission' of the religious institution receiving aid.") (quoting *School Dist. of Grand Rapids v. Ball*, 473 U.S. 373, 385 (1985)), *Id.* at 623 (O'Connor, J., concurring) ("[A]ny use of public funds to promote religious doctrines violates the Establishment clause."), *Id.* at 624 (Kennedy, J., concurring) (reasoning that the Establishment Clause would be violated if funds "are in fact being used to further religion"), *Id.* at 634–48 (Blackmun, J., dissenting) (opining that government aid may not be used to advance religion, even if aid was intended for secular purposes). Notably, *Kendrick* involved a statute—like the proposed bill—in which government resources were granted on a neutral, nondiscriminatory basis, to religious and nonreligious groups alike, for a secular purpose (counseling sexual abstinence).

[2] Proposed §679(c) in the Senate version has a similar prohibition, but limited to "funds through a grant or contract." In order to avoid difficult Establishment Clause questions, we recommend deletion of the "through a grant or contract" limitation.

Pub. Educ. v. Nyquist, 413 U.S. 756, 767–68 (1973) (religious restrictions on admissions and faculty appointments) and *School Dist. of Grand Rapids v. Ball*, 473 U.S. 373, 384 n.6 (1985) (preference in attending private school afforded to children belonging to organizational denomination).

Although both the House and Senate versions of proposed §679(a) state that the block grant funds must be disbursed in accordance with the Establishment Clause, certain other provisions in the Senate version of the bill strongly suggest an expectation that state governments would be permitted to provide direct funding to religious organizations that are pervasively sectarian. In particular, the Senate version includes the following three provisions not found in the House version.

(i) Proposed §679([b])(1)[3] would provide that "[a] faith-based organization that provides assistance under a program described in subsection (a) shall retain its faith-based character and control over the definition, development, practice, and expression of its faith-based beliefs."[4]

(ii) Proposed §679([b])(2)(A) would provide, with a minor exception, that "[n]either the Federal Government nor a State or local government shall require a faith-based organization . . . to alter its form of internal governance."

(iii) Proposed §679([b])(3) would provide, *inter alia*, that "[a] faith-based organization that provides assistance under a program described in subsection (a) may require that employees adhere to the religious tenets and teachings of such organization."

These provisions, as well as the bill's repeated references to "faith-based organizations" and recipient organizations' "faith-based character," strongly imply some intent that pervasively sectarian religious organizations would be eligible to receive direct governmental funding. In order to ensure that S.2206 is not construed to permit funding of pervasively sectarian organizations, and that direct governmental funding is not used to support religious activities, we recommend that the Conference Committee not adopt the three quoted provisions (which do not appear in the version of S. 2206 passed by the House). In offering this recommendation, we do not mean to suggest that the government should be able to, for example, "control . . . the definition, development, practice, and expression of . . . beliefs" of a nonpervasively sectarian religious organization that receives CSBGA funds but does not use such funds for sectarian worship, instruction, or proselytization. Nor should we be understood as suggesting that a government may "require" such an organization "to alter its form of internal governance." We merely wish to ensure that the federal, state and local governments involved in disbursing CSBGA funds may take into account the structure and operations of a religious organization in determining whether such an organization is or is not pervasively sectarian. Where such an organization is pervasively sectarian—i.e., where the secular and religious functions of the organization are so "inextricably intertwined," *Kendrick* 487 U.S. at 610, that it would be impossible (at least without impermissible entanglement) to ensure that the organization does not use government funds to advance religion, the organization may not receive and use CSBGA funds.

Thank you for your attention to this matter. If we may be of additional assistance, we trust that you will not hesitate to call upon us. The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the presentation of this report.

Sincerely,

L. ANTHONY SUTIN,
Acting Assistant Attorney General.

Mr. SCOTT. Mr. Speaker, in closing I would like to say a word about the Head Start portion of the bill. During the committee deliberations, this widely supported program was amended and ended up being reported with votes being split right along party lines.

I am delighted to see that the irrelevant, controversial amendments have been removed and that Chairman GOODLING and Ranking Member CLAY have presented essentially the original noncontroversial version of the bill so that reauthorization of this effective educational program can be done with its traditional bipartisan support.

So, on balance, Mr. Speaker, this bill will do much in the long run to expand opportunities for children and low-income individuals; however, the "charitable choice" provision is unfortunate and we will have to wait for the courts to decide its constitutional fate.

□ 0100

However, on balance, Mr. Speaker, I ask my colleagues to support the conference agreement.

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

As my good friend from Virginia realizes, in order to get the bill to the floor, we had to do what we had to do or otherwise we would not have had a Head Start bill here.

I do want to point out that the language is the same as in our welfare reform bill and, therefore, there is some precedent for it. But, also, I want to point out that we clarified that religious organizations may participate in CSBG as long as their program is implemented in a manner consistent with the establishment clause of the Constitution. We also included clarification that no funds provided directly to a religious organization under CSBG can be expended for sectarian worship, instruction or proselytization.

Because religious organizations are such important partners in the fight against poverty, their participation in the CSBG program is encouraged. We think the protections in here will make sure that things are not done in the manner that some may fear that they will be.

I just want to close by saying that in the last hour, from midnight on Thursday until 1 a.m. on Friday morning, we passed three of the most important pieces of legislation we could possibly pass for the benefit of those most in need in this country. And as I said, it is tragic that we are doing that at this particular hour, but, again, all three pieces are legislation that are going to mean so much to those in this country who are most in need and also going to present us with a far better 21st Century.

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

Mr. CLAY. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, I do support this legislation, and I want to compliment the chairman, the gentleman from Pennsylvania (Mr. GOODLING), and the ranking member, the gentleman from Missouri (Mr. CLAY), for their great work. This will be a better country, and communities and young people, people of all ages, and particularly children, will live a better life because of this legislation. However, I must rise, even at this time of the morning, with strong reservations that I share with my colleague from Virginia (Mr. SCOTT).

Mr. Speaker, just a few months ago, in a major national debate and a vote on the floor of this House, this Congress went clearly on record in defending the first 16 words of the first amendment in the Bill of Rights. Those 16 words are these: "Congress shall pass no law respecting an establishment of religion or prohibiting the free exercise thereof." These cherished words have served our country well for over two centuries. They are basically the foundation of religious liberty in America, a liberty of religion that is envied across the world.

The provisions of so-called charitable choice were added in this bill unbeknownst to many Members of the House or Senate at a time when we were cluttered with many other issues in Congress. This charitable choice language, in my opinion, and in the opinion of others, could directly undermine the intent of those first 16 words of the Bill of Rights.

Let me quote from the Working Group for Religious Freedom and Social Services, which includes American Baptist Churches USA, American Jewish Committee, American Jewish Congress, Americans United for Separation of Church and State, Anti-Defamation League, Baptist Joint Committee on Public Affairs, and numerous other religious organizations. They say this: "The primary constitutional problem with the religious provider provisions,

[3]The Senate version of the bill designates this as subsection "(c)," rather than "(b)," but this appears to be a typographical error.

[4]In addition to the constitutional problem discussed in the text, this particular provision would (perhaps inadvertently) raise another Establishment Clause problem, since, read literally, the "shall retain" language would appear to require a recipient organization, as a condition of receiving federal funds, to "retain" a particular religious character and a certain form of "control over the definition, development, practice, and expression of its faith-based beliefs." As a general matter, the government may not, of course, attempt in this manner to control the religious character and organization of a religious organization.

the so-called charitable choice provisions, is that they permit and encourage grants to and government contracts with pervasively sectarian organizations, such as churches and other houses of worship."

Mr. Speaker, I have no question that the intent of those who put this language into this bill was positive; to allow religious-based organizations to help communities address their problems. But good intentions are not enough, particularly when they hit at the very core of our constitutionally protected rights of religious freedom.

So what are the specific problems that could be caused by this language? First, it could violate the intent of the establishment clause by funding "pervasively sectarian organizations". It is unclear what the intent of the Senate author was on this particular matter.

Secondly, it could require the Federal Government to have to make a choice as to whether to provide community service block grants to the Heaven's Gate religious organization, an organization that believed it was divinely inspired to commit suicide. If our government officials are bothered by that particular religious view of the Heaven's Gate organization under the charitable choice organization, then our government has been put in the dilemma of having to choose which religious organizations' views are appropriate and acceptable and which ones are not.

The next concern I have is that approximately one-half of our States have constitutions that expressly prohibit public funds going into the coffers of religious organizations. It appears to me that the language of this bill could override that constitutional language of so many States in our Nation.

Next, as pointed out by my colleague from Virginia (Mr. SCOTT), if I understand this correctly, it appears that under this language we could actually use Federal tax dollars to discriminate based on one's religious faith. I hope that is a misreading of this language, but according to a number of organizations, including the one I just mentioned, representing numerous religious organizations, this would do exactly that. And that is why they are so firmly opposed to this particular language.

According to other organizations, this language could also result in government having to provide financial audits of churches and pervasively sectarian organizations who might possibly be eligible for funds under a charitable choice program. I think it is anathema to all of us who believe that the strength of religion in America is that we have had a 200-year wall of separation between church and State. I think this would cause great concerns for those reasons.

Mr. Speaker, for those and many other reasons that can be discussed in the days and weeks ahead, I hope this Congress will think through very carefully the implications of the language of the so-called charitable choice provisions.

Mr. CLAY. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Speaker, due to the lateness of the hour, I am not going to repeat the arguments or go into them in any depth. Suffice it to say I want to make two points.

One. This is an excellent bill in general. I commend the chairman and the ranking member.

Two. The so-called charitable choice provisions of this bill are clearly violative of the establishment clause of the first amendment.

It is incredible that we would seek to enact exemptions from the religious discrimination clauses of the Civil Rights Act of 1964, which this does. It is incredible that we would allow Federal dollars to be used, for example, by a church and a day care center, even if the church made a condition of receipt of day care services that the parents had to come and attend religious indoctrination or had to attend church services. Clearly violative of the first amendment.

The language the distinguished chairman cited as saying this should not violate the first amendment does not add anything to the first amendment. It simply says what all know: legislation cannot violate the first amendment. We should not be enacting legislation that does so.

I hope that this will not be cited as a precedent, as the welfare bill language is cited as a precedent. I hope we can take this out at some point, or else we will rue the day.

□ 0110

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

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

I just want to say that I am so glad that our committee is not infected and infested with attorneys. We would not get anything done. I have to laugh because when they talk about money being spent, if you look at ESEA, if you look at title I and if you look at title II, I will guarantee you money is going into private and parochial schools, boom, boom, boom, one after the other. Our philosophy is, we legislate and we allow the courts to make a decision as to whether we legislated properly or improperly in relationship to the Constitution.

Mr. HALL of Ohio. Mr. Speaker, I rise in support of the conference report on S. 2206, the Community Opportunities and Educational Services Act. I support many of the provisions in this bill which reauthorizes the Head Start, Community Services Block Grant and the Low-Income Home Energy Assistance Programs. However, I want to focus my remarks on the new demonstration program which will be created if this bill becomes law.

Mr. Speaker, S. 2206 includes the text of H.R. 2849, the Assets for Independence Act which I introduced with Representative JOHN KASICH. The language was added by an amendment offered in the Education and Work Committee by Representatives MARK SOUDER and LYNN WOOLSEY. This legislation authorizes $25 million for five years for the creation of Individual Development Accounts (IDAs) for poor families and individuals. IDAs are dedicated savings accounts, similar in structure to Individual Retirement Accounts, that can be used for purchasing a first home, paying for post-secondary education, or capitalizing a business.

IDAs are managed by community organizations and are held at local financial institutions. Low income individuals make a contribution to the account which is then matched by private or public funds. Under the legislation, participants can have no more than $10,000 in assets (excluding their car and home) to qualify for the program. Federal money can only be used to match private money. In this way, the bill would leverage more private money and local involvement. By encouraging asset development, IDAs help families end their own poverty with dignity.

IDAs and other asset-building strategies for the poor appear to be among the most promising poverty-fighting ideas to emerge in the last few decades. It is estimated that 100 communities are running IDA programs in forty-three states. Twenty-five states, including Ohio, have incorporated IDAs into their welfare-to-work plans, as authorized by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The Joyce, Mott, Ford, Levi Strauss, and Fannie Mae Foundations have issued millions of dollars in grants to support IDA demonstration projects. IDAs have come a long way since the Select Committee on Hunger, which I chaired, first held hearings on this important idea in the early 1990's.

This demonstration project, will provide additional fuel to states, localities, and community based nonprofit groups that are looking for creative and enduring strategies to help low-income families move toward self-sufficiency.

Owning assets gives people a stake in the future and a reason to save, dream, and invest time, effort, and resources in creating a future for themselves and their children. Assets empower people to make choices for themselves.

I would urge my colleagues to pass this important legislation.

Mr. MARTINEZ. Mr. Speaker, I rise in strong support of the Conference agreement on S. 2206, the Coats Human Services Reauthorization Amendments of 1998.

This legislation reauthorizes three programs that provide assistance to the neediest Americans: Head Start, the Low-Income Home Energy Assistance Program (LIHEAP), and the Community Services Block Grant (CSBG).

Historically this legislation has received bipartisan support, and today, there is no exception.

The conference agreement represents a compromise that will ensure the integrity and quality of these programs for years to come.

For more than three decades, Head Start has provided comprehensive social, health, and educational services, designed to promote strong, supportive families and provide disadvantaged with solid foundations for a lifetime of learning.

In 1994, we undertook the most ambitious reauthorization of Head Start, in which we initiated a strong quality improvement process.

I am proud of this effort and the direction it established for the future of Head Start.

That is why, earlier this year, I introduced H.R. 3880, which simply called for building upon this investment in quality through stronger linkages between Head Start programs and schools, and increasing our investment in early Head Start.

I am pleased to say that the proposals in my legislation are in the conference agreement before us today.

S. 2206 allows for the continued expansion of Head Start, as well as the Early Head Start program.

With measures in this legislation to strengthen both programs, and provide Congress with detailed reporting on the successes of these initiatives, I believe we can confidently commit ourselves to increased appropriations in the years to come.

Thus, we will be able to offer Head Start to the 60 percent of eligible children currently excluded from the program.

In this conference agreement, we also reaffirm our commitment to LIHEAP.

LIHEAP helps low-income Americans meet the costs of heating, cooling, and other home energy needs, particularly in times of extreme weather, natural disasters, and other emergencies.

With the five year reauthorization in this legislation, we are telling the Nation's elderly, disabled, and low-income families that this assistance will be continued well into the future.

The third program addressed by this legislation is the Community Services Block Grant.

CSBG supports the efforts of the community action network in addressing the causes of poverty and providing a wide array of assistance to Americans in need.

Services that have been traditionally provided include education, job training and placement, housing, nutrition, emergency services, and health.

S. 2206 also authorizes new activities, including literacy services and support for after-school programs.

In addition, this legislation provides for additional accountability and monitoring, which can only serve to strengthen CSBG.

It is also worth mentioning that while this legislation contains language that clarifies that CSBG dollars can flow to religious organizations to provide social services, we reaffirm that all such transactions are ultimately governed by the establishment clause of the Constitution.

In closing, I would like to urge my colleagues to join me in support of S. 2206, legislation that strengthens and improves some of our most important services for our neediest Americans.

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

The SPEAKER pro tempore (Mr. BLUNT). The question is on the motion offered by the gentleman from Pennsylvania (Mr. GOODLING) that the House suspend the rules and agree to the conference report on the Senate bill, S. 2206.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the conference report was agreed to.

A motion to reconsider was laid on the table.

GRANTING CONSENT OF CONGRESS TO POTOMAC HIGHLANDS AIRPORT AUTHORITY COMPACT

Mr. LEACH. Mr. Speaker, I move to suspend the rules and pass the Senate joint resolution (S.J. Res. 51) granting the consent of Congress to the Potomac Highlands Airport Authority Compact entered into between the States of Maryland and West Virginia.

The Clerk read as follows:

S.J. RES. 51

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL CONSENT.

Congress hereby consents to the Potomac Highlands Airport Authority Compact entered into between the States of Maryland and West Virginia. The compact reads substantially as follows:

"Potomac Highlands Airport Authority Compact

"SECTION 1. COUNTY COMMISSIONS EMPOWERED TO ENTER INTO INTERGOVERNMENTAL AGREEMENTS RELATING TO CUMBERLAND MUNICIPAL AIRPORT.

"The county commissions of Mineral County, West Virginia, and of other West Virginia counties contiguous to Mineral County, and the governing bodies of municipal corporations situated in those counties, may enter into intergovernmental agreements with this State, Allegany County, Maryland, other Maryland counties contiguous to Allegany County and Cumberland, Maryland, and other municipal corporations situated in those Maryland counties, and with the Potomac Highlands Airport Authority regarding the operation and use of the Cumberland Municipal Airport situated in Mineral County, West Virginia. The agreements shall be reciprocal in nature and may include, but are not limited to, conditions governing the operation, use, and maintenance of airport facilities, taxation of aircraft owned by Maryland residents and others, and user fees.

"SEC. 2. POTOMAC HIGHLANDS AIRPORT AUTHORITY AUTHORIZED.

"The county commissions of Mineral County, West Virginia, and of other West Virginia counties contiguous to Mineral County, and the governing bodies of municipal corporations situated in those counties, or any one or more of them, jointly and severally, may create and establish, with proper governmental units of this State, Allegany County, Maryland, other Maryland counties contiguous to Allegany County, and Cumberland, Maryland, and other municipal corporations situated in those Maryland counties, or any one or more of them, a public agency to be known as the 'Potomac Highlands Airport Authority' in the manner and for the purposes set forth in this Compact.

"SEC. 3. AUTHORITY A CORPORATION.

"When created, the Authority and the members of the Authority shall constitute a public corporation and, as such, shall have perpetual succession, may contract and be contracted with, sue and be sued, and have and use a common seal.

"SEC. 4. PURPOSES.

"The Authority may acquire, equip, maintain, and operate an airport or landing field and appurtenant facilities in Mineral County, on the Potomac River near Ridgeley, West Virginia, to serve the area in which it is located.

"SEC. 5. MEMBERS OF AUTHORITY.

"(a) IN GENERAL.—The management and control of the Potomac Highlands Airport Authority, its property, operations, business, and affairs, shall be lodged in a board of seven or more persons who shall be known as members of the Authority and who shall be appointed for terms of three years each by those counties, municipal corporations, or other governmental units situated in West Virginia and Maryland as contribute to the funds of the Authority, in such proportion between those States and counties, municipal corporations, and units, and in whatever manner, as may from time to time be provided in the bylaws adopted by the Authority.

"(b) FIRST BOARD.—The first board shall be appointed as follows:

"(1) The County Commission of Mineral County shall appoint two members for terms of two and three years, respectively.

"(2) The governing official or body of the municipal corporation of Cumberland, Maryland, shall appoint three members for terms of one, two, and three years, respectively.

"(3) The governing official or body of Allegany County, Maryland, shall appoint two members for terms of one and two years, respectively.

"SEC. 6. POWERS.

"The Potomac Highlands Airport Authority has power and authority as follows:

"(1) To make and adopt all necessary bylaws, rules, and regulations for its organization and operations not inconsistent with law.

"(2) To take all legal actions necessary or desirable in relation to the general operation, governance, capital expansion, management, and protection of the Cumberland Municipal Airport.

"(3) To increase the number of members of the Authority, and to set the terms of office and appointment procedures for those additional members.

"(4) To elect its own officers, to appoint committees, and to employ and fix the compensation for personnel necessary for its operation.

"(5) To enter into contracts with any person, firm, or corporation, and generally to do anything necessary for the purpose of acquiring, equipping, expanding, maintaining, and operating an airport.

"(6) To delegate any authority given to it by law to any of its officers, committees, agents, or employees.

"(7) To apply for, receive, and use grants in aid, donations, and contributions from any sources.

"(8) To take or acquire lands by purchase, holding title to it in its own name.

"(9) To purchase, own, hold, sell, and dispose of personal property and to sell and dispose of any real estate which it may have acquired and may determine not to be needed for its purposes.

"(10) To borrow money.

"(11) To extend its funds in the execution of the powers and authority hereby given.

"(12) To take all necessary steps to provide for proper police protection at the airport.

"(13) To inventory airplanes and other personal property at the airport and provide the assessor of Mineral County and other proper governmental officials with full particulars in regard to the inventory.

"SEC. 7. PARTICIPATION BY WEST VIRGINIA.

"(a) APPOINTMENT OF MEMBERS; CONTRIBUTION TO COSTS.—The county commissions of Mineral County and of counties contiguous to Mineral County, and the governing bodies of municipal corporations situated in those counties, or any one or more of them, jointly and severally, may appoint members of the Authority and contribute to the cost of acquiring, equipping, maintaining, and operating the airport and appurtenant facilities.

"(b) TRANSFER OF PROPERTY.—Any of the foregoing county commissions or municipal corporations may transfer and convey to the Authority property of any kind acquired previously by the county commission or municipal corporation for airport purposes.

"SEC. 8. FUNDS AND ACCOUNTS.

"(a) CONTRIBUTION AND DEPOSIT OF FUNDS.—Contributions may be made to the Authority from time to time by the various bodies contributing to its funds and shall be deposited in whatever bank or banks a majority of the members of the Authority direct and may be withdrawn from them in whatever manner the Authority directs.

"(b) ACCOUNTS AND REPORTS.—The Authority shall keep strict account of all of its receipts and expenditures and shall make quarterly reports to the public and private bodies contributing to its funds, containing an itemized account of its operations in the preceding quarter. The accounts of the Authority shall be regularly examined by the State Tax Commissioner in the manner required by Article nine, Chapter six of the Code of West Virginia.

"SEC. 9. PROPERTY AND OBLIGATIONS OF AUTHORITY EXEMPT FROM TAXATION.

"The Authority is exempt from the payment of any taxes or fees to the State of West Virginia or any subdivisions of that State or to any officer or employee of the State or other subdivision of it. The property of the Authority is exempt from all local and municipal taxes. Notes, debentures, and other evidence of indebtedness of the Authority are declared to be issued for a public purpose and to be public instrumentalities, and, together with interest on them, are exempt from taxes.

"SEC. 10. SALE OR LEASE OF PROPERTY.

"In the event all of the public corporations contributing to the funds of the Authority so determine, the Authority shall make sale of all of its properties and assets and distribute the proceeds of the sale among those contributing to its funds. In the alternative, if such of the supporting corporations contributing a majority of the funds of the Authority so determine, the Authority may lease all of its property and equipment upon whatever terms and conditions the Authority may fix and determine.

"SEC. 11. EMPLOYEES TO BE COVERED BY WORKMEN'S COMPENSATION.

"All eligible employees of the Authority are considered to be within the Workmen's Compensation Act of West Virginia, and premiums on their compensation shall be paid by the Authority as required by law.

"SEC. 12. LIBERAL CONSTRUCTION OF COMPACT.

"It is the purpose of this Compact to provide for the maintenance and operation of an airport in a prudent and economical manner, and this Compact shall be liberally construed as giving to the Authority full and complete power reasonably required to give effect to the purposes hereof. The provisions of this Compact are in addition to and not in derogation of any power existing in the county commissions and municipal corporations herein named under any constitutional, statutory, or charter provisions which they or any of them may now have or may hereafter acquire or adopt.".

SEC. 2. RIGHT TO ALTER, AMEND, OR REPEAL.

The right to alter, amend, or repeal this joint resolution is hereby expressly reserved. The consent granted by this joint resolution shall not be construed as impairing or in any manner affecting any right or jurisdiction of the United States in and over the region which forms the subject of the compact.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Iowa (Mr. LEACH) and the gentleman from New York (Mr. NADLER) each will control 20 minutes.

The Chair recognizes the gentleman from Iowa (Mr. LEACH).

Mr. LEACH. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from New York (Mr. NADLER) to explain the bill.

Mr. NADLER. Mr. Speaker, I rise in support of the motion. This legislation would grant the consent of Congress to a compact between the States of West Virginia and Maryland to operate the Potomac Highlands Airport Authority as required by the Compacts Clause of the Constitution.

According to the testimony received by the Subcommittee on Commercial and Administrative Law, this legislation is supported by both States and indeed our colleague the gentleman from West Virginia (Mr. MOLLOHAN) and the gentleman from Maryland (Mr. BARTLETT) appeared before the committee as did Senator SARBANES. The legislation is supported by both States and has the bipartisan support of the delegations of both States. I am aware of no opposition whatsoever to this legislation.

Congress' approval of this legislation is necessary for the compact to become legally effective. If that does not happen, if this legislation does not pass, the Airport Authority will be unable to borrow funds or engage in other core activities. I urge the adoption of this bill.

Mr. LEACH. Mr. Speaker, quickly in summary, let me just stress that this is an important resolution involving two States and it is very appropriate for the Congress to put its imprimatur upon it. I would urge my colleagues to support this broadly nonpartisan bill.

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

Mr. NADLER. Mr. Speaker, the gentleman from Iowa has explained the necessity for this bill cogently. I urge our colleagues to adopt this bill.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa (Mr. LEACH) that the House suspend the rules and pass the Senate joint resolution, S.J. Res. 51.

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

A motion to reconsider was laid on the table.

DEPOSITORY INSTITUTION REGULATORY STREAMLINING ACT OF 1998

Mrs. ROUKEMA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4364) to streamline the regulation of depository institutions, to safeguard confidential banking and credit union supervisory information, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4364

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 "Depository Institution Regulatory Streamlining Act of 1998".

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

Sec. 1. Short title; table of contents.

TITLE I—IMPROVING MONETARY POLICY

Sec. 101. Payment of interest on reserve balances at Federal reserve banks.
Sec. 102. Amendments relating to savings and demand deposit accounts at depository institutions.
Sec. 103. Transfer of Federal reserve surpluses.
Sec. 104. Study of reserve ratios for deposit insurance funds.

TITLE II—IMPROVING DEPOSITORY INSTITUTION MANAGEMENT PRACTICES

Subtitle A—National Banks

Sec. 201. Authority to allow more than 25 directors.
Sec. 202. Loans on or purchases by institutions of their own stock.
Sec. 203. Expedited procedures for certain reorganizations.

Subtitle B—Savings Associations

Sec. 211. Noncontrolling investments by savings association holding companies.
Sec. 212. Streamlining thrift service company investment requirements.
Sec. 213. Repeal of dividend notice requirement.
Sec. 214. Updating of authority for community development investments.

Subtitle C—Other Institutions

Sec. 221. Prohibition on accrual to insiders of economic benefits from credit union conversions.
Sec. 222. Amendments relating to limited purpose banks.
Sec. 223. Business purpose credit extensions.

TITLE III—STREAMLINING FEDERAL BANKING AGENCY REQUIREMENTS AND ELIMINATION OF UNNECESSARY OR OUTDATED REQUIREMENTS

Sec. 301. "Plain English" requirement for Federal banking agency rules.
Sec. 302. Call report simplification.
Sec. 303. Purchased mortgage service rights.
Sec. 304. Judicial review of receivership appointment.

Sec. 305. Elimination of outdated statutory minimum capital requirements.
Sec. 306. Elimination of individual branch capital requirements.
Sec. 307. Amendment to shareholder notice provisions relating to consolidations and mergers.
Sec. 308. Payment of interest in receiverships with surplus funds.
Sec. 309. Repeal of deposit broker notification and recordkeeping requirement.
Sec. 310. Allowances for certain extensions of credit to executive officers.
Sec. 311. Federal Reserve Act lending limits.
Sec. 312. Repeal of Bank Holding Company Act provision limiting savings bank life insurance.
Sec. 313. Amendment to section 5137 of the Revised Statutes of the United States.

TITLE IV—DISCLOSURE SIMPLIFICATION

Sec. 401. Alternative disclosure for variable rate, open-ended home secured credit.

TITLE V—BANK EXAMINATION REPORT PRIVILEGE ACT

Sec. 501. Amendment to the Federal Deposit Insurance Act.
Sec. 502. Amendment to Federal Credit Union Act.

TITLE VI—TECHNICAL CORRECTIONS

Sec. 601. Technical correction relating to deposit insurance funds.
Sec. 602. Rules for continuation of deposit insurance for member banks converting charters.
Sec. 603. Waiver of citizenship requirement for national bank directors.
Sec. 604. Technical amendment to prohibition on Comptroller interests in national banks.
Sec. 605. Applicability of limitation to prior investments.

TITLE VII—SPECIAL RESERVE FUNDS

Sec. 701. Abolition of special reserve funds.

TITLE I—IMPROVING MONETARY POLICY

SEC. 101. PAYMENT OF INTEREST ON RESERVE BALANCES AT FEDERAL RESERVE BANKS.

(a) IN GENERAL.—Section 19(b) of the Federal Reserve Act (12 U.S.C. 461(b)) is amended by adding at the end the following new paragraph:

"(12) EARNINGS ON RESERVES.—

"(A) IN GENERAL.—Balances maintained at a Federal reserve bank by or on behalf of a depository institution may receive earnings to be paid by the Federal reserve bank at least once each calendar quarter at a rate or rates not to exceed the general level of short-term interest rates.

"(B) REGULATIONS RELATING TO PAYMENTS AND DISTRIBUTION.—The Board may prescribe regulations concerning—

"(i) the payment of earnings in accordance with this paragraph;

"(ii) the distribution of such earnings to the depository institutions which maintain balances at such banks or on whose behalf such balances are maintained; and

"(iii) the responsibilities of depository institutions, Federal home loan banks, and the National Credit Union Administration Central Liquidity Facility with respect to the crediting and distribution of earnings attributable to balances maintained, in accordance with subsection (c)(1)(B), in a Federal reserve bank by any such entity on behalf of depository institutions which are not member banks.".

(b) AUTHORIZATION FOR PASS THROUGH RESERVES FOR MEMBER BANKS.—Section 19(c)(1)(B) of the Federal Reserve Act (12 U.S.C. 461(c)(1)(B)) is amended by striking "which is not a member bank".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—Section 19 of the Federal Reserve Act (12 U.S.C. 461) is amended—

(1) in subsection (b)(4) (12 U.S.C. 461(b)(4)), by striking subparagraph (C) and redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively; and

(2) in subsection (c)(1)(A) (12 U.S.C. 461(c)(1)(A)), by striking "subsection (b)(4)(C)" and inserting "subsection (b)".

SEC. 102. AMENDMENTS RELATING TO SAVINGS AND DEMAND DEPOSIT ACCOUNTS AT DEPOSITORY INSTITUTIONS.

(a) IMMEDIATE INCREASE IN THE NUMBER OF INTERACCOUNT TRANSFERS ALLOWED EACH MONTH.—Section 2 of Public Law 93-100 (12 U.S.C. 1832) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following:

"(b) INTERACCOUNT TRANSFERS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, any depository institution may permit the owner of any deposit or account on which interest or dividends are paid to make up to 24 transfers per month, for any purpose, to another account of the owner in the same institution.

"(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prevent an account offered pursuant to this subsection from being considered a transaction account (as defined in section 19(b) of the Federal Reserve Act (12 U.S.C. 461(b)) for purposes of such Act.".

(b) NOW ACCOUNTS AUTHORIZED FOR ALL BUSINESSES AFTER 2004.—

(1) IN GENERAL.—Effective on the date provided in paragraph (3), section 2 of Public Law 93-100 (12 U.S.C. 1832(a)(2)) (as amended by subsection (a) of this section) is amended to read as follows:

"SEC. 2. WITHDRAWALS BY NEGOTIABLE OR TRANSFERABLE INSTRUMENTS FOR TRANSFERS TO THIRD PARTIES.

"Notwithstanding any other provision of law, any depository institution (as defined in section 3 of the Federal Deposit Insurance Act) may permit the owner of any deposit or account to make withdrawals from such deposit or account by negotiable or transferable instruments for the purpose of making payments to third parties.".

(2) REPEAL OF PROHIBITION ON PAYMENT OF INTEREST ON DEMAND DEPOSITS.—

(A) FEDERAL RESERVE ACT.—Section 19 of the Federal Reserve Act (12 U.S.C. 371a) is amended by striking subsection (i).

(B) HOME OWNERS' LOAN ACT.—The 1st sentence of section 5(b)(1)(B) of the Home Owners' Loan Act (12 U.S.C. 1464(b)(1)(B)) is amended by striking "savings association may not—" and all that follows through "(ii) permit any" and inserting "savings association may not permit any".

(C) FEDERAL DEPOSIT INSURANCE ACT.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by striking subsection (g).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 1, 2004.

SEC. 103. TRANSFER OF FEDERAL RESERVE SURPLUSES.

(a) PAYMENTS FROM DIVIDENDS AND SURPLUS OF FEDERAL RESERVE BANKS.—Section 7(a)(3) of the Federal Reserve Act (12 U.S.C. 289(3)) is amended by striking "fiscal years 1997 and 1998" and inserting "fiscal years 1998 through 2003".

(b) ADDITIONAL TRANSFERS FOR FISCAL YEARS 1999 THROUGH 2003.—

(1) IN GENERAL.—In addition to the amounts required to be transferred from the surplus funds of the Federal reserve banks pursuant to section 7(a)(3) of the Federal Reserve Act and section 3002(b) of the Omnibus Budget Reconciliation Act of 1993, the Federal reserve banks shall transfer from such surplus funds to the Board of Governors of the Federal Reserve System for transfer to the Secretary of the Treasury for deposit in the general fund of the Treasury, such sums as are necessary to equal the net cost of section 101, as estimated by the Office of Management and Budget.

(2) ALLOCATION BY FED.—Of the total amount required to be paid by the Federal reserve banks under paragraph (1) for fiscal years 1999 through 2003, the Board of Governors of the Federal Reserve System shall determine the amount each such bank shall pay in such fiscal year.

(3) REPLENISHMENT OF SURPLUS FUND PROHIBITED.—No Federal reserve bank may replenish such bank's surplus fund by the amount of any transfer by such bank under paragraph (1) during the fiscal year for which such transfer is made.

SEC. 104. STUDY OF RESERVE RATIOS FOR DEPOSIT INSURANCE FUNDS.

(a) REVIEW AND RECOMMENDATION.—The Board of Directors of the Federal Deposit Insurance Corporation, in consultation with the Board of Governors of the Federal Reserve System and the Secretary of the Treasury, shall—

(1) conduct a study of the adequacy of the deposit insurance funds, taking into account—

(A) expected operating expenses, case resolution expenditures and income, and the effect of assessments on members' earnings and capital;

(B) historical failure rates and loss experience;

(C) recent changes in the law, including statutory changes requiring prompt corrective action, least-cost resolutions, and risk-based assessment systems;

(D) the income of such funds from investments;

(E) the potential implication of the Year 2000 computer problem (as defined in section 2(b)(5) of the Examination Parity and Year 2000 Readiness for Financial Institutions Act) and industry consolidation; and

(F) the historical experience of the Corporation in providing rebates or credits from any deposit insurance fund; and

(2) recommend to the Congress—

(A) an appropriate range of reserve ratios between the net worth of any deposit insurance fund and the aggregate amount of insured deposits insured by such fund; and

(B) an appropriate mechanism for rebating or providing credit from any deposit insurance fund when the balance of the fund exceeds any applicable reserve ratio.

(b) REPORT REQUIRED.—The Board of Directors of the Federal Deposit Insurance Corporation, in consultation with the Board of Governors of the Federal Reserve System and the Secretary of the Treasury, shall submit a report to the Congress before June 30, 1999, containing—

(1) the findings and conclusions of the study required under subsection (a)(1); and

(2) the recommendations required under subsection (a)(2).

TITLE II—IMPROVING DEPOSITORY INSTITUTION MANAGEMENT PRACTICES

Subtitle A—National Banks

SEC. 201. AUTHORITY TO ALLOW MORE THAN 25 DIRECTORS.

Section 31 of the Banking Act of 1933 (12 U.S.C. 71a) is amended in the first sentence, by inserting before the period ", except that the Comptroller of the Currency may, by regulation or order, exempt a national banking association from the 25-member limit established by this section".

SEC. 202. LOANS ON OR PURCHASES BY INSTITUTIONS OF THEIR OWN STOCK.

(a) AMENDMENT TO REVISED STATUTES.—Section 5201 of the Revised Statutes of the United States (12 U.S.C. 83) is amended to read as follows:

"SEC. 5201. LOANS BY BANK ON ITS OWN STOCK.

"(a) GENERAL PROHIBITION.—No national banking association shall make any loan or discount on the security of the shares of its own capital stock.

"(b) EXCLUSION.—For purposes of this section, an association shall not be deemed to be making a loan or discount on the security of the shares of its own capital stock if it acquires the stock to prevent loss upon a debt contracted for in good faith.".

(b) AMENDMENT TO FEDERAL DEPOSIT INSURANCE ACT.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(t) LOANS BY INSURED INSTITUTIONS ON THEIR OWN STOCK.—

"(1) GENERAL PROHIBITION.—No insured depository institution shall make any loan or discount on the security of the shares of its own capital stock.

"(2) EXCLUSION.—For purposes of this subsection, an insured depository institution shall not be deemed to be making a loan or discount on the security of the shares of its own capital stock if it acquires the stock to prevent loss upon a debt contracted for in good faith.".

SEC. 203. EXPEDITED PROCEDURES FOR CERTAIN REORGANIZATIONS.

The National Bank Consolidation and Merger Act (12 U.S.C. 215 et seq.) is amended—

(1) by redesignating section 5 as section 7; and

(2) by inserting after section 4 the following new section:

"SEC. 5. EXPEDITED PROCEDURES FOR CERTAIN REORGANIZATIONS.

"(a) IN GENERAL.—A national bank may, with the approval of the Comptroller, pursuant to regulations prescribed by the Comptroller, and upon the affirmative vote of the shareholders of such bank owning at least two-thirds of the outstanding capital stock of such bank, reorganize so as to become a subsidiary of a bank holding company or a company that will, upon consummation of such reorganization, become a bank holding company.

"(b) REORGANIZATION PLAN.—A reorganization authorized under subsection (a) shall be carried out in accordance with a reorganization plan that—

"(1) specifies the manner in which the reorganization shall be carried out;

"(2) is approved by a majority of the entire board of directors of the bank;

"(3) specifies—

"(A) the amount of cash or securities of the bank holding company, or both, or other consideration, to be paid to the shareholders of the reorganizing bank in exchange for their shares of stock of the bank;

"(B) the date as of which the rights of each shareholder to participate in such exchange will be determined; and

"(C) the manner in which the exchange will be carried out; and

"(4) is submitted to the shareholders of the reorganizing bank at a meeting to be held on the call of the directors in accordance with the procedures prescribed in connection with a merger of a national bank under section 3.

"(c) APPLICABILITY OF OTHER CRITERIA.—In considering a reorganization plan under this section, the Comptroller shall—

"(1) require the national bank to provide notice to the public in accordance with section 18(c)(3) of the Federal Deposit Insurance Act; and

"(2) apply the same standards and the same criteria as are applicable to a transaction under section 18(c) of the Federal Deposit Insurance Act, other than the requirements of paragraphs (4) and (6) of such section.

"(d) RIGHTS OF DISSENTING SHAREHOLDERS.—If, pursuant to this section, a reorganization plan has been approved by the shareholders and the Comptroller, any shareholder of the national bank who has voted against the reorganization at the meeting referred to in subsection (b)(4), or has given notice in writing at or before that meeting to the presiding officer that the shareholder dissents from the reorganization plan, shall be entitled to receive the value of the shares of the shareholder, as provided by section 3 for the merger of a national bank.

"(e) EFFECT OF REORGANIZATION.—The corporate existence of a national bank that reorganizes in accordance with this section shall not be deemed to have been affected in any way by reason of such reorganization.

"(f) APPROVAL UNDER THE BANK HOLDING COMPANY ACT OF 1956.—Notwithstanding the preceding provisions of this section, it shall be unlawful for any action to be taken that causes any company to become a bank holding company or any bank to become a subsidiary of a bank holding company, except with the prior approval of the Board of Governors of the Federal Reserve System pursuant to section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842).".

Subtitle B—Savings Associations

SEC. 211. NONCONTROLLING INVESTMENTS BY SAVINGS ASSOCIATION HOLDING COMPANIES.

Section 10(e)(1)(A)(iii) of the Home Owners' Loan Act (12 U.S.C. 1467a(e)(1)(A)(iii) is amended—

(1) by inserting ", except with the prior written approval of the Director," after "or to retain";

(2) by striking "subsidiary, or in" and inserting "subsidiary. In"; and

(3) by striking "to so acquire or retain" and inserting "it shall be unlawful, and the Director may not authorize such a company, to acquire or retain".

SEC. 212. STREAMLINING SAVINGS ASSOCIATION SERVICE COMPANY INVESTMENT REQUIREMENTS.

Section 5(c)(4)(B) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(4)(B)) is amended—

(1) in the subparagraph heading, by striking "CORPORATIONS" and inserting "COMPANIES"; and

(2) in the first sentence, by striking "corporation organized" and all that follows through "such State." and inserting "company organized under the laws of any State, if such company's entire capital stock is available for purchase only by savings associations. For purposes of this subparagraph, the term 'company' includes any corporation and any limited liability company (as defined in section 1(b)(7) of the Bank Service Company Act).".

SEC. 213. REPEAL OF DIVIDEND NOTICE REQUIREMENT.

Section 10(f) of the Home Owners' Loan Act (12 U.S.C. 1467a(f)) is amended to read as follows:

"(f) [Repealed].".

SEC. 214. UPDATING OF AUTHORITY FOR COMMUNITY DEVELOPMENT INVESTMENTS.

Section 5(c) of the Home Owners' Loan Act (12 U.S.C. 1464(c)) is amended—

(1) in paragraph (3), by striking subparagraph (A) and redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively; and

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

"(7) COMMUNITY DEVELOPMENT INVESTMENTS.—

"(A) IN GENERAL.—Investments in real property and obligations secured by liens on real property for the primary purpose of promoting the public welfare, including the welfare of low- and moderate-income communities or families (including the provision of housing, services, or jobs), are permitted, subject to subparagraph (B).

"(B) LIMITATIONS.—The aggregate amount of investments of a savings association under subparagraph (A) shall not exceed the sum of 5 percent of the savings association's capital stock actually paid in and unimpaired and 5 percent of the savings association's unimpaired surplus fund, unless the Director determines by order that a higher amount will pose no significant risk to the affected deposit insurance fund, and that the savings association is adequately capitalized, in which case the aggregate amount of such investments shall not exceed an amount equal to the sum of 10 percent of the savings association's capital stock actually paid in and unimpaired and 10 percent of the savings association's unimpaired surplus fund.".

Subtitle C—Other Institutions

SEC. 221. PROHIBITION ON ACCRUAL TO INSIDERS OF ECONOMIC BENEFITS FROM CREDIT UNION CONVERSIONS.

Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(t) PROHIBITION ON ECONOMIC BENEFIT FROM CONVERSION FOR CREDIT UNION OFFICERS, DIRECTORS, AND COMMITTEE MEMBERS.—

"(1) IN GENERAL.—An individual who is or, at any time during the 5-year period preceding any conversion described in paragraph (2), was a director, committee member, or senior management official of an insured credit union described in subparagraph (A) or (B) of such paragraph (in connection with such conversion) may not receive any economic benefit as a result of the conversion with regard to the shares or interests of such director, member, or officer in the former insured credit union or in any resulting insured depository institution.

"(2) COVERED CONVERSIONS.—The following conversions are described in this paragraph for purposes of paragraph (1):

"(A) The conversion of an insured credit union into an insured depository institution.

"(B) The conversion from the mutual form to the stock form of an insured depository institution which resulted from a prior conversion of an insured credit union into such insured depository institution.

"(3) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

"(A) INSURED CREDIT UNION.—The term 'insured credit union' has the meaning given to

such term in section 101(7) of the Federal Credit Union Act.

"(B) SENIOR MANAGEMENT OFFICIAL.—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)).".

SEC. 222. AMENDMENTS RELATING TO LIMITED PURPOSE BANKS.

Section 4(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)) is amended—

(1) in paragraph (2)(A)(ii)—

(A) by striking "and" at the end of subclause (IX);

(B) by inserting "and" after the semicolon at the end of subclause (X); and

(C) by inserting after subclause (X) the following new subclause:

"(XI) assets that are derived from, or are incidental to, activities in which institutions described in section 2(c)(2)(F) are permitted to engage,";

(2) in paragraph (2)—

(A) by striking "Paragraph (1) shall cease to apply to any company described in such paragraph if—" and inserting "A company described in paragraph (1) shall no longer qualify for the exemption provided under such paragraph if—"; and

(B) by striking subparagraph (B) and inserting the following new subparagraphs:

"(B) any bank subsidiary of such company engages in any activity in which the bank was not lawfully engaged as of March 5, 1987, unless the bank is well managed and well capitalized;

"(C) any bank subsidiary of such company both—

"(i) accepts demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties; and

"(ii) engages in the business of making commercial loans; or

"(D) after the date of the enactment of the Competitive Equality Amendments of 1987, any bank subsidiary of such company permits any overdraft (including any intraday overdraft), or incurs any such overdraft in such bank's account at a Federal reserve bank, on behalf of an affiliate, other than an overdraft described in paragraph (3).";; and

(3) by striking paragraphs (3) and (4) and inserting the following new paragraphs:

"(3) PERMISSIBLE OVERDRAFTS DESCRIBED.—For purposes of paragraph (2)(D), an overdraft is described in this paragraph if—

"(A) such overdraft results from an inadvertent computer or accounting error that is beyond the control of both the bank and the affiliate; or

"(B) such overdraft—

"(i) is permitted or incurred on behalf of an affiliate which is monitored by, reports to, and is recognized as a primary dealer by the Federal Reserve Bank of New York; and

"(ii) is fully secured, as required by the Board, by bonds, notes, or other obligations which are direct obligations of the United States or on which the principal and interest are fully guaranteed by the United States or by securities and obligations eligible for settlement on the Federal Reserve book entry system.

"(4) DIVESTITURE IN CASE OF LOSS OF EXEMPTION.—If any company described in paragraph (1) fails to continue to qualify for the exemption provided under such paragraph by operation of paragraph (2), the company shall immediately notify the Board that the company has failed to continue to qualify for such exemption, and the company shall divest control of each bank it controls before the end of the 180-day period beginning on the date that the company receives notice from the Board that the company has failed to continue to qualify for such exemption, unless before the end of such 180-day period, the company has—

"(A) either—

"(i) corrected the condition or ceased the activity that caused the company to fail to continue to qualify for the exemption; or

"(ii) received approval from the Board of a plan to correct the condition in a timely manner (which shall not exceed 1 year); and

"(B) implemented procedures that are reasonably adapted to avoid the reoccurrence of such condition or activity.".

SEC. 223. BUSINESS PURPOSE CREDIT EXTENSIONS.

Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843) is amended by adding at the end the following new subsection:

"(k) BUSINESS PURPOSE CREDIT EXTENSIONS.—

"(1) IN GENERAL.—An institution referred to in section 2(c)(2)(F) or 4(f)(3) which extends credit through credit card accounts for qualified business purposes shall not be treated as engaging in the business of making commercial loans by reason of such extensions of credit.

"(2) QUALIFIED BUSINESS PURPOSE.—

"(A) IN GENERAL.—The Board shall prescribe regulations defining the term 'qualified business purposes' for purposes of this subsection.

"(B) CERTAIN BUSINESS PURPOSES EXCLUDED.—In defining the term 'qualified business purposes' under subparagraph (A), the Board—

"(i) may not treat extensions of credit through a credit card account for expenditures for capital improvements, acquisitions of inventory, or other large acquisitions as a qualified business purpose for credit card accounts; and

"(ii) may treat extensions of credit through a credit card account for expenditures involving employee travel, entertainment, and subsistence, purchases involving a small number of items and low-dollar amounts, and other small acquisitions as qualified business purposes for credit card accounts.

"(3) CREDIT CARD DEFINED.—For purposes of this subsection, the term 'credit card' has the same meaning as in section 103 of the Truth In Lending Act.".

TITLE III—STREAMLINING FEDERAL BANKING AGENCY REQUIREMENTS AND ELIMINATION OF UNNECESSARY OR OUTDATED REQUIREMENTS

SEC. 301. "PLAIN ENGLISH" REQUIREMENT FOR FEDERAL BANKING AGENCY RULES.

(a) IN GENERAL.—Each Federal banking agency shall use plain English in all proposed and final rulemakings published by the agency in the Federal Register after January 1, 1999.

(b) REPORT.—Not later than June 1, 2000, each Federal banking agency shall submit to the Congress a report that describes how the agency has complied with subsection (a).

(c) DEFINITIONS.—For purposes of this section and section 302, the terms "Federal banking agency" and "State bank supervisor" have the meanings given such terms in section 3 of the Federal Deposit Insurance Act.

SEC. 302. CALL REPORT SIMPLIFICATION.

(a) MODERNIZATION OF CALL REPORT FILING AND DISCLOSURE SYSTEM.—In order to reduce the administrative requirements pertaining to bank reports of condition, savings association financial reports, and bank holding company consolidated and parent-only financial statements, and to improve the timeliness of such reports and statements, the Federal banking agencies (after consulting with State bank supervisors) shall—

(1) work jointly to develop a system under which—

(A) insured depository institutions and their affiliates may file such reports and statements electronically; and

(B) the Federal banking agencies may make such reports and statements available to the public electronically; and

(2) not later than July 1, 2000, report to the Congress and make recommendations for legislation that would enhance efficiency for filers and users of such reports and statements.

(b) UNIFORM REPORTS AND SIMPLIFICATION OF INSTRUCTIONS.—The Federal banking agencies (after consulting with State bank supervisors) shall, consistent with the principles of safety and soundness, work jointly—

(1) to adopt a single form for the filing of core information required to be submitted under Federal law to all such agencies in the reports and statements referred to in subsection (a); and

(2) to simplify instructions accompanying such reports and statements and to provide an index to the instructions that is adequate to meet the needs of both filers and users.

(c) REVIEW OF CALL REPORT SCHEDULE.—Each Federal banking agency (after consulting with State bank supervisors) shall—

(1) review the information required by schedules supplementing the core information referred to in subsection (b); and

(2) eliminate requirements that are not warranted for reasons of safety and soundness or other public purposes.

SEC. 303. PURCHASED MORTGAGE SERVICE RIGHTS.

Section 475 of the Federal Depository Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1828 note) is amended—

(1) in subsection (a)(1), by inserting "(or such other percentage exceeding 90 percent but not exceeding 100 percent, as may be determined under subsection (b))" after "90 percent"; and

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

"(b) AUTHORITY TO DETERMINE PERCENTAGE BY WHICH TO DISCOUNT VALUE OF SERVICING RIGHTS.—

"(1) IN GENERAL.—Notwithstanding subsection (a)(1), the appropriate Federal banking agencies may allow readily marketable purchased mortgage servicing rights to be valued at more than 90 percent of their fair market value but at not more than 100 percent of such value, if such agencies jointly make a finding before the end of the 180-day period beginning on the date of the enactment of the Depository Institution Regulatory Streamlining Act of 1998 that such valuation would not have an adverse affect on the deposit insurance funds or the safety and soundness of insured depository institutions.

"(2) JOINT RULEMAKING.—Any regulations prescribed pursuant to paragraph (1) shall be prescribed jointly by the Federal banking agencies.".

SEC. 304. JUDICIAL REVIEW OF RECEIVERSHIP APPOINTMENTS.

(a) APPOINTMENT FOR NATIONAL BANK.—Section 2 of the National Bank Receivership Act (12 U.S.C. 191) is amended—

(1) by inserting "(a) APPOINTMENT OF RECEIVER.—" before "The Comptroller"; and

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

"(b) JUDICIAL REVIEW.—Within 30 days after the appointment under subsection (a) of a receiver for a national bank, the national bank may bring an action in the United States district court for the judicial district in which the home office of the bank is located, or in the United States District Court for the District of Columbia, for an order requiring the Comptroller to remove the receiver, and the court shall, on the merits, dismiss the action or direct the Comptroller to remove the receiver.".

(b) APPOINTMENT OF FEDERAL DEPOSIT INSURANCE CORPORATION.—Section 11(c)(7) of the Federal Deposit Insurance Act (12 U.S.C. 1811(c)(7)) is amended to read as follows:

"(7) JUDICIAL REVIEW.—Within 30 days after the Corporation is appointed as conservator or receiver for an insured depository institution under paragraph (4), (9), or (10), the institution may bring an action in the United States district court for the judicial district in which the home office of the institution is located, or in the United States District Court for the District of Columbia, for an order requiring the Corporation to be removed as the conservator or receiver, and the court shall, on the merits, dismiss the action or direct the Corporation to be removed as the conservator or receiver.".

SEC. 305. ELIMINATION OF OUTDATED STATUTORY MINIMUM CAPITAL REQUIREMENTS.

Section 5138 of the Revised Statutes of the United States (12 U.S.C. 51) is repealed.

SEC. 306. ELIMINATION OF INDIVIDUAL BRANCH CAPITAL REQUIREMENTS.

Section 5155(c) of the Revised Statutes of the United States (12 U.S.C. 36(c)) is amended—

(1) in the second sentence, by striking ", without regard to the capital requirements of this section,"; and

(2) by striking the third sentence.

SEC. 307. AMENDMENT TO SHAREHOLDER NOTICE PROVISIONS RELATING TO CONSOLIDATIONS AND MERGERS.

(a) Section 2(a) of the Act of August 17, 1950, entitled "An Act to provide for the conversion of national banking associations into and their merger or consolidation with State banks, and for other purposes." (12 U.S.C. 214a(a)) is amended by striking "registered mail or by certified".

(b) Sections 2(a) and 3(a)(2) of the National Bank Consolidation and Merger Act (12 U.S.C. 215(a) and 215a(a)(2)) are each amended by striking "certified or registered" each place it appears.

SEC. 308. PAYMENT OF INTEREST IN RECEIVERSHIPS WITH SURPLUS FUNDS.

Section 11(d)(10) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(10)) is amended by adding at the end the following new subparagraph:

"(C) RULEMAKING AUTHORITY OF CORPORATION.—The Corporation may prescribe such rules, including definitions of terms, as it deems appropriate to establish the interest rate for or to make payments of postinsolvency interest to creditors holding proven claims against the receivership estates of insured Federal or State depository institutions following satisfaction by the receiver of the principal amount of all creditor claims.".

SEC. 309. REPEAL OF DEPOSIT BROKER NOTIFICATION AND RECORDKEEPING REQUIREMENT.

Section 29A of the Federal Deposit Insurance Act (12 U.S.C. 1831f–1) is repealed.

SEC. 310. ALLOWANCES FOR CERTAIN EXTENSIONS OF CREDIT TO EXECUTIVE OFFICERS.

Section 22(g) of the Federal Reserve Act (12 U.S.C. 375a) is amended—

(1) by redesignating paragraphs (6) through (10) as paragraphs (8) through (12), respectively;

(2) by inserting after paragraph (5) the following new paragraphs:

"(6) A member bank may extend to any executive officer of the bank a home equity line of credit which does not exceed $100,000 and is secured by a lien on the primary residence of the executive officer, to the extent that the aggregate amount of such lien and all other outstanding extensions of credit secured by liens on such primary residence does not exceed the appraised value of such residence.

"(7) A member bank may extend credit to any executive officer of the bank in an amount not to exceed the greater of—

"(A) the amount which is the lesser of 2.5 percent of the aggregate amount of capital and unimpaired surplus of the bank or $100,000; or

"(B) $25,000,

if, at the time the credit is extended, the extension of credit is secured by readily marketable assets that have a fair market value of not less than twice the amount of credit extended."; and

(3) in paragraph (8) (as so redesignated by paragraph (1) of this section), by striking "(3) and (4)" and inserting "(3), (4), (6), and (7)".

SEC. 311. FEDERAL RESERVE ACT LENDING LIMITS.

Section 11(m) of the Federal Reserve Act (12 U.S.C. 248(m)) is amended to read as follows:

"(m) [Repealed].".

SEC. 312. REPEAL OF BANK HOLDING COMPANY ACT PROVISION LIMITING SAVINGS BANK LIFE INSURANCE.

Section 3(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(f)) is amended to read as follows:

"(f) [Repealed].".

SEC. 313. AMENDMENT TO SECTION 5137 OF THE REVISED STATUTES OF THE UNITED STATES.

(a) IN GENERAL.—Section 5137 of the Revised Statutes of the United States (12 U.S.C. 29) is amended by adding at the end the following new subsection:

"(d) ADDITIONAL EXTENSION FOR PASSIVE INVESTMENTS IN SUBSURFACE RIGHTS AND INTERESTS.—

"(1) IN GENERAL.—With respect to subsurface rights of real estate, and interests in such rights, which a national bank holds pursuant to the prior approval of the Comptroller of the Currency under subsection (b), the national bank may apply for, and the Comptroller of the Currency may approve, possession by the bank of such rights and interests for an additional period not to exceed 5 years if—

"(A) the national bank acquired the property pursuant to the paragraphs designated the 'Second', 'Third', and 'Fourth' of subsection (a);

"(B) the national bank—

"(i) holds the rights or interest passively; and

"(ii) is not engaged in production, extraction, exploration, or other active use of the rights or interests;

"(C) the national bank—

"(i) values the subsurface rights and interests in such rights on the books of the bank for no more than a nominal amount; and

"(i) separately discloses the aggregate amount of earnings from the rights and interests in the annual financial statements of the bank; and

"(D) the Comptroller of the Currency determines that the possession of such rights and interests is not inconsistent with the safety and soundness of the national bank.

"(2) AUTHORITY OF COMPTROLLER OF THE CURRENCY TO REQUIRE DIVESTITURE.—The Comptroller of the Currency may order, at any time, a national bank which holds subsurface rights of real estate, and interests in such rights, pursuant to paragraph (1) to divest such rights and interests if the Comptroller determines that continued ownership of such rights or interests is detrimental to the national bank.".

(b) TECHNICAL AMENDMENTS TO REDESIGNATE UNDESIGNATED PARAGRAPHS AS SUBSECTIONS.—Section 5137 of the Revised Statutes of the United States (12 U.S.C. 29) is amended—

(1) in the 1st undesignated paragraph by striking "5137. A national banking association may purchase" and inserting the following:

"SEC. 5137. POWER TO HOLD REAL ESTATE.

"(a) IN GENERAL.—A national banking association may purchase";

(2) in the 3d undesignated paragraph, by striking "For real estate in the possession of a national banking association upon application" and inserting the following:

"(b) EXTENSION OF DIVESTMENT PERIOD AUTHORIZED FOR INELIGIBLE REAL ESTATE.—For real estate in the possession of a national banking association upon application"; and

(3) in the 4th undesignated paragraph, by striking "Notwithstanding the five-year holding limitation of this section" and inserting the following:

"(c) EXTENSION OF HOLDING PERIOD UNDER CERTAIN CIRCUMSTANCES.—Notwithstanding the 5-year holding period limitation contained in subsection (a)".

TITLE IV—DISCLOSURE SIMPLIFICATION

SEC. 401. ALTERNATIVE DISCLOSURE FOR VARIABLE RATE, OPEN-ENDED HOME SECURED CREDIT.

Section 127A(a)(2)(G) of the Truth in Lending Act (15 U.S.C. 1637a) is amended by inserting "or, at the option of the creditor, a statement that periodic payments may substantially increase or decrease" before the semicolon.

TITLE V—BANK EXAMINATION REPORT PRIVILEGE ACT

SEC. 501. AMENDMENT TO THE FEDERAL DEPOSIT INSURANCE ACT.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 45. BANK SUPERVISORY PRIVILEGE.

"(a) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) DEPOSITORY INSTITUTION.—The term 'depository institution' includes—

"(A) any institution which is treated in the same manner as an insured depository institution under paragraph (3), (4), (5), or (9) of section 8(b); and

"(B) any subsidiary or other affiliate of an insured depository institution or an institution described in subparagraph (A).

"(2) SUPERVISORY PROCESS.—The term 'supervisory process' means any activity engaged in by a Federal banking agency to carry out the official responsibilities of the agency with regard to the regulation or supervision of depository institutions.

"(3) CONFIDENTIAL SUPERVISORY INFORMATION.—Subject to paragraph (4), the term

'confidential supervisory information' means any of the following information, or any portion of any such information, which is treated as, or considered to be, confidential information by a Federal banking agency, regardless of the medium in which the information is conveyed or stored:

"(A) Any report of examination, inspection, visitation, or investigation, and information prepared or collected by a Federal banking agency in connection with the supervisory process, including any computer file, work paper, or similar document.

"(B) Any correspondence of communication from a Federal banking agency to a depository institution as part of an examination, inspection, visitation, or investigation by a Federal banking agency.

"(C) Any correspondence, communication, or document, including any compliance and other reports, created by a depository institution in response to any request, inquiry, or directive from a Federal banking agency in connection with any examination, inspection, visitation, or investigation and provided to a Federal banking agency.

"(D) Any record of a Federal banking agency to the extent it contains information derived from any report, correspondence, communication or other information described in subparagraph (A), (B), or (C).

(4) ORDINARY BUSINESS RECORDS EXCLUDED.—The term 'confidential supervisory information' shall not include any book or record in the possession of the depository institution routinely prepared by the depository institution and maintained in the ordinary course of business or any information required to be made publicly available by any Federal law or regulation.

"(b) BANK SUPERVISORY PRIVILEGE.—

"(1) PRIVILEGE ESTABLISHED.—

"(A) IN GENERAL.—All confidential supervisory information shall be the property of the Federal banking agency that created or requested the information and shall be privileged from disclosure to any other person.

"(B) PROHIBITION ON UNAUTHORIZED DISCLOSURES.—No person in possession of confidential supervisory information may disclose such information, in whole or in part, without the prior authorization of the Federal banking agency that created or requested the information, except for a disclosure made in published statistical material that does not disclose, either directly or when used in conjunction with publicly available information, the affairs of any person.

"(C) AGENCY WAIVER.—The Federal banking agency may waive, in whole or in part, in the discretion of the agency, any privilege established under this paragraph.

"(2) EXCEPTION.—No provision of paragraph (1) shall be construed as preventing access to confidential supervisory information by duly authorized committees of the United States Congress or the Comptroller General of the United States.

"(c) TREATMENT OF STATE AND FOREIGN SUPERVISORY INFORMATION.—In any proceeding before a court of the United States, in which a person seeks to compel production or disclosure by a State bank supervisor, foreign bank regulatory or supervisory authority, Federal banking agency, or other person, of information or a document prepared or collected by a State bank supervisor or foreign bank regulatory or supervisory authority that would, had they been prepared or collected by a Federal banking agency, be confidential supervisory information for purposes of this section, the information or document shall be privileged to the same extent that the information and documents of Federal banking agencies are privileged under this Act.

"(d) OTHER PRIVILEGES NOT WAIVED BY DISCLOSURE TO BANKING AGENCY.—The submission by a depository institution of any information to a Federal banking agency, a State bank supervisor, or a foreign banking authority for any purpose in the course of the supervisory process of such agency or supervisor shall not be construed as waiving, destroying, or otherwise affecting any privilege such institution may claim with respect to such information under Federal or State law.

"(e) DISCOVERY AND DISCLOSURE OF INFORMATION.—

"(1) INFORMATION AVAILABLE ONLY FROM BANKING AGENCY.—

"(A) IN GENERAL.—A person seeking discovery or disclosure, in whole or in part, of confidential supervisory information may not seek to obtain such information through subpoena, discovery procedures, or other process from any person, except that such information may be sought in accordance with this section from the Federal banking agency that created or requested the information.

"(B) REQUESTS SUBMITTED TO BANKING AGENCY.—Any request for discovery or disclosure of confidential supervisory information shall be made to the Federal banking agency that created or requested the information, which shall determine within a reasonable time period whether to disclose such information pursuant to procedures and criteria established in regulations.

"(2) EXCLUSIVE FEDERAL COURT JURISDICTION OVER DISPUTES.—

"(A) IN GENERAL.—Federal courts shall have exclusive jurisdiction over actions or proceedings in which any party seeks to compel disclosure of confidential supervisory information.

"(B) JUDICIAL REVIEW.—Judicial review of the final action of a Federal banking agency with regard to the disposition of a request for confidential supervisory information shall be before a district court of the United States of competent jurisdiction, subject to chapter 7 of part I of title 5, United States Code.

"(C) RIGHT TO APPEAL.—Any court order that compels production of confidential supervisory information may be immediately appealed by the Federal banking agency and the order compelling production shall be automatically stayed, pending the outcome of such appeal.

"(f) SUBPOENAS.—

"(1) AUTHORITY TO INTERVENE.—In the case of any action or proceeding to compel compliance with a subpoena, order, discovery request, or other judicial or administrative process with respect to any confidential supervisory information relating to any depository institution, a Federal banking agency and the depository institution may intervene in such action or proceeding for the purpose of—

"(A) enforcing the limitations established in paragraph (1) of subsections (b) and (e);

"(B) seeking the withdrawal of any compulsory process with respect to such information; and

"(C) registering appropriate objections with respect to the action or proceeding to the extent the action or proceeding relates to or involves such information.

"(2) RIGHT TO APPEAL.—Any court order that compels production of confidential supervisory information may be immediately appealed by the Federal banking agency and the order compelling production shall be automatically stayed, pending the outcome of such appeal.

"(g) REGULATIONS.—

"(1) AUTHORITY TO PRESCRIBE.—Each Federal banking agency may prescribe such regulations as the agency considers to be appropriate, after consultation with the other Federal banking agencies and the National Credit Union Administration Board, to carry out the purposes of this section.

"(2) AUTHORITY TO REQUIRE NOTICE.—Any regulations prescribed by a Federal banking agency under paragraph (1) may require any person in possession of confidential supervisory information to notify the Federal banking agency whenever the person is served with a subpoena, order, discovery request, or other judicial or administrative process requiring the personal attendance of such person as a witness or requiring the production of such information in any proceeding.

"(h) ACCESS IN ACCORDANCE WITH REGULATIONS AND ORDERS.—Notwithstanding any other provision of this section, the Federal banking agency may, without waiving any privilege, authorize access to confidential supervisory information for any appropriate governmental, law enforcement, or public purpose in accordance with agency regulations or orders.".

SEC. 502. AMENDMENT TO THE FEDERAL CREDIT UNION ACT.

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. 215. CREDIT UNION SUPERVISORY PRIVILEGE.

"(a) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) SUPERVISORY PROCESS.—The term 'supervisory process' means any activity engaged in by the Administration to carry out the official responsibilities of the Administration with regard to the regulation or supervision of credit unions.

"(2) CONFIDENTIAL SUPERVISORY INFORMATION.—The term 'confidential supervisory information' means any of the following information, or any portion of any such information, which is treated as, or considered to be, confidential information by the Administration, regardless of the medium in which the information is conveyed or stored:

"(A) Any report of examination, inspection, visitation, or investigation, and information prepared or collected by the Administration in connection with the supervisory process, including any computer file, work paper, or similar document.

"(B) Any correspondence or communication from the Administration to a credit union arising from or relating to an examination, inspection, visitation, or investigation by the Administration.

"(C) Any correspondence, communication, or document, including any compliance and other reports, created by a credit union in response to any request, inquiry, or directive from the Administration in connection with any examination, inspection, visitation, or investigation and provided to the Administration, other than any book or record in the possession of the credit union routinely prepared by the credit union and maintained in the ordinary course of business or any information required to be made publicly available by any Federal law or regulation.

"(D) Any record of the Administration to the extent it contains information derived from any report, correspondence, communication or other information described in subparagraph (A), (B), or (C).

"(b) CREDIT UNION SUPERVISORY PRIVILEGE.—

"(1) PRIVILEGE ESTABLISHED.—

"(A) IN GENERAL.—All confidential supervisory information shall be the property of the Administration and shall be privileged from disclosure to any other person.

"(B) PROHIBITION ON UNAUTHORIZED DISCLOSURES.—No person in possession of confidential supervisory information may disclose such information, in whole or in part, without the prior authorization of the Administration, except for a disclosure made in published statistical material that does not disclose, either directly or when used in conjunction with publicly available information, the affairs of any person.

"(C) AGENCY WAIVERS.—The Board may waive, in whole or in part, in the discretion of the Board, any privilege established under this paragraph.

"(2) EXCEPTION.—No provision of paragraph (1) shall be construed as preventing access to confidential supervisory information by duly authorized committees of the United States Congress or the Comptroller General of the United States.

"(c) OTHER PRIVILEGES NOT WAIVED BY DISCLOSURE TO ADMINISTRATION.—The submission by a credit union of any information to the Administration or a State credit union supervisor for any purpose in the course of the supervisory process of the Administration or such supervisor shall not be construed as waiving, destroying, or otherwise affecting any privilege such institution may claim with respect to such information under Federal or State law.

"(d) DISCOVERY AND DISCLOSURE OF INFORMATION.—

"(1) INFORMATION AVAILABLE ONLY FROM ADMINISTRATION.—

"(A) IN GENERAL.—A person seeking discovery or disclosure, in whole or in part, of confidential supervisory information may not seek to obtain such information through subpoena, discovery procedures, or other process from any person, except that such information may be sought in accordance with this section from the Administration.

"(B) REQUEST SUBMITTED TO ADMINISTRATION.—Any request for discovery or disclosure of confidential supervisory information shall be made in the Administration, which shall determine within a reasonable time period whether to disclose such information pursuant to procedures and criteria established in regulations.

"(2) EXCLUSIVE FEDERAL COURT JURISDICTION OVER DISPUTES.—

"(A) IN GENERAL.—Federal courts shall have exclusive jurisdiction over actions or proceedings in which any party seeks to compel disclosure of confidential supervisory information.

"(B) JUDICIAL REVIEW.—Judicial review of the final action of the Administration with regard to the disposition of a request for confidential supervisory information shall be before a district court of the United States of competent jurisdiction, subject to chapter 7 of part I of title 5, United States Code.

"(C) RIGHT TO APPEAL.—Any court order that compels production of confidential supervisory information may be immediately appealed by the Administration and the order compelling production shall be automatically stayed, pending the outcome of such appeal.

"(e) SUBPOENAS.—

"(1) AUTHORITY TO INTERVENE.—In the case of any action or proceeding to compel compliance with a subpoena, order, discover request, or other judicial or administrative process with respect to any confidential supervisory information relating to any credit union, the Administration and the credit union may intervene in such action or proceeding for the purpose of—

"(A) enforcing the limitations established in paragraph (1) of subsections (b) and (d);

"(B) seeking the withdrawal of any compulsory process with respect to such information; and

"(C) registering appropriate objections with respect to the action or proceeding to the extent the action or proceeding relates to or involves such information.

"(2) RIGHT TO APPEAL.—Any court order that compels production of confidential supervisory information may be immediately appealed by the Administration and the order compelling production shall be automatically stayed, pending the outcome of such appeal.

"(f) REGULATIONS.—

"(1) AUTHORITY TO PRESCRIBE.—The Board may prescribe such regulations as the Board considers to be appropriate, after consultation with the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), to carry out the purposes of this section.

"(2) AUTHORITY TO REQUIRE NOTICE.—Any regulations prescribed by the Administration under paragraph (1) may require any person in possession of confidential supervisory information to notify the Administration whenever the person is served with a subpoena, order, discovery request, or other judicial or administrative process requiring the personal attendance of such person as a witness or requiring the production of such information in any proceeding.

"(g) ACCESS IN ACCORDANCE WITH REGULATIONS AND ORDERS.—Notwithstanding any other provision of this section, the Administration may, without waiving any privilege, authorize access to confidential supervisory information for any appropriate governmental, law enforcement, or public purpose in accordance with agency regulations or orders.".

TITLE VI—TECHNICAL CORRECTIONS

SEC. 601. TECHNICAL CORRECTION RELATING TO DEPOSIT INSURANCE FUNDS.

(a) IN GENERAL.—Section 2707 of the Deposit Insurance Funds Act of 1996 (12 U.S.C. 1821 note; Public Law 104–208; 110 Stat. 3009–496) is amended by striking "7(b)(2)(C)" and inserting "7(b)(2)(E)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be deemed to have the same effective date as section 2707 of the Deposit Insurance Funds Act of 1996.

SEC. 602. RULES FOR CONTINUATION OF DEPOSIT INSURANCE FOR MEMBER BANKS CONVERTING CHARTERS.

Section 8(o) of the Federal Deposit Insurance Act (12 U.S.C. 1818(o)) is amended in the second sentence, by striking "subsection (d) of section 4" and inserting "subsection (c) or (d) of section 4".

SEC. 603. WAIVER OF CITIZENSHIP REQUIREMENT FOR NATIONAL BANK DIRECTORS.

Section 5146 of the Revised Statutes of the United States (12 U.S.C. 72) is amended in the 1st sentence, by inserting before the period ", and waive the requirement of citizenship in the case of not more than a minority of the total number of directors of a national bank which is an affiliate (as defined in section 3(w)(6) of the Federal Deposit Insurance Act) of a foreign bank".

SEC. 604. TECHNICAL AMENDMENT TO PROHIBITION ON COMPTROLLER INTERESTS IN NATIONAL BANKS.

Section 329 of the Revised Statutes of the United States (12 U.S.C. 11) is amended by striking "to be interested in any association issuing national currency under the laws of the United States" and inserting "to hold an interest in any national bank".

SEC. 605. APPLICABILITY OF LIMITATION TO PRIOR INVESTMENTS.

(a) IN GENERAL.—Section 18(s) of the Federal Deposit Insurance Act (12 U.S.C. 1828(s)) is amended by adding at the end the following new paragraph:

"(5) CERTAIN INVESTMENTS.—Paragraph (1) shall not apply to investments lawfully made before April 11, 1996, by a depository institution in a Government-sponsored enterprise.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply as if such amendment had been included in the amendment made by section 2615(b) of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 as of the effective date of such section.

TITLE VII—SPECIAL RESERVE FUNDS

SEC. 701. ABOLITION OF SPECIAL RESERVE FUNDS.

(a) SAIF SPECIAL RESERVE.—Section 11(a)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(6)) is amended by striking subparagraph (L).

(b) SPECIAL RESERVE OF THE DEPOSIT INSURANCE FUND.—Section 2704 of the Deposit Insurance Funds Act of 1996 is amended—

(1) by striking subsection (b);

(2) by striking paragraph (4) of subsection (d);

(3) in subsection (d)(6)(C)(i), by striking "(6) and (7)" and inserting "(5), (6), and (7)"; and

(4) in subsection (d)(6)(C)(ii), by striking "(6)" and inserting "(5)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply as if such amendments had been included in the Deposit Insurance Funds Act of 1996 as of the date of the enactment of such Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from New Jersey (Mrs. ROUKEMA) and the gentleman from New York (Mr. LAFALCE) each will control 20 minutes.

The Chair recognizes the gentlewoman from New Jersey (Mrs. ROUKEMA).

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

Mr. Speaker, at this hour of the night I want to thank the Speaker and say to my colleagues here that we have a very important bill here that is somewhat complex but nevertheless we have strong bipartisan support for, and that is the reason we are here under suspension of the rules. We are considering tonight what has become a persistent issue with the Banking Committee and the Congress, namely legislation to relieve the regulatory burden on financial institutions and seeking ways to streamline the regulatory process. It is a very important issue.

We talk a lot about deregulation but here is one way we can actually take some substantive action to deal with it. This Depository Institution Regulatory Streamlining Act of 1998 will provide important regulatory relief for financial institutions. I certainly want to thank the gentleman from Iowa (Mr. LEACH) for his assistance. Without his support and strong leadership, we would not be here this evening. Also I

want to acknowledge the work of the gentleman from New York (Mr. LAFALCE) the ranking member of the full committee who is with us tonight, and also the ranking member of the subcommittee, the gentleman from Minnesota (Mr. VENTO). We have had, as I stated, strong bipartisan support with significant reforms. The gentleman from Minnesota and I worked very hard to produce this bill at the subcommittee level, and I believe we have come up with a good product. I regret that we do not have everything that we would have liked in this bill, but it is a significant step forward. Certainly the gentleman from Minnesota and I are intent on continuing our work together, and that there are other agreements on changes that we might be able to make in the future, namely at least in one respect and probably in others as well, but the one that I would single out here tonight is the debit card area, where next year I hope we can take some action. Indeed, we have a letter here which we have agreed, on a bipartisan basis, to send to the Federal Reserve regarding the customer notification issue, and we hopefully will be able to solve that problem.

I also should mention not only the interest of the gentleman from Minnesota (Mr. VENTO) the gentleman from New York (Mr. LAFALCE), the gentleman from Iowa (Mr. LEACH) and mine but also the gentleman from Wisconsin (Mr. BARRETT), a strongly contributing member of our committee.

I would like to point out that the subcommittee had the responsibility to assure that Federal banking laws and regulations in the supervisory system not only promote the safety and soundness of the banking system but in so doing it is important to recognize that we need to review on a regular basis the legal requirements that have been imposed to assure ourselves the continuing efficacy and reliability of the system. Clearly as we all know, and we see worldwide, financial markets and the banking industry are evolving at a tremendous pace, and as changes in the industry occur, old approaches may or may not be appropriate and new ones need to be advanced. That is what this bill is about.

Because of the time here and because of the unanimity of opinion, we certainly do want to hear from our chairman the gentleman from Iowa (Mr. LEACH), other members of the committee and certainly the gentleman from New York (Mr. LAFALCE), I will only outline the major portions of the bill. It has a wide ranging number of subjects, but the five most important provisions or most singular provisions are as follows.

Interest on the sterile reserves is the first major issue that we deal with. Without going into the details of it, the bill would authorize the Federal Reserve Board to pay interest on reserve balances, both required and excess reserve balances that are held at Federal Reserve banks. This is a significant change in banking law with very positive effects for both the banks and the Federal Reserve, and it will make it far easier to manage the economy. Without going into all the different aspects of it, I would simply point out that this provision is strongly supported by the Federal Reserve Board as well as by the banking industry.

Our colleagues on the committee, both the gentleman from Washington (Mr. METCALF), who is here this evening, we will be hearing from and the gentlewoman from New York (Mrs. KELLY) have been the prime advocates and leaders on this issue. I am sure we will be interested in hearing the gentleman from Washington's perspective on this and other portions of the bill.

□ 0120

The second issue is the interest on business checking. It is a major component of the bill. Financial institutions are currently prohibited by Federal statute from paying interest on business transaction accounts, and actually, as so often happens in these cases and other business aspects of our economy, financial institutions have circumvented the statutory provision in different ways and have demonstrated that it is really not a current provision that we should keep in place.

So we are changing this outdated prohibition of interest on business checking and have provided a 6-year transition period for the elimination of the interest on business checking prohibition so that all parties can make adjustments to this proposal.

This has been somewhat controversial but we think we have reached an accommodation that should satisfy all parties, and it should be noted that the National Federation of Independent Business, the Treasury Management Association and the U.S. Chamber of Commerce all support repeal of that provision.

We also have in the bill the Bank Examination Report Privilege Act. Now that sounds like a lot but it establishes a privilege for correspondence, materials and information which regulators collect from banks and it is a very essential modification that should be, as far as we can tell and the way we have worked it out with all interested parties, including the American Bar Association, that it will bring us up to modern times and still not create a privilege for all documents which are turned over to the regulators.

The gentleman from Florida (Mr. MCCOLLUM), a member of the committee, was very instrumental in helping us reach this conclusion. The SAIF special reserve fund, and the time is going on so I shall simply mention the SAIF special reserve fund which now is possible to adjust and repeal the special reserve fund because of the conditions, both in the BIF and the SAIF and the sound economy that we have, and suffice it to say that all parties are completely supportive of that provision.

Of course, we like to hear this: The CBO has scored this provision and reported that there is no cost.

I am going to conclude now, without going into the details of the CEBA banks, but suffice it to say that this makes an adjustment and a reform from a 1987 law and one that is included in H.R. 10 but it has the support of everyone on all sides. We think it is long overdue reform.

Mr. Speaker, I reserve the balance of my time and would wait to hear the other Members.

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

Mr. Speaker, I rise in support of H.R. 4364.

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

Mrs. ROUKEMA. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa (Mr. LEACH), the chairman of the Committee on Banking and Financial Services.

Mr. LEACH. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, the principal beneficiaries of the Depository Institution Regulatory Streamlining Act are the Nation's small businesses and their customers. The bill, so ably put together by the Subcommittee on Financial Institutions and Consumer Credit, under the leadership of the gentlewoman from New Jersey (Mrs. ROUKEMA) and the gentleman from Minnesota (Mr. VENTO) will repeal overtime prohibitions in current law that bar banks from paying interest on business checking accounts.

In addition, the bill authorizes financial institutions to establish on an interim basis 24-transaction-a-month money market accounts for businesses. In effect, this means that small businesses, which have fewer options in money management than their larger competitors, will be able to have their money work for them.

The gentlewoman from New York (Mrs. KELLY) deserves special attention for her contributions in helping craft this important provision.

Given the liquidity problems increasing in American banking, the above provisions will enable the principal providers of credit, to midsized American business, to more efficiently serve their customers.

I would like also to call attention to one other provision of the bill and that involves the Federal Reserve Board being allowed for the first time to pay interest to depository institutions on the money they are required to keep on reserve with the Fed.

This would appear on its face to be only fair. Banks should be treated as

equitably as others and allowed to collect interest on their savings. A critical upshot of advancing this commonsense precept is that the Fed will be able to better manage monetary policy because disincentives for holding funds at the Fed will be reduced.

This important provision has been advanced with great effectiveness over the past several Congresses by the gentleman from Washington (Mr. METCALF) and he deserves enormous credit for introducing legislation in this regard and keeping it before the Committee on Banking, Housing, and Urban Affairs for such a long period of time.

In closing, I would like to thank or note again the hard work in bringing this bill to the floor by our subcommittee chairman, the gentlewoman from New Jersey (Mrs. ROUKEMA), the ranking member of the full committee, the gentleman from New York (Mr. LAFALCE), and the gentleman from Minnesota (Mr. VENTO), and, of course, particularly to the gentleman from Washington (Mr. METCALF), who has worked so tirelessly for the principles that are in this bill.

Mrs. ROUKEMA. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Washington (Mr. METCALF), a member of the committee.

Mr. METCALF. Mr. Speaker, let me first thank the gentleman from Iowa (Mr. LEACH), the chairman of the Committee on Banking, Housing, and Urban Affairs, the gentlewoman from New Jersey (Mrs. ROUKEMA), the Chair of the Subcommittee on Financial Institutions and Consumer Credit, and the many members of the subcommittee.

I also thank the committee for adopting my bill, the Small Business Banking Act of 1997, as a section of today's bill. This bill represents a culmination of bipartisan effort that many have worked diligently to achieve.

Many people are unaware that small businesses are prohibited, by an outdated 60-year-old law that prevents them from earning interest on their business checking accounts. To address these problems, I have in both the 104th and 105th Congresses introduced legislation to simply allow, not mandate but to allow, the paying of interest on business checking accounts now prohibited under law.

I have heard from hundreds of banks across the Nation. Given the late hour, I will just mention a few. A banker from Iowa wrote, "There seems to be little reason to continue to prohibit interest-bearing checking accounts for businesses or corporations. Further, small community banks such as ourselves must either spend additional dollars to offer a sweep type of product or lose small business customers' accounts."

A banker from Wisconsin wrote, "Small banks are now required to use creative repurchasing agreement accounting in an attempt to compete. Why are our customers being disadvantaged? Please level the playing field."

In expressing his support of this legislation, Federal Reserve Chairman Alan Greenspan wrote, "It would eliminate a significant distortion in financial markets that places small businesses at a particular disadvantage. Moreover, it would assist us in our implementation of monetary policy. Permitting depository institutions to pay interest on demand deposits would eliminate a constraint that serves no purpose and imposes unnecessary costs on both businesses and depository institutions."

The U.S. Chamber of Commerce, the world's largest business federation, wrote in support of the bill, "By allowing for more open competition, this legislation offers an important opportunity to small business owners to establish a more complete relationship with their financial service providers."

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The list goes on and on of those who support this legislation, including the National Federation of Independent Businesses, the Mutual Fund Company, T. Rowe Price, and America's Community Bankers.

In conclusion, this is a chance to do something tangible to help every small business in every congressional district. America's small businesses cannot afford for Congress to further delay lifting this outdated and anticompetitive prohibition. I encourage my colleagues to support this legislation.

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

Mr. LAFALCE. Mr. Speaker, how much time do I have remaining.

The SPEAKER pro tempore (Mr. BLUNT). The gentleman from New York (Mr. LAFALCE) has 19½ minutes remaining.

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

Mr. Speaker, I would be remiss if I did not congratulate everyone associated with this bill, most especially the chairman of the full committee, the chairman of the subcommittee, and the distinguished ranking member of the subcommittee the gentleman from Minnesota (Mr. VENTO) also.

I do want to single out that the chairman of the full committee, too. There were provisions within the subcommittee bill that was reported out of subcommittee that were ardently sought by Members of his own party, very adamantly opposed by ours.

There were provisions in the bill, other provisions that were vehemently opposed by ours and some provisions that Members from our side wanted to add to the bill. I think he took a very judicious, prudential approach in producing in a bipartisan fashion a bill that everyone today could support and is deserving of passage, not only by this House, but by the Senate, and deserving of signature by the President of the United States. I hope that will come about.

I thank the gentleman from Iowa (Mr. LEACH) and the gentlewoman from New Jersey (Mrs. ROUKEMA) for their cooperative attitude very much.

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

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

Mr. Speaker, I do thank the ranking member for those kind words. It does show how we can be a standard for the rest of the Congress in our bipartisan efforts here. I again congratulate the chairman of the full committee. Mr. Speaker I have no further requests for time.

Mr. BEREUTER. Mr. Speaker, this Member rises today in support of H.R. 4364, the Financial Institution Regulatory Streamlining Act of 1998. This Member has a long history of initiating and supporting regulatory relief efforts and this bill is another substantial step toward this end.

This Member would like to thank the distinguished gentlelady, [Mrs. ROUKEMA] the Chairperson of the Banking Subcommittee on Financial Institutions Subcommittee from New Jersey, for introducing this bill and for her efforts in bringing H.R. 4364 to the House Floor. This Member would also like to express his appreciation to the distinguished gentleman from Iowa [Mr. LEACH], the Chairman of the full Banking Committee, and the distinguished gentleman from New York [Mr. LAFALCE], the Ranking Minority Member of the full Banking Committee, for their efforts in bringing this measure to the House Floor today.

Before going into specific provisions of H.R. 4364, this Member believes that it is imperative to note that efforts directed toward regulatory burden-relief benefits both financial institutions and consumers. It allows financial institutions to conduct their business more efficiently as well as reducing the costs of banking to the consumer.

This Member is supportive of H.R. 4364 for the following three reasons.

1. H.R. 4364 would allow the Federal Reserve to pay interest on reserve balances maintained by depository institutions at Federal Reserve Banks at a rate no greater than the general level of short-term interest rates. This Member understands and appreciates the beneficial effect of this provision since it enhances the liquidity of depository institutions which in turn will positively impact the manner in which depository institutions conduct their lending practices.

2. This measure also applauds the H.R. 4364 provision which would allow for the payment of interest on business checking accounts effective October 1, 2004. This provision, which is both pro-business and pro-commerce, eliminates an undue and unnecessary regulation.

3. This Member would also like to highlight three under-recognized, but important parts of H.R. 4364 which will decrease the everyday regulatory burden on financial institutions.

For instance, provision in H.R. 4364 would require Federal Banking Agencies to use plain

English in all proposed and final rules published after January 1, 1999. This measure will help all financial institutions from confusing and perplexing rules.

Furthermor, H.R. 4364 permits the Comptroller of the Currency to waive the current restriction on having no more than 25 directors serve on the board of national banks. It appears to this Member that there actually is no rationale to support the current regulatory limit of 25. This measure appropriately enhances the flexibility and freedom of a National Bank.

One additional small, but consequential, provision of regulatory relief is the repeal of the Dividend Notice Requirement. Financial institutions are many times inundated with regulatory paperwork. This simple provision would eliminate the 30-day advance notice to the Office of Thrift Supervision of a dividend payment by a savings association to its savings and loan holding company.

In closing, because of the above reasons and others, this Member would encourage the House to vote in support of H.R. 4364.

Mr. METCALF. Mr. Speaker, let me first thank the Chairman of the Banking Committee and also thanks to the Gentlelady from New Jersey, the Chair of the Financial Institutions Subcommittee, and the many members of the Subcommittee. I also thank the committee for adopting my bill—The Small Business Banking Act of 1997, as a major section of today's legislation. This Act now represents a culmination of bi-partisan effort that many have worked diligently to perfect.

Many people are unaware that small businesses are prohibited by an outdated 60 year-old law that prevents them from earning interest on their business checking accounts. What's more ironic is that many banks are actually clamoring to have the choice to serve their business customers by offering interest on these accounts.

To address these problems, I have, in both the 104th and 105th Congresses, introduced legislation to allow, not mandate, but to allow banks and savings institutions to pay interest on business checking accounts, which is now prohibited under law.

By lifting the current prohibition against banks offering interest, the legislation would allow banks to give small businesses this critically needed option. It would also allow banks the opportunity to better address the business concerns of their local communities without having to undergo costly, cumbersome procedures.

But don't take my word for it. Listen to some comments I have received from community banks across the nation:

A banker from Iowa wrote: "There seems little reason to continue to prohibit interest bearing checking accounts for businesses or corporations . . . Further, small community banks such as ourselves must either spend additional dollars to offer a sweep type of product or lose a small business customers' accounts."

A banker from Wisconsin wrote: "Small banks are now required to use 'creative repurchase agreement accounting' in an attempt to compete. Why are our customers being disadvantaged? Please level the playing field."

In expressing his support for the legislation, Federal Reserve Chairman Alan Greenspan wrote: "It would eliminate a significant distortion in financial markets that places small businesses at a particular disadvantage. Moreover, it would assist us in our implementation of monetary policy . . . Permitting depository institutions to pay interest on demand deposits would eliminate a constraint that serves no purpose and imposes unnecessary costs on both businesses and depository institutions."

The U.S. Chamber of Commerce—the world's largest business federation—wrote in support of the bill: "By allowing for more open competition, your legislation offers an important opportunity to small business owners to establish a more complete relationship with their financial service providers."

The list goes on of those who support this bill, including: The National Federation of Independent Businesses; T. Rowe Price, the mutual fund company; and America's Community Bankers.

In closing, this is a chance to do something tangible to help every small business in every congressional district. America's small businesses cannot afford for Congress to further delay lifting this outdated and anti-competitive prohibition. I yield back the balance of my time.

Mr. CASTLE. Mr. Speaker, I rise in support of H.R. 4364, which will provide some fair and needed relief from unnecessary regulations for many of our banks and other financial institutions. I want to thank Chairman ROUKEMA of the financial institutions subcommittee for putting this bill together and to Chairman LEACH of the full committee for helping to bring it to the floor this year.

Balancing efforts to remove unnecessary regulations, improve competition and protect consumers is never easy, but I think this bill balances all those important goals and will contribute to strengthening the financial services industry and promote new products for consumers.

I would like to comment in particular on sections 222 and 223 of the bill which I believe will promote competition and increase the quality of financial products available to consumers. These sections will lift some outdated restrictions from limited-purpose banks and allow these institutions to offer new products consistent with their charter; cross-market the financial products of their affiliates; offer business credit cards to their customers; and correct problems in a reasonable period of time in consultation with the Federal Reserve. These changes will increase the products available to consumers without unfairly affecting other financial service providers. This is consistent with the intent of the entire bill which seeks to help businesses and consumers while maintaining sound regulation.

Again, I want to thank all the members involved for their cooperative efforts on this legislation, and I urge the House to approve H.R. 4364.

Mrs. KELLY. Mr. Speaker, I thank the gentlewoman from New Jersey for yielding me time. Mr. Chairman, I rise today in strong support of H.R. 4364, the Depository Institution Regulatory Streamlining Act. This legislation represents the tireless efforts of many of my colleagues, especially the gentleman from Washington, Mr. METCALF.

H.R. 4364 is a well balanced legislative package of financial services regulatory relief. I was pleased when provisions from my legislation, H.R. 4082, were included in this bill and know that these provisions will help banks better serve their customers.

One of these provisions will allow banks to conduct "24 sweeps" in a given month for their commercial checking customers. Currently, banks are prohibited from paying interest on commercial checking accounts. These sweeps allow banks to move funds sitting in a commercial checking account into an interest bearing account daily after all transactions have occurred in the commercial account. The next morning the money would then be "swept" back into the commercial accounts, with interest. Currently, banks are only allowed to do this six times a month. Operation of additional sweeps each month would not affect the safety and soundness of banks and will allow banks to pay interest on commercial checking accounts.

In my discussions with banks, I have found that complying with this provision would take minimal effort since we will only be increasing their ability to sweep from six times a month to 24. This initiative represents a real "win-win" for banks and businesses.

I want to again thank the gentleman from Washington for his hard work on this bill, as well as the gentlewoman from New Jersey, Mrs. ROUKEMA, the gentleman from Minnesota, Mr. VENTO and the committee staff who worked so hard to make this bill a reality.

Lastly, I am pleased with the bipartisan consensus we have achieved with this legislation and I ask my colleagues from both sides of the aisle to join me in support for House passage of H.R. 4364.

Mr. VENTO. Mr. Speaker, I rise in support of H.R. 4364, the Depository Institution Regulatory Streamlining Act of 1998, legislation that I have worked on for many months and which I cosponsored at introduction.

I am pleased that the anti-CRA amendment that forced the opposition of all the Democrats on the Financial Institutions Subcommittee has been removed because it would effectively exempt over 80% of financial institutions from CRA, I have remaining concerns.

I am uncomfortable with the extension of the delay in allowing interest on business checking accounts, a sound public policy change that should really be effective as soon as possible, from three years to six years. However, because we were able to find an accommodation for a very minor notification provision for consumers about the debit cards they are now receiving as replacement cards for the ATM cards and the response to the F.T.C. concerns on broadcast disclosure I'm for the time supporting this process.

I do want to note for all the Members of the House, that at the Financial Institutions Subcommittee, we worked well together to assure that we would not be condemned to repeat history on regulatory burden relief. I thank the gentlelady from New Jersey, Chairwoman ROUKEMA, and her staff, for their work with us on this legislation. We crafted a balanced bill on which we held a comprehensive hearing. We worked with Members, the regulators and consumer and industry interests to advance a solid, yet basically non-controversial regulatory burden relief bill that did not adversely affect consumers, nor undercut some of the very

laws that protect safety and soundness of our financial institutions.

That is not to say that this bill is completely without controversy. Title I, which contains the provisions to allow interest on business checking, a big plus for small-and medium-sized businesses which are not sweep always able to take advantage of the so-called accounts, also allows the Federal Reserve Board to pay interest on sterile reserves. Obviously, that policy, path has a price and we chose in the bill to pay for the scoring by using the Fed surplus. How far past this House floor that these provisions will advance is not clear to me at this time.

This bill provides for the elimination of the SAIF special reserves which in pulling off funds and reserving them from the Savings Association Insurance Fund could set up a differential premium and get us back in the BIF-SAIF "situation" that engulfed us in the last Congress. I support this provision that is supported by the FDIC.

H.R. 4364 also provides some housecleaning type provisions for the banking regulators, bringing outdated statutes up to date, clarifying the meaning of changes made in previous laws, and providing technical corrections to many laws.

Let me be clear, this bill is not about consumer burden relief which should have been in order. Indeed, our Financial Institutions Subcommittee held hearings on some timely topics including privacy issues, unsolicited loan checks and other provisions that could have been added. Many Democratic Members, including myself, would have liked to include positive proactive legislation for consumers. For example, I would have like to increase the limit for the applicability for nonmortgage Truth In Lending Act coverage from $25,000 to $50,000 so that consumers who buy a vehicle that costs more than $25,000 would be protected by TILA. These kinds of provisions, however, were held off in the spirit of pragmatism, trying to move a bill quickly and not to bog it down in controversy.

Let me finally say, regulatory burden relief can generally be a good premise, but not if it breaches consumer protection OR safety and soundness boundaries. It cannot be an excuse for the lowest common denominator with regards to consumers, communities and safety and soundness. I supported working on this legislation so that we can maintain a non-partisan, non-controversial stance on some needed changes. There are unnecessarily changes, however, that were suggested.

For example, there are provisions in the regulatory relief bill that has been pending in the other body and I do find very egregious. They are absent in this bill and I appreciate the willingness to work together on this bill without those sort of provisions. That is what has made this bill a suspension bill today. Because of our less controversial approach, we may well have facilitated the positive consideration of this legislation in the very limited window we have left.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from New Jersey (Mrs. ROUKEMA) that the House suspend the rules and pass the bill, H.R. 4364, 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

Mrs. ROUKEMA. 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. 4363, the bill just passed.

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

There was no objection.

CONSUMER REPORTING EMPLOYMENT CLARIFICATION ACT OF 1998

Mr. LEACH. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2561) to amend the Fair Credit Reporting Act with respect to furnishing and using consumer reports for employment purposes.

The Clerk read as follows:

S. 2561

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 "Consumer Reporting Employment Clarification Act of 1998".

SEC. 2. USE OF CONSUMER REPORTS FOR EMPLOYMENT PURPOSES.

(a) DISCLOSURE TO CONSUMER.—Section 604(b)(2) of the Fair Credit Reporting Act (15 U.S.C. 1681b(b)(2)) is amended to read as follows:

"(2) DISCLOSURE TO CONSUMER.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a person may not procure a consumer report, or cause a consumer report to be procured, for employment purposes with respect to any consumer, unless—

"(i) a clear and conspicuous disclosure has been made in writing to the consumer at any time before the report is procured or caused to be procured, in a document that consists solely of the disclosure, that a consumer report may be obtained for employment purposes; and

"(ii) the consumer has authorized in writing (which authorization may be made on the document referred to in clause (i)) the procurement of the report by that person.

"(B) APPLICATION BY MAIL, TELEPHONE, COMPUTER, OR OTHER SIMILAR MEANS.—If a consumer described in subparagraph (C) applies for employment by mail, telephone, computer, or other similar means, at any time before a consumer report is procured or caused to be procured in connection with that application—

"(i) the person who procures the consumer report on the consumer for employment purposes shall provide to the consumer, by oral, written, or electronic means, notice that a consumer report may be obtained for employment purposes, and a summary of the consumer's rights under section 615(a)(3); and

"(ii) the consumer shall have consented, orally, in writing, or electronically to the procurement of the report by that person.

"(C) SCOPE.—Subparagraph (B) shall apply to a person procuring a consumer report on a consumer in connection with the consumer's application for employment only if—

"(i) the consumer is applying for a position over which the Secretary of Transportation has the power to establish qualifications and maximum hours of service pursuant to the provisions of section 31502 of title 49, or a position subject to safety regulation by a State transportation agency; and

"(ii) as of the time at which the person procures the report or causes the report to be procured the only interaction between the consumer and the person in connection with that employment application has been by mail, telephone, computer, or other similar means.".

(b) CONDITIONS ON USE FOR ADVERSE ACTIONS.—Section 604(b)(3) of the Fair Credit Reporting Act (15 U.S.C. 1681b(b)(3)) is amended to read as follows:

"(3) CONDITIONS ON USE FOR ADVERSE ACTIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), in using a consumer report for employment purposes, before taking any adverse action based in whole or in part on the report, the person intending to take such adverse action shall provide to the consumer to whom the report relates—

"(i) a copy of the report; and

"(ii) a description in writing of the rights of the consumer under this title, as prescribed by the Federal Trade Commission under section 609(c)(3).

"(B) APPLICATION BY MAIL, TELEPHONE, COMPUTER, OR OTHER SIMILAR MEANS.—

"(i) If a consumer described in subparagraph (C) applies for employment by mail, telephone, computer, or other similar means, and if a person who has procured a consumer report on the consumer for employment purposes takes adverse action on the employment application based in whole or in part on the report, then the person must provide to the consumer to whom the report relates, in lieu of the notices required under subparagraph (A) of this section and under section 615(a), within 3 business days of taking such action, an oral, written or electronic notification—

"(I) that adverse action has been taken based in whole or in part on a consumer report received from a consumer reporting agency;

"(II) of the name, address and telephone number of the consumer reporting agency that furnished the consumer report (including a toll-free telephone number established by the agency if the agency compiles and maintains files on consumers on a nationwide basis);

"(III) that the consumer reporting agency did not make the decision to take the adverse action and is unable to provide to the consumer the specific reasons why the adverse action was taken; and

"(IV) that the consumer may, upon providing proper identification, request a free copy of a report and may dispute with the consumer reporting agency the accuracy or completeness of any information in a report.

"(ii) If, under clause (B)(i)(IV), the consumer requests a copy of a consumer report from the person who procured the report, then, within 3 business days of receiving the consumer's request, together with proper identification, the person must send or provide to the consumer a copy of a report and a copy of the consumer's rights as prescribed by the Federal Trade Commission under section 609(c)(3).

"(C) SCOPE.—Subparagraph (B) shall apply to a person procuring a consumer report on

a consumer in connection with the consumer's application for employment only if—

"(i) the consumer is applying for a position over which the Secretary of Transportation has the power to establish qualifications and maximum hours of service pursuant to the provisions of section 31502 of title 49, or a position subject to safety regulation by a State transportation agency; and

"(ii) as of the time at which the person procures the report or causes the report to be procured the only interaction between the consumer and the person in connection with that employment application has been by mail, telephone, computer, or other similar means.".

SEC. 3. PROVISION OF SUMMARY OF RIGHTS.

Section 604(b)(1)(B) of the Fair Credit Reporting Act (15 U.S.C. 1681b(b)(1)(B)) is amended by inserting ", or has previously provided," before "a summary".

SEC. 4. NATIONAL SECURITY INVESTIGATION CONFORMING AMENDMENTS.

(a) GOVERNMENT AS END USER.—Section 609(a)(3) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)(3)) is amended by adding at the end the following:

"(C) Subparagraph (A) does not apply if—

"(i) the end user is an agency or department of the United States Government that procures the report from the person for purposes of determining the eligibility of the consumer to whom the report relates to receive access or continued access to classified information (as defined in section 604(b)(4)(E)(i)); and

"(ii) the head of the agency or department makes a written finding as prescribed under section 604(b)(4)(A).".

(b) NATIONAL SECURITY INVESTIGATIONS.—Section 613 of the Fair Credit Reporting Act (15 U.S.C. 1681k) is amended—

(1) by inserting "(a) IN GENERAL.—" before "A consumer"; and

(2) by adding at the end the following:

"(b) EXEMPTION FOR NATIONAL SECURITY INVESTIGATIONS.—Subsection (a) does not apply in the case of an agency or department of the United States Government that seeks to obtain and use a consumer report for employment purposes, if the head of the agency or department makes a written finding as prescribed under section 604(b)(4)(A).".

SEC. 5. CIVIL SUITS AND JUDGMENTS.

Section 605(a) of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)) is amended—

(1) in paragraph (2), by striking "Suits and Judgments which" and inserting "Civil suits, civil judgments, and records of arrest that";

(2) by striking paragraph (5);

(3) in paragraph (6), by inserting ", other than records of convictions of crimes" after "of information"; and

(4) by redesignating paragraph (6) as paragraph (5).

SEC. 6. TECHNICAL AMENDMENTS.

The Fair Credit Reporting Act (15 U.S.C. 1601 et seq.) is amended—

(1) in section 603(d)(2)(A)(iii), by striking "any communication" and inserting "communication";

(2) in section 603(o)(1), by striking "(d)(2)(E)" and inserting "(d)(2)(D)";

(3) in section 603(o)(4), by striking "or" at the end and inserting "and";

(4) in section 604(g), by striking "or a direct marketing transaction";

(5) in section 611(a)(7), by striking "(6)(B)(iv)" and inserting "(6)(B)(iii)"; and

(6) in section 621(b), by striking "or (e)".

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall be deemed to have the same effective date as the amendments made by section 2403 of the Consumer Credit Reporting Reform Act of 1996 (Public Law 104-208; 110 Stat. 3009-1257).

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.

Mr. Speaker, S. 2561, the Consumer Reporting Employment Clarification Act of 1998 amends the Fair Crediting Reporting Act FCRA to revise certain changes that were made to the act last Congress. Some of these changes had inadvertent consequences on the trucking industry's hiring practices.

Specifically, the bill amends the FCRA to remove burdensome restrictions so that trucking companies will be able to conduct background investigations of driver applicants in a timely and efficient manner to help ensure highway safety.

S. 2561 has bipartisan support and the agreement of the Federal Trade Commission and consumer advocacy groups. The bill is also strongly supported by the American Trucking Association and the Truckload Carriers Association.

The legislation also amends the FCRA so employers have access to critical information in order to make informed hiring decisions. Current law exempts convictions of crime from consumer reports after 7 years for individuals applying for jobs with an annual salary of less than $75,000. S. 2561 would remove this exemption. Such information is particularly crucial in the hiring process for employers in the area of child or elderly care, school bus driving, and household services.

This bill provides for small changes to the FCRA that will have a significant impact on the efficiency of many employers' hiring practices, resulting in a safer environment for all.

I would like to commend Senator NICKLES, Senator BRYAN, and Senator MACK for their work on this legislation and the gentleman from Oklahoma (Mr. LUCAS) and the gentleman from Oklahoma (Mr. WATTS) for their leadership in the House and the gentleman from New York (Mr. LAFALCE) for his cooperation in ensuring that this important legislation is able to be brought before us at the last moments of this Congress.

By background, on September 30, 1996, Congress enacted amendments to the Fair Credit Reporting Act (FCRA) that unintentionally hindered the ability of trucking companies to hire safe, professional truck drivers. The new regulations, which went into effect last Fall, require trucking companies to obtain written consent from truck driver applicants before the company may obtain driving records and accidents history information required by the Federal Highway Administration.

The hiring process in the trucking industry, which employs over 3.5 million drivers, depends on an immediate ability to verify a driver's safety and employment history before a company will put a driver behind the wheel. Because of the high volume of applicants and the need to verify instantly safety and employment information, many trucking companies utilize an "800" number system. Under this system, trucking carriers will accept applications for employment over the telephone, and immediately orders a background report to determine if the applicant meets the carriers' hiring requirements. Due to the industry's high standards, the industry hires only one of every ten applicants.

The new FCRA regulations have forced the trucking industry to add multiple, unnecessary steps to its hiring procedures, especially since these background checks are already required under federal law. Moreover, because of the burdensome paperwork requirements under these regulations, and because the industry is currently facing a critical shortage of drivers, many carriers will have no choice but to put drivers behind the wheel before their safety records can be verified. This obviously raises serious highway safety concerns. For all these reasons, the trucking industry strongly supports an amendment to FCRA that would permit trucking companies to accept an applicants consent over the telephone.

Section 604 of the FCRA establishes, among other items, the conditions under which a consumer reporting agency may furnish a consumer report for employment purposes. Current law requires prospective employers to certify to the consumer reporting agency that certain notices, including a summary of rights in the event of adverse action, have been given to the consumer and that information from the report will be used for lawful purposes.

In addition, the consumer reporting agency may only furnish a report to a prospective employer if the agency provides with the report the summary of consumer rights. The amendment establishes that the intent of the statute can be met without the consumer reporting agency providing the summary every time a report is obtained. Instead, the requirement is satisfied if the consumer reporting agency has previously provided a summary of rights. The amendment codifies interpretive letter of the Federal Trade Commission in this area.

Section 4 amendments are conforming amendments for provisions added to Section 604(b)(4) in the Intelligence Authorization Act of 1998. These provisions created an exception for providing certain disclosures to consumers if a written determination was obtained from the relevant agency that the disclosure would threaten national security, endanger an individual's safety or hamper an official investigation. The proposed amendments provide for full compliance with the Intelligence Authorization provisions and protect consumer reporting agencies from unwarranted liability.

The Intelligence Authorization Act amendments failed to make conforming exceptions for requirements imposed upon consumer reporting agencies. First, under Section 609, a consumer reporting agency must, upon request, disclose to the consumer the end-user of the report. The amendment would provide

an exception to that requirement if the relevant agency makes the appropriate written determination.

Second, under Section 613, consumer reporting agencies may be required to provide consumers with the name and address of person seeking consumer reports consisting of public record information. The amendment establishes an exception for disclosing this information in the context of the national security area.

Under current law, if an individual is seeking a job with an annual salary below $75,000, no records of criminal activity, including convictions, may be reported if they antedate the report by more than seven years. This information may be of critical value to prospective employers, especially those in the areas of child or elderly care, school bus driving and household services. Under the bill, convictions of crimes from the seven-year obsolescence period would be exempted.

All in all this is a common sense bill designed to protect the public. I encourage support of all members.

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

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

Mr. Speaker, I rise in support of S. 2561, associate myself fully with the remarks of the distinguished chairman of the Committee on Banking and Financial Services, the gentleman from Iowa (Mr. LEACH).

Mr. Speaker, I rise in support of S. 2561, a bill to provide limited clarifications and technical corrections to the Fair Credit Reporting Act. I wish to thank the Chairman of the Banking Committee for bringing this legislation to the floor under suspension.

While I believe we need to be extremely cautious in accepting any proposal to revise the Fair Credit Reporting Act, especially those offered in the rush before adjournment, let me say that I have closely reviewed this bill and have no objections. The exceptions that the bill creates from current FCRA requirements are justifiable and are very narrowly targeted. In addition, the bill provides a number of technical improvements to FCRA that were drafted with the assistance and support of the Federal Trade Commission.

The primary issue addressed by the bill relates to problems encountered by a limited number of firms that provide employment screening for national trucking companies. Under FCRA any report on an individual produced by a hired third party falls under the category of a "consumer report". It requires, where such reports are prepared for employment purposes, that certain disclosures be provided in writing to the individual who is the subject of the report; that the individual provide written authorization for release of the report and that the employer provide a written copy of the report to the applicant where an adverse decision is made based on information in the report.

Since the companies providing employment screening for trucking firms seek applications in all parts of the country and communicate primarily by telephone, fax or mail, current FCRA requirements that disclosures and authorizations be made in person and in writing are inappropriate and burdensome. The legislation would add several narrowly crafted exceptions to FCRA that would permit—where employment applications are taken by phone, mail or electronically—greater flexibility in providing required disclosures and authorizations either by "oral, written or electronic means", and in permitting delivery of a credit report to an applicant within three days after an adverse employment decision.

I believe these exceptions are reasonable and have been crafted to apply very narrowly only to truck driving positions that are defined and regulated under Federal law. The bill also makes a number of additional technical changes, most of which are intended to correct drafting errors made in the 1996 FCRA Amendments,

Mr. Speaker, the clarifications made by S. 2561 are supported by the Federal Trade Commission, they have been signed-off on by U.S. PIRG, and they have raised no objections among the major national consumer organizations.

I urge that the House suspend the rules and adopt S. 2561.

Mr. LUCAS of Oklahoma. Mr. Speaker, I rise today in strong support of the "Consumer Reporting Employment Clarification Act of 1998."

I would like to thank Banking Committee Chairman LEACH and Ranking Member LAFALCE, House Leadership, Senators CONNIE MACK and RICHARD BRYAN, and Senate Assistant Majority Leader DON NICKLES—Oklahoma's Senior Senator—for their hard work on and their support of this legislation that will streamline the trucking industry's hiring of competent, professional, and safe truck drivers.

Unfortunately, current Fair Credit Reporting Act (FCRA) regulations have forced the trucking industry to add multiple, unnecessary steps to its hiring procedures. Worse, because of burdensome paperwork requirements under these regulations, and because the industry is currently facing a critical shortage of drivers, many carriers have been forced to put drivers behind the wheel before their safety records can be verified. This is not what Congress intended when it enacted changes to the FCRA.

This legislation will expedite the process by which employment background information is exchanged between truck company employers and truck drivers. Instead of having to obtain written consent from a potential employee to procure a consumer report, truck company employers will not be able to obtain a potential employee's consent by mail, over the telephone, or by means of computer or fax machine.

I encourage my colleagues to support this bill. It has received the endorsement of the Federal Trade Commission—which enforces the FCRA—major credit institutions, consumer advocacy groups, and is strongly supported by the American Truckers Association and by trucking companies and truckers in Oklahoma.

Let's put highway safety before bureaucratic red tape and correct this safety problem immediately, and vote for this legislation.

Again, I would like to thank those involved in the process of bringing this legislation to the floor.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa (Mr. LEACH) that the House suspend the rules and pass S. 2561.

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. LEACH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 2561, the Senate bill just passed.

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

There was no objection.

CONFERENCE REPORT ON H.R. 1853, CARL D. PERKINS VOCATIONAL-TECHNICAL EDUCATION ACT OF 1998

Mr. Goodling submitted the following conference report and statement on the bill (H.R. 1853) to amend the Carl D. Perkins Vocational and Applied Technology Education Act:

CONFERENCE REPORT (105-800)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1853), to amend the Carl D. Perkins Vocational and Applied Technology Education Act, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

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

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

SECTION 1. SHORT TITLE; AMENDMENT.

(a) SHORT TITLE.—This Act may be cited as the "Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998".

(b) AMENDMENT.—The Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) is amended to read as follows:

"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'Carl D. Perkins Vocational and Technical Education Act of 1998.

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

"Sec. 1. Short title; table of contents.
"Sec. 2. Purpose.
"Sec. 3. Definitions.
"Sec. 4. Transition provisions.
"Sec. 5. Privacy.
"Sec. 6. Limitation.
"Sec. 7. Special rule.
"Sec. 8. Authorization of appropriations.
"TITLE I—VOCATIONAL AND TECHNICAL EDUCATION ASSISTANCE TO THE STATES
"PART A—ALLOTMENT AND ALLOCATION
"Sec. 111. Reservations and State allotment.

"Sec. 112. Within State allocation.
"Sec. 113. Accountability.
"Sec. 114. National activities.
"Sec. 115. Assistance for the outlying areas.
"Sec. 116. Native American program.
"Sec. 117. Tribally controlled postsecondary vocational and technical institutions.
"Sec. 118. Occupational and employment information.

"PART B—STATE PROVISIONS

"Sec. 121. State administration.
"Sec. 122. State plan.
"Sec. 123. Improvement plans.
"Sec. 124. State leadership activities.

"PART C—LOCAL PROVISIONS

"Sec. 131. Distribution of funds to secondary school programs.
"Sec. 132. Distribution of funds for postsecondary vocational and technical education programs.
"Sec. 133. Special rules for vocational and technical education.
"Sec. 134. Local plan for vocational and technical education programs.
"Sec. 135. Local uses of funds.

"TITLE II—TECH-PREP EDUCATION

"Sec. 201. Short title.
"Sec. 202. Definitions.
"Sec. 203. State allotment and application.
"Sec. 204. Tech-prep education.
"Sec. 205. Consortium applications.
"Sec. 206. Report.
"Sec. 207. Demonstration program.
"Sec. 208. Authorization of appropriations.

"TITLE III—GENERAL PROVISIONS

"PART A—FEDERAL ADMINISTRATIVE PROVISIONS

"Sec. 311. Fiscal requirements.
"Sec. 312. Authority to make payments.
"Sec. 313. Construction.
"Sec. 314. Voluntary selection and participation.
"Sec. 315. Limitation for certain students.
"Sec. 316. Federal laws guaranteeing civil rights.
"Sec. 317. Authorization of Secretary.
"Sec. 318. Participation of private school personnel.

"PART B—STATE ADMINISTRATIVE PROVISIONS

"Sec. 321. Joint funding.
"Sec. 322. Prohibition on use of funds to induce out-of-State relocation of businesses.
"Sec. 323. State administrative costs.
"Sec. 324. Limitation on Federal regulations.
"Sec. 325. Student assistance and other Federal programs.

"SEC. 2. PURPOSE.

"The purpose of this Act is to develop more fully the academic, vocational, and technical skills of secondary students and postsecondary students who elect to enroll in vocational and technical education programs, by—

"(1) building on the efforts of States and localities to develop challenging academic standards;

"(2) promoting the development of services and activities that integrate academic, vocational, and technical instruction, and that link secondary and postsecondary education for participating vocational and technical education students;

"(3) increasing State and local flexibility in providing services and activities designed to develop, implement, and improve vocational and technical education, including tech-prep education; and

"(4) disseminating national research, and providing professional development and technical assistance, that will improve vocational and technical education programs, services, and activities.

"SEC. 3. DEFINITIONS.

"In this Act:

"(1) ADMINISTRATION.—The term 'administration', when used with respect to an eligible agency or eligible recipient, means activities necessary for the proper and efficient performance of the eligible agency or eligible recipient's duties under this Act, including supervision, but does not include curriculum development activities, personnel development, or research activities.

"(2) ALL ASPECTS OF AN INDUSTRY.—The term 'all aspects of an industry' means strong experience in, and comprehensive understanding of, the industry that the individual is preparing to enter.

"(3) AREA VOCATIONAL AND TECHNICAL EDUCATION SCHOOL.—The term 'area vocational and technical education school' means—

"(A) a specialized public secondary school used exclusively or principally for the provision of vocational and technical education to individuals who are available for study in preparation for entering the labor market;

"(B) the department of a public secondary school exclusively or principally used for providing vocational and technical education in not fewer than 5 different occupational fields to individuals who are available for study in preparation for entering the labor market;

"(C) a public or nonprofit technical institution or vocational and technical education school used exclusively or principally for the provision of vocational and technical education to individuals who have completed or left secondary school and who are available for study in preparation for entering the labor market, if the institution or school admits as regular students both individuals who have completed secondary school and individuals who have left secondary school; or

"(D) the department or division of an institution of higher education, that operates under the policies of the eligible agency and that provides vocational and technical education in not fewer than five different occupational fields leading to immediate employment but not necessarily leading to a baccalaureate degree, if the department or division admits as regular students both individuals who have completed secondary school and individuals who have left secondary school.

"(4) CAREER GUIDANCE AND ACADEMIC COUNSELING.—The term 'career guidance and academic counseling' means providing access to information regarding career awareness and planning with respect to an individual's occupational and academic future that shall involve guidance and counseling with respect to career options, financial aid, and postsecondary options.

"(5) CHARTER SCHOOL.—The term 'charter school' has the meaning given the term in section 10306 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8066).

"(6) COOPERATIVE EDUCATION.—The term 'cooperative education' means a method of instruction of education for individuals who, through written cooperative arrangements between a school and employers, receive instruction, including required academic courses and related vocational and technical education instruction, by alternation of study in school with a job in any occupational field, which alternation shall be planned and supervised by the school and employer so that each contributes to the education and employability of the individual, and may include an arrangement in which work periods and school attendance may be on alternate half days, full days, weeks, or other periods of time in fulfilling the cooperative program.

"(7) DISPLACED HOMEMAKER.—The term 'displaced homemaker' means an individual who—

"(A)(i) has worked primarily without remuneration to care for a home and family, and for that reason has diminished marketable skills;

"(ii) has been dependent on the income of another family member but is no longer supported by that income; or

"(iii) is a parent whose youngest dependent child will become ineligible to receive assistance under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) not later than 2 years after the date on which the parent applies for assistance under this title; and

"(B) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

"(8) EDUCATIONAL SERVICE AGENCY.—The term 'educational service agency' has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965.

"(9) ELIGIBLE AGENCY.—The term 'eligible agency' means a State board designated or created consistent with State law as the sole State agency responsible for the administration of vocational and technical education or for supervision of the administration of vocational and technical education in the State.

"(10) ELIGIBLE INSTITUTION.—The term 'eligible institution' means—

"(A) an institution of higher education;

"(B) a local educational agency providing education at the postsecondary level;

"(C) an area vocational and technical education school providing education at the postsecondary level;

"(D) a postsecondary educational institution controlled by the Bureau of Indian Affairs or operated by or on behalf of any Indian tribe that is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act or the Act of April 16, 1934 (48 Stat. 596; 25 U.S.C. 452 et seq.);

"(E) an educational service agency; or

"(F) a consortium of 2 or more of the entities described in subparagraphs (A) through (E).

"(11) ELIGIBLE RECIPIENT.—The term 'eligible recipient' means—

"(A) a local educational agency, an area vocational and technical education school, an educational service agency, or a consortium, eligible to receive assistance under section 131; or

"(B) an eligible institution or consortium of eligible institutions eligible to receive assistance under section 132.

"(12) GOVERNOR.—The term 'Governor' means the chief executive officer of a State or an outlying area.

"(13) INDIVIDUAL WITH LIMITED ENGLISH PROFICIENCY.—The term 'individual with limited English proficiency' means a secondary school student, an adult, or an out-of-school youth, who has limited ability in speaking, reading, writing, or understanding the English language, and—

"(A) whose native language is a language other than English; or

"(B) who lives in a family or community environment in which a language other than English is the dominant language.

"(14) INDIVIDUAL WITH A DISABILITY.—

"(A) IN GENERAL.—The term 'individual with a disability' means an individual with any disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)).

"(B) INDIVIDUALS WITH DISABILITIES.—The term 'individuals with disabilities' means more than 1 individual with a disability.

"(15) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 101 of the Higher Education Act of 1965.

"(16) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' has the meaning

given the term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

"(17) NONTRADITIONAL TRAINING AND EMPLOYMENT.—The term 'nontraditional training and employment' means occupations or fields of work, including careers in computer science, technology, and other emerging high skill occupations, for which individuals from one gender comprise less than 25 percent of the individuals employed in each such occupation or field of work.

"(18) OUTLYING AREA.—The term 'outlying area' means the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

"(19) POSTSECONDARY EDUCATIONAL INSTITUTION.—The term 'postsecondary educational institution' means—

"(A) an institution of higher education that provides not less than a 2-year program of instruction that is acceptable for credit toward a bachelor's degree;

"(B) a tribally controlled college or university; or

"(C) a nonprofit educational institution offering certificate or apprenticeship programs at the postsecondary level.

"(20) SCHOOL DROPOUT.—The term 'school dropout' means an individual who is no longer attending any school and who has not received a secondary school diploma or its recognized equivalent.

"(21) SECONDARY SCHOOL.—The term 'secondary school' has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

"(22) SECRETARY.—The term 'Secretary' means the Secretary of Education.

"(23) SPECIAL POPULATIONS.—The term 'special populations' means—

"(A) individuals with disabilities;

"(B) individuals from economically disadvantaged families, including foster children;

"(C) individuals preparing for nontraditional training and employment;

"(D) single parents, including single pregnant women;

"(E) displaced homemakers; and

"(F) individuals with other barriers to educational achievement, including individuals with limited English proficiency.

"(24) STATE.—The term 'State', unless otherwise specified, means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and each outlying area.

"(25) SUPPORT SERVICES.—The term 'support services' means services related to curriculum modification, equipment modification, classroom modification, supportive personnel, and instructional aids and devices.

"(26) TECH-PREP PROGRAM.—The term 'tech-prep program' means a program of study that—

"(A) combines at least 2 years of secondary education (as determined under State law) and 2 years of postsecondary education in a nonduplicative sequential course of study;

"(B) strengthens the applied academic component of vocational and technical education through the integration of academic, and vocational and technical, instruction;

"(C) provides technical preparation in an area such as engineering technology, applied science, a mechanical, industrial, or practical art or trade, agriculture, a health occupation, business, or applied economics;

"(D) builds student competence in mathematics, science, and communications (including through applied academics) in a coherent sequence of courses; and

"(E) leads to an associate degree or a certificate in a specific career field, and to high skill, high wage employment, or further education.

"(27) TRIBALLY CONTROLLED COLLEGE OR UNIVERSITY.—The term 'tribally controlled college or university' has the meaning given such term in section 2 of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801(a)(4)).

"(28) TRIBALLY CONTROLLED POSTSECONDARY VOCATIONAL AND TECHNICAL INSTITUTION.—The term 'tribally controlled postsecondary vocational and technical institution' means an institution of higher education (as defined in section 101 of the Higher Education Act of 1965, except that paragraph (2) of such section shall not be applicable and the reference to Secretary in paragraph (5)(A) of such section shall be deemed to refer to the Secretary of the Interior) that—

"(A) is formally controlled, or has been formally sanctioned or chartered, by the governing body of an Indian tribe or Indian tribes;

"(B) offers a technical degree or certificate granting program;

"(C) is governed by a board of directors or trustees, a majority of whom are Indians;

"(D) demonstrates adherence to stated goals, a philosophy, or a plan of operation, that fosters individual Indian economic and self-sufficiency opportunity, including programs that are appropriate to stated tribal goals of developing individual entrepreneurships and self-sustaining economic infrastructures on reservations;

"(E) has been in operation for at least 3 years;

"(F) holds accreditation with or is a candidate for accreditation by a nationally recognized accrediting authority for postsecondary vocational and technical education; and

"(G) enrolls the full-time equivalent of not less than 100 students, of whom a majority are Indians.

(29) VOCATIONAL AND TECHNICAL EDUCATION.—The term 'vocational and technical education' means organized educational activities that—

"(A) offer a sequence of courses that provides individuals with the academic and technical knowledge and skills the individuals need to prepare for further education and for careers (other than careers requiring a baccalaureate, master's, or doctoral degree) in current or emerging employment sectors; and

"(B) include competency-based applied learning that contributes to the academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability skills, technical skills, and occupation-specific skills, of an individual.

"(30) VOCATIONAL AND TECHNICAL STUDENT ORGANIZATION.—

"(A) IN GENERAL.—The term 'vocational and technical student organization' means an organization for individuals enrolled in a vocational and technical education program that engages in vocational and technical activities as an integral part of the instructional program.

"(B) STATE AND NATIONAL UNITS.—An organization described in subparagraph (A) may have State and national units that aggregate the work and purposes of instruction in vocational and technical education at the local level.

"SEC. 4. TRANSITION PROVISIONS.

"The Secretary shall take such steps as the Secretary determines to be appropriate to provide for the orderly transition to the authority of this Act from any authority under provisions of the Carl D. Perkins Vocational and Applied Technology Education Act, as such Act was in effect on the day before the date of enactment of the Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998.

"SEC. 5. PRIVACY.

"(a) GEPA.—Nothing in this Act shall be construed to supersede the privacy protections afforded parents and students under section 444 of the General Education Provisions Act (20 U.S.C. 1232g), as added by the Family Educational Rights and Privacy Act of 1974 (section 513 of Public Law 93–380; 88 Stat. 571).

"(b) PROHIBITION ON DEVELOPMENT OF NATIONAL DATABASE.—Nothing in this Act shall be construed to permit the development of a national database of personally identifiable information on individuals receiving services under this Act.

"SEC. 6. LIMITATION.

"All of the funds made available under this Act shall be used in accordance with the requirements of this Act. None of the funds made available under this Act may be used to provide funding under the School-to-Work Opportunities Act of 1994 (20 U.S.C. 6101 et seq.) or to carry out, through programs funded under this Act, activities that were funded under the School-To-Work Opportunities Act of 1994, unless the programs funded under this Act serve only those participants eligible to participate in the programs under this Act.

"SEC. 7. SPECIAL RULE.

"In the case of a local community in which no employees are represented by a labor organization, for purposes of this Act the term 'representatives of employees' shall be substituted for 'labor organization'.

"SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out this Act (other than sections 114, 117, and 118, and title II) such sums as may be necessary for each of the fiscal years 1999 through 2003.

"TITLE I—VOCATIONAL AND TECHNICAL EDUCATION ASSISTANCE TO THE STATES

"PART A—ALLOTMENT AND ALLOCATION

"SEC. 111. RESERVATIONS AND STATE ALLOTMENT.

"(a) RESERVATIONS AND STATE ALLOTMENT.—

"(1) RESERVATIONS.—From the sum appropriated under section 8 for each fiscal year, the Secretary shall reserve—

"(A) 0.2 percent to carry out section 115;

"(B) 1.50 percent to carry out section 116, of which—

"(i) 1.25 percent of the sum shall be available to carry out section 116(b); and

"(ii) 0.25 percent of the sum shall be available to carry out section 116(h); and

"(C) in the case of each of the fiscal years 2000 through 2003, 0.54 percent to carry out section 503 of Public Law 105–220.

"(2) STATE ALLOTMENT FORMULA.—Subject to paragraphs (3) and (4), from the remainder of the sums appropriated under section 8 and not reserved under paragraph (1) for a fiscal year, the Secretary shall allot to a State for the fiscal year—

"(A) an amount that bears the same ratio to 50 percent of the sums being allotted as the product of the population aged 15 to 19 inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States;

"(B) an amount that bears the same ratio to 20 percent of the sums being allotted as the product of the population aged 20 to 24, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States;

"(C) an amount that bears the same ratio to 15 percent of the sums being allotted as the product of the population aged 25 to 65, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States; and

"(D) an amount that bears the same ratio to 15 percent of the sums being allotted as the

amounts allotted to the State under subparagraphs (A), (B), and (C) for such years bears to the sum of the amounts allotted to all the States under subparagraphs (A), (B), and (C) for such year.

"(3) MINIMUM ALLOTMENT.—

"(A) IN GENERAL.—Notwithstanding any other provision of law and subject to subparagraphs (B) and (C), and paragraph (4), no State shall receive for a fiscal year under this subsection less than ½ of 1 percent of the amount appropriated under section 8 and not reserved under paragraph (1) for such fiscal year. Amounts necessary for increasing such payments to States to comply with the preceding sentence shall be obtained by ratably reducing the amounts to be paid to other States.

"(B) REQUIREMENT.—No State, by reason of the application of subparagraph (A), shall receive for a fiscal year more than 150 percent of the amount the State received under this subsection for the preceding fiscal year (or in the case of fiscal year 1999 only, under section 101 of the Carl D. Perkins Vocational and Applied Technology Education Act, as such section was in effect on the day before the date of enactment of the Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998).

"(C) SPECIAL RULE.—

"(i) IN GENERAL.—Subject to paragraph (4), no State, by reason of the application of subparagraph (A), shall be allotted for a fiscal year more than the lesser of—

"(I) 150 percent of the amount that the State received in the preceding fiscal year (or in the case of fiscal year 1999 only, under section 101 of the Carl D. Perkins Vocational and Applied Technology Education Act, as such section was in effect on the day before the date of enactment of the Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998); and

"(II) the amount calculated under clause (ii).

"(ii) AMOUNT.—The amount calculated under this clause shall be determined by multiplying—

"(I) the number of individuals in the State counted under paragraph (2) in the preceding fiscal year; by

"(II) 150 percent of the national average per pupil payment made with funds available under this section for that year (or in the case of fiscal year 1999, only, under section 101 of the Carl D. Perkins Vocational and Applied Technology Education Act, as such section was in effect on the day before the date of enactment of the Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998).

"(4) HOLD HARMLESS.—

"(A) IN GENERAL.—No State shall receive an allotment under this section for a fiscal year that is less than the allotment the State received under part A of title I of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2311 et seq.) (as such part was in effect on the day before the date of enactment of the Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998) for fiscal year 1998.

"(B) RATABLE REDUCTION.—If for any fiscal year the amount appropriated for allotments under this section is insufficient to satisfy the provisions of subparagraph (A), the payments to all States under such subparagraph shall be ratably reduced.

"(b) REALLOTMENT.—If the Secretary determines that any amount of any State's allotment under subsection (a) for any fiscal year will not be required for such fiscal year for carrying out the activities for which such amount has been allotted, the Secretary shall make such amount available for reallotment. Any such reallotment among other States shall occur on such dates during the same year as the Secretary shall fix, and shall be made on the basis of criteria established by regulation. No funds may be reallotted for any use other than the use for which the funds were appropriated. Any amount reallotted to a State under this subsection for any fiscal year shall remain available for obligation during the succeeding fiscal year and shall be deemed to be part of the State's allotment for the year in which the amount is obligated.

"(c) ALLOTMENT RATIO.—

"(1) IN GENERAL.—The allotment ratio for any State shall be 1.00 less the product of—

"(A) 0.50; and

"(B) the quotient obtained by dividing the per capita income for the State by the per capita income for all the States (exclusive of the Commonwealth of Puerto Rico and the United States Virgin Islands), except that—

"(i) the allotment ratio in no case shall be more than 0.60 or less than 0.40; and

"(ii) the allotment ratio for the Commonwealth of Puerto Rico and the United States Virgin Islands shall be 0.60.

"(2) PROMULGATION.—The allotment ratios shall be promulgated by the Secretary for each fiscal year between October 1 and December 31 of the fiscal year preceding the fiscal year for which the determination is made. Allotment ratios shall be computed on the basis of the average of the appropriate per capita incomes for the 3 most recent consecutive fiscal years for which satisfactory data are available.

"(3) DEFINITION OF PER CAPITA INCOME.—For the purpose of this section, the term 'per capita income' means, with respect to a fiscal year, the total personal income in the calendar year ending in such year, divided by the population of the area concerned in such year.

"(4) POPULATION DETERMINATION.—For the purposes of this section, population shall be determined by the Secretary on the basis of the latest estimates available to the Department of Education.

"(d) DEFINITION OF STATE.—For the purpose of this section, the term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the United States Virgin Islands.

"SEC. 112. WITHIN STATE ALLOCATION.

"(a) IN GENERAL.—From the amount allotted to each State under section 111 for a fiscal year, the State board (hereinafter referred to as the 'eligible agency') shall make available—

"(1) not less than 85 percent for distribution under section 131 or 132, of which not more than 10 percent of the 85 percent may be used in accordance with subsection (c);

"(2) not more than 10 percent to carry out State leadership activities described in section 124, of which—

"(A) an amount equal to not more than 1 percent of the amount allotted to the State under section 111 for the fiscal year shall be available to serve individuals in State institutions, such as State correctional institutions and institutions that serve individuals with disabilities; and

"(B) not less than $60,000 and not more than $150,000 shall be available for services that prepare individuals for nontraditional training and employment; and

"(3) an amount equal to not more than 5 percent, or $250,000, whichever is greater, for administration of the State plan, which may be used for the costs of—

"(A) developing the State plan;

"(B) reviewing the local plans;

"(C) monitoring and evaluating program effectiveness;

"(D) assuring compliance with all applicable Federal laws; and

"(E) providing technical assistance.

"(b) MATCHING REQUIREMENT.—Each eligible agency receiving funds made available under subsection (a)(3) shall match, from non-Federal sources and on a dollar-for-dollar basis, the funds received under subsection (a)(3).

"(c) RESERVE.—

"(1) IN GENERAL.—From amounts made available under subsection (a)(1) to carry out this subsection, an eligible agency may award grants to eligible recipients for vocational and technical education activities described in section 135 in—

"(A) rural areas;

"(B) areas with high percentages of vocational and technical education students; and

"(C) areas with high numbers of vocational and technical students; and

"(D) communities negatively impacted by changes resulting from the amendments made by the Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998 to the within State allocation under section 231 of the Carl D. Perkins Vocational and Applied Technology Education Act (as such section 231 was in effect on the day before the date of enactment of the Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998).

"(2) SPECIAL RULE.—Each eligible agency awarding a grant under this subsection shall use the grant funds to serve at least 2 of the categories described in subparagraphs (A) through (D) of paragraph (1).

"SEC. 113. ACCOUNTABILITY.

"(a) PURPOSE.—The purpose of this section is to establish a State performance accountability system, comprised of the activities described in this section, to assess the effectiveness of the State in achieving statewide progress in vocational and technical education, and to optimize the return of investment of Federal funds in vocational and technical education activities.

"(b) STATE PERFORMANCE MEASURES.—

"(1) IN GENERAL.—Each eligible agency, with input from eligible recipients, shall establish performance measures for a State that consist of—

"(A) the core indicators of performance described in paragraph (2)(A);

"(B) any additional indicators of performance (if any) identified by the eligible agency under paragraph (2)(B); and

"(C) a State adjusted level of performance described in paragraph (3)(A) for each core indicator of performance, and State levels of performance described in paragraph (3)(B) for each additional indicator of performance.

"(2) INDICATORS OF PERFORMANCE.—

"(A) CORE INDICATORS OF PERFORMANCE.—Each eligible agency shall identify in the State plan core indicators of performance that include, at a minimum, measures of each of the following:

"(i) Student attainment of challenging State established academic, and vocational and technical, skill proficiencies.

"(ii) Student attainment of a secondary school diploma or its recognized equivalent, a proficiency credential in conjunction with a secondary school diploma, or a postsecondary degree or credential.

"(iii) Placement in, retention in, and completion of, postsecondary education or advanced training, placement in military service, or placement or retention in employment.

"(iv) Student participation in and completion of vocational and technical education programs that lead to nontraditional training and employment.

"(B) ADDITIONAL INDICATORS OF PERFORMANCE.—An eligible agency, with input from eligible recipients, may identify in the State plan additional indicators of performance for vocational and technical education activities authorized under the title.

"(C) EXISTING INDICATORS.—If a State previously has developed State performance measures that meet the requirements of this section,

the State may use such performance measures to measure the progress of vocational and technical education students.

"(D) STATE ROLE.—Indicators of performance described in this paragraph shall be established solely by each eligible agency with input from eligible recipients.

"(3) LEVELS OF PERFORMANCE.—

"(A) STATE ADJUSTED LEVELS OF PERFORMANCE FOR CORE INDICATORS OF PERFORMANCE.—

"(i) IN GENERAL.—Each eligible agency, with input from eligible recipients, shall establish in the State plan submitted under section 122, levels of performance for each of the core indicators of performance described in paragraph (2)(A) for vocational and technical education activities authorized under this title. The levels of performance established under this subparagraph shall, at a minimum—

"(I) be expressed in a percentage or numerical form, so as to be objective, quantifiable, and measurable; and

"(II) require the State to continually make progress toward improving the performance of vocational and technical education students.

"(ii) IDENTIFICATION IN THE STATE PLAN.—Each eligible agency shall identify, in the State plan submitted under section 122, levels of performance for each of the core indicators of performance for the first 2 program years covered by the State plan.

"(iii) AGREEMENT ON STATE ADJUSTED LEVELS OF PERFORMANCE FOR FIRST 2 YEARS.—The Secretary and each eligible agency shall reach agreement on the levels of performance for each of the core indicators of performance, for the first 2 program years covered by the State plan, taking into account the levels identified in the State plan under clause (ii) and the factors described in clause (vi). The levels of performance agreed to under this clause shall be considered to be the State adjusted level of performance for the State for such years and shall be incorporated into the State plan prior to the approval of such plan.

"(iv) ROLE OF THE SECRETARY.—The role of the Secretary in the agreement described in clauses (iii) and (v) is limited to reaching agreement on the percentage or number of students who attain the State adjusted levels of performance.

"(v) AGREEMENT ON STATE ADJUSTED LEVELS OF PERFORMANCE FOR 3RD, 4TH AND 5TH YEARS.—Prior to the third program year covered by the State plan, the Secretary and each eligible agency shall reach agreement on the State adjusted levels of performance for each of the core indicators of performance for the third, fourth and fifth program years covered by the State plan, taking into account the factors described in clause (vi). The State adjusted levels of performance agreed to under this clause shall be considered to be the State adjusted levels of performance for the State for such years and shall be incorporated into the State plan.

"(vi) FACTORS.—The agreement described in clause (iii) or (v) shall take into account—

"(I) how the levels of performance involved compare with the State adjusted levels of performance established for other States taking into account factors including the characteristics of participants when the participants entered the program and the services or instruction to be provided; and

"(II) the extent to which such levels of performance promote continuous improvement on the indicators of performance by such State.

"(vii) REVISIONS.—If unanticipated circumstances arise in a State resulting in a significant change in the factors described in clause (vi)(II), the eligible agency may request that the State adjusted levels of performance agreed to under clause (iii) or (vi) be revised. The Secretary shall issue objective criteria and methods for making such revisions.

"(B) LEVELS OF PERFORMANCE FOR ADDITIONAL INDICATORS.—Each eligible agency shall identify in the State plan, State levels of performance for each of the additional indicators of performance described in paragraph (2)(B). Such levels shall be considered to be the State levels of performance for purposes of this title.

"(c) REPORT.—

"(1) IN GENERAL.—Each eligible agency that receives an allotment under section 111 shall annually prepare and submit to the Secretary a report regarding—

"(A) the progress of the State in achieving the State adjusted levels of performance on the core indicators of performance; and

"(B) information on the levels of performance achieved by the State with respect to the additional indicators of performance, including the levels of performance for special populations.

"(2) SPECIAL POPULATIONS.—The report submitted by the eligible agency in accordance with paragraph (1) shall include a quantifiable description of the progress special populations participating in vocational and technical education programs have made in meeting the State adjusted levels of performance established by the eligible agency.

"(3) INFORMATION DISSEMINATION.—The Secretary—

"(A) shall make the information contained in such reports available to the general public;

"(B) shall disseminate State-by-State comparisons of the information; and

"(C) shall provide the appropriate committees of Congress copies of such reports.

"SEC. 114. NATIONAL ACTIVITIES.

"(a) PROGRAM PERFORMANCE INFORMATION.—

"(1) IN GENERAL.—The Secretary shall collect performance information about, and report on, the condition of vocational and technical education and on the effectiveness of State and local programs, services, and activities carried out under this title in order to provide the Secretary and Congress, as well as Federal, State, local, and tribal agencies, with information relevant to improvement in the quality and effectiveness of vocational and technical education. The Secretary annually shall report to Congress on the Secretary's aggregate analysis of performance information collected each year pursuant to this title, including an analysis of performance data regarding special populations.

"(2) COMPATIBILITY.—The Secretary shall, to the extent feasible, ensure that the performance information system is compatible with other Federal information systems.

"(3) ASSESSMENTS.—As a regular part of its assessments, the National Center for Education Statistics shall collect and report information on vocational and technical education for a nationally representative sample of students. Such assessment may include international comparisons.

"(b) MISCELLANEOUS PROVISIONS.—

"(1) COLLECTION OF INFORMATION AT REASONABLE COST.—The Secretary shall take such action as may be necessary to secure at reasonable cost the information required by this title. To ensure reasonable cost, the Secretary, in consultation with the National Center for Education Statistics, the Office of Vocational and Adult Education, and an entity assisted under section 118 shall determine the methodology to be used and the frequency with which information is to be collected.

"(2) COOPERATION OF STATES.—All eligible agencies receiving assistance under this Act shall cooperate with the Secretary in implementing the information systems developed pursuant to this Act.

"(c) RESEARCH, DEVELOPMENT, DISSEMINATION, EVALUATION AND ASSESSMENT.—

"(1) SINGLE PLAN.—

"(A) IN GENERAL.—The Secretary may, directly or through grants, contracts, or cooperative agreements, carry out research, development, dissemination, evaluation and assessment, capacity building, and technical assistance with regard to the vocational and technical education programs under this Act. The Secretary shall develop a single plan for such activities.

"(B) PLAN.—Such plan shall—

"(i) identify the vocational and technical education activities described in subparagraph (A) the Secretary will carry out under this section;

"(ii) describe how the Secretary will evaluate such vocational and technical education activities in accordance with paragraph (3); and

"(iii) include such other information as the Secretary determines to be appropriate.

"(2) INDEPENDENT ADVISORY PANEL.—The Secretary shall appoint an independent advisory panel, consisting of vocational and technical education administrators, educators, researchers, and representatives of labor organizations, businesses, parents, guidance and counseling professionals, and other relevant groups, to advise the Secretary on the implementation of the assessment described in paragraph (3), including the issues to be addressed, the methodology of the studies involved, and the findings and recommendations resulting from the assessment. The panel shall submit to the Committee on Education and the Workforce of the House of Representatives, the Committee on Labor and Human Resources of the Senate, and the Secretary an independent analysis of the findings and recommendations resulting from the assessment described in paragraph (3). The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the panel established under this subsection.

"(3) EVALUATION AND ASSESSMENT.—

"(A) IN GENERAL.—From amounts made available under paragraph (8), the Secretary shall provide for the conduct of an independent evaluation and assessment of vocational and technical education programs under this Act through studies and analyses conducted independently through grants, contracts, and cooperative agreements that are awarded on a competitive basis.

"(B) CONTENTS.—The assessment required under paragraph (1) shall include descriptions and evaluations of—

"(i) the extent to which State, local, and tribal entities have developed, implemented, or improved State and local vocational and technical education programs and the effect of programs assisted under this Act on that development, implementation, or improvement, including the capacity of State, tribal, and local vocational and technical education systems to achieve the purpose of this Act;

"(ii) the extent to which expenditures at the Federal, State, tribal, and local levels address program improvement in vocational and technical education, including the impact of Federal allocation requirements (such as within-State allocation formulas) on the delivery of services;

"(iii) the preparation and qualifications of teachers of vocational and technical, and academic, curricula in vocational and technical education programs, as well as shortages of such teachers;

"(iv) participation of students in vocational and technical education programs;

"(v) academic and employment outcomes of vocational and technical education, including analyses of—

"(I) the number of vocational and technical education students and tech-prep students who meet State adjusted levels of performance;

"(II) the extent and success of integration of academic, and vocational and technical, education for students participating in vocational and technical education programs; and

"(III) the extent to which vocational and technical education programs prepare students

for subsequent employment in high-wage, high-skill careers or participation in postsecondary education;

"(vi) employer involvement in, and satisfaction with, vocational and technical education programs;

"(vii) the use and impact of educational technology and distance learning with respect to vocational and technical education and tech-prep programs; and

"(viii) the effect of State adjusted levels of performance and State levels of performance on the delivery of vocational and technical education services.

"(C) REPORTS.—

"(i) IN GENERAL.—The Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate—

"(I) an interim report regarding the assessment on or before January 1, 2002; and

"(II) a final report, summarizing all studies and analyses that relate to the assessment and that are completed after the assessment, on or before July 1, 2002.

"(ii) PROHIBITION.—Notwithstanding any other provision of law, the reports required by this subsection shall not be subject to any review outside the Department of Education before their transmittal to the Committee on Education and the Workforce of the House of Representatives, the Committee on Labor and Human Resources of the Senate, and the Secretary, but the President, the Secretary, and the independent advisory panel established under paragraph (2) may make such additional recommendations to Congress with respect to the assessment as the President, the Secretary, or the panel determine to be appropriate.

"(4) COLLECTION OF STATE INFORMATION AND REPORT.—

"(A) IN GENERAL.—The Secretary may collect and disseminate information from States regarding State efforts to meet State adjusted levels of performance described in section 113.

"(B) REPORT.—The Secretary shall gather any information collected pursuant to subparagraph (A) and submit a report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

"(5) RESEARCH.—

"(A) IN GENERAL.—The Secretary, after consulting with the States, shall award grants, contracts, or cooperative agreements on a competitive basis to an institution of higher education, a public or private nonprofit organization or agency, or a consortium of such institutions, organizations, or agencies to establish a national research center or centers—

"(i) to carry out research for the purpose of developing, improving, and identifying the most successful methods for successfully addressing the education, employment, and training needs of participants in vocational and technical education programs, including research and evaluation in such activities as—

"(I) the integration of vocational and technical instruction, and academic, secondary and postsecondary instruction;

"(II) education technology and distance learning approaches and strategies that are effective with respect to vocational and technical education;

"(III) State adjusted levels of performance and State levels of performance that serve to improve vocational and technical education programs and student achievement; and

"(IV) academic knowledge and vocational and technical skills required for employment or participation in postsecondary education;

"(ii) to carry out research to increase the effectiveness and improve the implementation of vocational and technical education programs, including conducting research and development, and studies, providing longitudinal information or formative evaluation with respect to vocational and technical education programs and student achievement;

"(iii) to carry out research that can be used to improve teacher training and learning in the vocational and technical education classroom, including—

"(I) effective inservice and preservice teacher education that assists vocational and technical education systems; and

"(II) dissemination and training activities related to the applied research and demonstration activities described in this subsection, which may also include serving as a repository for information on vocational and technical skills, State academic standards, and related materials; and

"(iv) to carry out such other research as the Secretary determines appropriate to assist State and local recipients of funds under this Act.

"(B) REPORT.—The center or centers conducting the activities described in subparagraph (A) shall annually prepare a report of key research findings of such center or centers and shall submit copies of the report to the Secretary, the Committee on Education and the Workforce of the House of Representatives, the Committee on Labor and Human Resources of the Senate, the Library of Congress, and each eligible agency.

"(C) DISSEMINATION.—The center or centers shall conduct dissemination and training activities based upon the research described in subparagraph (A).

"(6) DEMONSTRATIONS AND DISSEMINATION.—

"(A) DEMONSTRATION PROGRAM.—The Secretary is authorized to carry out demonstration vocational and technical education programs, to replicate model vocational and technical education programs, to disseminate best practices information, and to provide technical assistance upon request of a State, for the purposes of developing, improving, and identifying the most successful methods and techniques for providing vocational and technical education programs assisted under this Act.

"(B) DEMONSTRATION PARTNERSHIP.—

"(i) IN GENERAL.—The Secretary shall carry out a demonstration partnership project involving a 4-year, accredited postsecondary institution, in cooperation with local public education organizations, volunteer groups, and private sector business participants to provide program support, and facilities for education, training, tutoring, counseling, employment preparation, specific skills training in emerging and established professions, and for retraining of military medical personnel, individuals displaced by corporate or military restructuring, migrant workers, as well as other individuals who otherwise do not have access to such services, through multisite, multistate distance learning technologies.

"(ii) PROGRAM.—Such program may be carried out directly or through grants, contracts, cooperative agreements, or through the national center or centers established under paragraph (5).

"(7) DEFINITION.—In this section, the term 'institution of higher education' has the meaning given the term in section 101 of the Higher Education Act of 1965.

"(8) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 1999 and each of the 4 succeeding fiscal years.

"SEC. 115. ASSISTANCE FOR THE OUTLYING AREAS.

"(a) OUTLYING AREAS.—From funds reserved pursuant to section 111(a)(1)(A), the Secretary shall—

"(1) make a grant in the amount of $500,000 to Guam; and

"(2) make a grant in the amount of $190,000 to each of American Samoa and the Commonwealth of the Northern Mariana Islands.

"(b) REMAINDER.—Subject to the provisions of subsection (a), the Secretary shall make a grant of the remainder of funds reserved pursuant to section 111(a)(1)(A) to the Pacific Region Educational Laboratory in Honolulu, Hawaii, to make grants for vocational and technical education and training in Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau, for the purpose of providing direct vocational and technical educational services, including—

"(1) teacher and counselor training and retraining;

"(2) curriculum development; and

"(3) the improvement of vocational and technical education and training programs in secondary schools and institutions of higher education, or improving cooperative education programs involving both secondary schools and institutions of higher education.

"(c) LIMITATION.—The Pacific Region Educational Laboratory may use not more than 5 percent of the funds received under subsection (b) for administrative costs.

"(d) RESTRICTION.—Notwithstanding any other provision of law, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not receive any funds under this title for any fiscal year that begins after September 30, 2001.

"SEC. 116. NATIVE AMERICAN PROGRAM.

"(a) DEFINITIONS.—In this section:

"(1) ALASKA NATIVE.—The term 'Alaska Native' means a Native as such term is defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

"(2) BUREAU FUNDED SCHOOL.—The term 'Bureau funded school' has the meaning given the term in section 1146 of the Education Amendments of 1978 (25 U.S.C. 2026).

"(3) INDIAN, INDIAN TRIBE, AND TRIBAL ORGANIZATION.—The terms 'Indian', 'Indian tribe', and 'tribal organization' have the meanings given the terms in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(4) NATIVE HAWAIIAN.—The term 'Native Hawaiian' means any individual any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

"(5) NATIVE HAWAIIAN ORGANIZATION.—The term 'Native Hawaiian organization' has the meaning given the term in section 9212 of the Native Hawaiian Education Act (20 U.S.C. 7912).

"(b) PROGRAM AUTHORIZED.—

"(1) AUTHORITY.—From funds reserved under section 111(a)(1)(B)(i), the Secretary shall make grants to and enter into contracts with Indian tribes, tribal organizations, and Alaska Native entities to carry out the authorized programs described in subsection (d), except that such grants or contracts shall not be awarded to secondary school programs in Bureau funded schools.

"(2) INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—The grants or contracts described in this section (other than in subsection (i)) that are awarded to any Indian tribe or tribal organization shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act (25 U.S.C. 450f) and shall be conducted in accordance with the provisions of sections 4, 5, and 6 of the Act of April 16, 1934, which are relevant to the programs administered under this subsection.

"(3) SPECIAL AUTHORITY RELATING TO SECONDARY SCHOOLS OPERATED OR SUPPORTED BY

THE BUREAU OF INDIAN AFFAIRS.—An Indian tribe, a tribal organization, or an Alaska Native entity, that receives funds through a grant made or contract entered into under paragraph (1) may use the funds to provide assistance to a secondary school operated or supported by the Bureau of Indian Affairs to enable such school to carry out vocational and technical education programs.

"(4) MATCHING.—If sufficient funding is available, the Bureau of Indian Affairs shall expend an amount equal to the amount made available under this subsection, relating to programs for Indians, to pay a part of the costs of programs funded under this subsection. During each fiscal year the Bureau of Indian Affairs shall expend not less than the amount expended during the prior fiscal year on vocational and technical education programs, services, and technical activities administered either directly by, or under contract with, the Bureau of Indian Affairs, except that in no year shall funding for such programs, services, and activities be provided from accounts and programs that support other Indian education programs. The Secretary and the Assistant Secretary of the Interior for Indian Affairs shall prepare jointly a plan for the expenditure of funds made available and for the evaluation of programs assisted under this subsection. Upon the completion of a joint plan for the expenditure of the funds and the evaluation of the programs, the Secretary shall assume responsibility for the administration of the program, with the assistance and consultation of the Bureau of Indian Affairs.

"(5) REGULATIONS.—If the Secretary promulgates any regulations applicable to subsection (b)(2), the Secretary shall—

"(A) confer with, and allow for active participation by, representatives of Indian tribes, tribal organizations, and individual tribal members; and

"(B) promulgate the regulations under subchapter III of chapter 5 of title 5, United States Code, commonly known as the "Negotiated Rulemaking Act of 1990".

"(6) APPLICATION.—Any Indian tribe, tribal organization, or Bureau funded school eligible to receive assistance under subsection (b) may apply individually or as part of a consortium with another such Indian tribe, tribal organization, or Bureau funded school.

"(c) AUTHORIZED ACTIVITIES.—

"(1) AUTHORIZED PROGRAMS.—Funds made available under this section shall be used to carry out vocational and technical education programs consistent with the purpose of this Act.

"(2) STIPENDS.—

"(A) IN GENERAL.—Funds received pursuant to grants or contracts awarded under subsection (b) may be used to provide stipends to students who are enrolled in vocational and technical education programs and who have acute economic needs which cannot be met through work-study programs.

"(B) AMOUNT.—Stipends described in subparagraph (A) shall not exceed reasonable amounts as prescribed by the Secretary.

"(d) GRANT OR CONTRACT APPLICATION.—In order to receive a grant or contract under this section an organization, tribe, or entity described in subsection (b) shall submit an application to the Secretary that shall include an assurance that such organization, tribe, or entity shall comply with the requirements of this section.

"(e) RESTRICTIONS AND SPECIAL CONSIDERATIONS.—The Secretary may not place upon grants awarded or contracts entered into under subsection (b) any restrictions relating to programs other than restrictions that apply to grants made to or contracts entered into with States pursuant to allotments under section 111(a). The Secretary, in awarding grants and entering into contracts under this paragraph, shall ensure that the grants and contracts will improve vocational and technical education programs, and shall give special consideration to—

"(1) programs that involve, coordinate with, or encourage tribal economic development plans; and

"(2) applications from tribally controlled colleges or universities that—

"(A) are accredited or are candidates for accreditation by a nationally recognized accreditation organization as an institution of postsecondary vocational and technical education; or

"(B) operate vocational and technical education programs that are accredited or are candidates for accreditation by a nationally recognized accreditation organization and issue certificates for completion of vocational and technical education programs.

"(f) CONSOLIDATION OF FUNDS.—Each organization, tribe, or entity receiving assistance under this section may consolidate such assistance with assistance received from related programs in accordance with the provisions of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C 3401 et seq.).

"(g) NONDUPLICATIVE AND NONEXCLUSIVE SERVICES.—Nothing in this section shall be construed—

"(1) to limit the eligibility of any organization, tribe, or entity described in subsection (b) to participate in any activity offered by an eligible agency or eligible recipient under this title; or

"(2) to preclude or discourage any agreement, between any organization, tribe, or entity described in subsection (b) and any eligible agency or eligible recipient, to facilitate the provision of services by such eligible agency or eligible recipient to the population served by such eligible agency or eligible recipient.

"(h) NATIVE HAWAIIAN PROGRAMS.—From the funds reserved pursuant to section 111(a)(1)(B)(ii), the Secretary shall award grants to or enter into contracts with organizations primarily serving and representing Native Hawaiians which are recognized by the Governor of the State of Hawaii to plan, conduct, and administer programs, or portions thereof, which are authorized by and consistent with the provisions of this section for the benefit of Native Hawaiians.

"SEC. 117. TRIBALLY CONTROLLED POSTSECONDARY VOCATIONAL AND TECHNICAL INSTITUTIONS.

"(a) GRANTS AUTHORIZED.—The Secretary shall, subject to the availability of appropriations, make grants pursuant to this section to tribally controlled postsecondary vocational and technical institutions to provide basic support for the education and training of Indian students.

"(b) USE OF GRANTS.—Amounts made available pursuant to this section shall be used for vocational and technical education programs.

"(c) AMOUNT OF GRANTS.—

"(1) IN GENERAL.—If the sums appropriated for any fiscal year for grants under this section are not sufficient to pay in full the total amount which approved applicants are eligible to receive under this section for such fiscal year, the Secretary shall first allocate to each such applicant who received funds under this part for the preceding fiscal year an amount equal to 100 percent of the product of the per capita payment for the preceding fiscal year and such applicant's Indian student count for the current program year, plus an amount equal to the actual cost of any increase to the per capita figure resulting from inflationary increases to necessary costs beyond the institution's control.

"(2) PER CAPITA DETERMINATION.—For the purposes of paragraph (1), the per capita payment for any fiscal year shall be determined by dividing the amount available for grants to tribally controlled postsecondary vocational and technical institutions under this section for such program year by the sum of the Indian student counts of such institutions for such program year. The Secretary shall, on the basis of the most accurate data available from the institutions, compute the Indian student count for any fiscal year for which such count was not used for the purpose of making allocations under this section.

"(d) APPLICATIONS.—Any tribally controlled postsecondary vocational and technical institution that desires to receive a grant under this section shall submit an application to the Secretary in such manner and form as the Secretary may require.

"(e) EXPENSES.—

"(1) IN GENERAL.—The Secretary shall, subject to the availability of appropriations, provide for each program year to each tribally controlled postsecondary vocational and technical institution having an application approved by the Secretary, an amount necessary to pay expenses associated with—

"(A) the maintenance and operation of the program, including development costs, costs of basic and special instruction (including special programs for individuals with disabilities and academic instruction), materials, student costs, administrative expenses, boarding costs, transportation, student services, daycare and family support programs for students and their families (including contributions to the costs of education for dependents), and student stipends;

"(B) capital expenditures, including operations and maintenance, and minor improvements and repair, and physical plant maintenance costs, for the conduct of programs funded under this section; and

"(C) costs associated with repair, upkeep, replacement, and upgrading of the instructional equipment.

"(2) ACCOUNTING.—Each institution receiving a grant under this section shall provide annually to the Secretary an accurate and detailed accounting of the institution's operating and maintenance expenses and such other information concerning costs as the Secretary may reasonably require.

"(f) OTHER PROGRAMS.—

"(1) IN GENERAL.—Except as specifically provided in this Act, eligibility for assistance under this section shall not preclude any tribally controlled postsecondary vocational and technical institution from receiving Federal financial assistance under any program authorized under the Higher Education Act of 1965, or any other applicable program for the benefit of institutions of higher education or vocational and technical education.

"(2) PROHIBITION ON ALTERATION OF GRANT AMOUNT.—The amount of any grant for which tribally controlled postsecondary vocational and technical institutions are eligible under this section shall not be altered because of funds allocated to any such institution from funds appropriated under the Act of November 2, 1921 (commonly known as the 'Snyder Act') (42 Stat. 208, chapter 115; 25 U.S.C. 13).

"(3) PROHIBITION ON CONTRACT DENIAL.—No tribally controlled postsecondary vocational and technical institution for which an Indian tribe has designated a portion of the funds appropriated for the tribe from funds appropriated under the Act of November 2, 1921, may be denied a contract for such portion under the Indian Self-Determination and Education Assistance Act (except as provided in that Act), or denied appropriate contract support to administer such portion of the appropriated funds.

"(g) NEEDS ESTIMATE AND REPORT ON FACILITIES AND FACILITIES IMPROVEMENT.—

"(1) NEEDS ESTIMATE.—The Secretary shall, based on the most accurate data available from the institutions and Indian tribes whose Indian students are served under this section, and in consideration of employment needs, economic development needs, population training needs, and facilities needs, prepare an actual budget needs estimate for each institution eligible under this section for each subsequent program year, and submit such budget needs estimate to Congress in such a timely manner as will enable the appropriate committees of Congress to consider such needs data for purposes of the uninterrupted flow of adequate appropriations to such institutions. Such data shall take into account the purposes and requirements of part A of title IV of the Social Security Act.

"(2) STUDY OF TRAINING AND HOUSING NEEDS.—

"(A) IN GENERAL.—The Secretary shall conduct a detailed study of the training, housing, and immediate facilities needs of each institution eligible under this section. The study shall include an examination of—

"(i) training equipment needs;

"(ii) housing needs of families whose heads of households are students and whose dependents have no alternate source of support while such heads of households are students; and

"(iii) immediate facilities needs.

"(B) REPORT.—The Secretary shall report to Congress not later than July 1, 2000, on the results of the study required by subparagraph (A).

"(C) CONTENTS.—The report required by subparagraph (B) shall include the number, type, and cost of meeting the needs described in subparagraph (A), and rank each institution by relative need.

"(D) PRIORITY.—In conducting the study required by subparagraph (A), the Secretary shall give priority to institutions that are receiving assistance under this section.

"(3) LONG-TERM STUDY OF FACILITIES.—

"(A) IN GENERAL.—The Secretary shall provide for the conduct of a long-term study of the facilities of each institution eligible for assistance under this section.

"(B) CONTENTS.—The study required by subparagraph (A) shall include a 5-year projection of training facilities, equipment, and housing needs and shall consider such factors as projected service population, employment, and economic development forecasting, based on the most current and accurate data available from the institutions and Indian tribes affected.

"(C) SUBMISSION.—The Secretary shall submit to Congress a detailed report on the results of such study not later than the end of the 18-month period beginning on the date of enactment of this Act.

"(h) DEFINITIONS.—In this section:

"(1) INDIAN.—The terms 'Indian' and 'Indian tribe' have the meanings given the terms in section 2 of the Tribally Controlled College or University Assistance Act of 1978.

"(2) INDIAN STUDENT COUNT.—The term 'Indian student count' means a number equal to the total number of Indian students enrolled in each tribally controlled postsecondary vocational and technical institution, determined as follows:

"(A) REGISTRATIONS.—The registrations of Indian students as in effect on October 1 of each year.

"(B) SUMMER TERM.—Credits or clock hours toward a certificate earned in classes offered during a summer term shall be counted toward the computation of the Indian student count in the succeeding fall term.

"(C) ADMISSION CRITERIA.—Credits or clock hours toward a certificate earned in classes during a summer term shall be counted toward the computation of the Indian student count if the institution at which the student is in attendance has established criteria for the admission of such student on the basis of the student's ability to benefit from the education or training offered. The institution shall be presumed to have established such criteria if the admission procedures for such studies include counseling or testing that measures the student's aptitude to successfully complete the course in which the student has enrolled. No credit earned by such student for purposes of obtaining a secondary school degree or its recognized equivalent shall be counted toward the computation of the Indian student count.

"(D) DETERMINATION OF HOURS.—Indian students earning credits in any continuing education program of a tribally controlled postsecondary vocational and technical institution shall be included in determining the sum of all credit or clock hours.

"(E) CONTINUING EDUCATION.—Credits or clock hours earned in a continuing education program shall be converted to the basis that is in accordance with the institution's system for providing credit for participation in such programs.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $4,000,000 for fiscal year 1999 and each of the 4 succeeding fiscal years.

"SEC. 118. OCCUPATIONAL AND EMPLOYMENT INFORMATION.

"(a) NATIONAL ACTIVITIES.—From funds appropriated under subsection (f), the Secretary, in consultation with appropriate Federal agencies, is authorized—

"(1) to provide assistance to an entity to enable the entity—

"(A) to provide technical assistance to State entities designated under subsection (b) to enable the State entities to carry out the activities described in subsection (b);

"(B) to disseminate information that promotes the replication of high quality practices described in subsection (b);

"(C) to develop and disseminate products and services related to the activities described in subsection (b); and

"(2) to award grants to States that designate State entities in accordance with subsection (b) to enable the State entities to carry out the State level activities described in subsection (b).

"(b) STATE LEVEL ACTIVITIES.—In order for a State to receive a grant under this section, the eligible agency and the Governor of the State shall jointly designate an entity in the State—

"(1) to provide support for a career guidance and academic counseling program designed to promote improved career and education decisionmaking by individuals (especially in areas of career information delivery and use);

"(2) to make available to students, parents, teachers, administrators, and counselors, and to improve accessibility with respect to, information and planning resources that relate educational preparation to career goals and expectations;

"(3) to equip teachers, administrators, and counselors with the knowledge and skills needed to assist students and parents with career exploration, educational opportunities, and education financing.

"(4) to assist appropriate State entities in tailoring career-related educational resources and training for use by such entities;

"(5) to improve coordination and communication among administrators and planners of programs authorized by this Act and by section 15 of the Wagner-Peyser Act at the Federal, State, and local levels to ensure nonduplication of efforts and the appropriate use of shared information and data; and

"(6) to provide ongoing means for customers, such as students and parents, to provide comments and feedback on products and services and to update resources, as appropriate, to better meet customer requirements.

"(c) NONDUPLICATION.—

"(1) WAGNER-PEYSER ACT.—The State entity designated under subsection (b) may use funds provided under subsection (b) to supplement activities under section 15 of the Wagner-Peyser Act to the extent such activities do not duplicate activities assisted under such section.

"(2) PUBLIC LAW 105-220.—None of the functions and activities assisted under this section shall duplicate the functions and activities carried out under Public Law 105-220.

"(d) FUNDING RULE.—Of the amounts appropriated to carry out this section, the Federal entity designated under subsection (a) shall use—

"(1) not less than 85 percent to carry out subsection (b); and

"(2) not more than 15 percent to carry out subsection (a).

"(e) REPORT.—The Secretary, in consultation with appropriate Federal agencies, shall prepare and submit to the appropriate committees of Congress, an annual report that includes—

"(1) an identification of activities assisted under this section during the prior program year;

"(2) a description of the specific products and services assisted under this section that were delivered in the prior program year; and

"(3) an assessment of the extent to which States have effectively coordinated activities assisted under this section with activities authorized under section 15 of the Wagner-Peyser Act.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1999 through 2003.

"PART B—STATE PROVISIONS

"SEC. 121. STATE ADMINISTRATION.

"(a) ELIGIBLE AGENCY RESPONSIBILITIES.—

"(1) IN GENERAL.—The responsibilities of an eligible agency under this title shall include—

"(A) coordination of the development, submission, and implementation of the State plan, and the evaluation of the program, services, and activities assisted under this title, including preparation for nontraditional training and employment;

"(B) consultation with the Governor and appropriate agencies, groups, and individuals including parents, students, teachers, representatives of businesses, labor organizations, eligible recipients, State and local officials, and local program administrators, involved in the planning, administration, evaluation, and coordination of programs funded under this title;

"(C) convening and meeting as an eligible agency (consistent with State law and procedure for the conduct of such meetings) at such time as the eligible agency determines necessary to carry out the eligible agency's responsibilities under this title, but not less than 4 times annually; and

"(D) the adoption of such procedures as the eligible agency considers necessary to—

"(i) implement State level coordination with the activities undertaken by the State boards under section 111 of Public Law 105-220; and

"(ii) make available to the service delivery system under section 121 of Public Law 105-220 within the State a listing of all school dropout, postsecondary, and adult programs assisted under this title.

"(2) EXCEPTION.—Except with respect to the responsibilities set forth in paragraph (1), the eligible agency may delegate any of the other responsibilities of the eligible agency that involve the administration, operation, supervision of activities assisted under this title, in whole or in part, to 1 or more appropriate State agencies.

"SEC. 122. STATE PLAN.

"(a) STATE PLAN.—

"(1) IN GENERAL.—Each eligible agency desiring assistance under this title for any fiscal year

shall prepare and submit to the Secretary a State plan for a 5-year period, together with such annual revisions as the eligible agency determines to be necessary.

"(2) REVISIONS.—Each eligible agency—

"(A) may submit such annual revisions of the State plan to the Secretary as the eligible agency determines to be necessary; and

"(B) shall, after the second year of the 5 year State plan, conduct a review of activities assisted under this title and submit any revisions of the State plan that the eligible agency determines necessary to the Secretary.

"(3) HEARING PROCESS.—The eligible agency shall conduct public hearings in the State, after appropriate and sufficient notice, for the purpose of affording all segments of the public and interested organizations and groups (including employers, labor organizations, and parents), an opportunity to present their views and make recommendations regarding the State plan. A summary of such recommendations and the eligible agency's response to such recommendations shall be included in the State plan.

"(b) PLAN DEVELOPMENT.—

"(1) IN GENERAL.—The eligible agency shall develop the State plan in consultation with teachers, eligible recipients, parents, students, interested community members, representatives of special populations, representatives of business and industry, and representatives of labor organizations in the State, and shall consult the Governor of the State with respect to such development.

"(2) ACTIVITIES AND PROCEDURES.—The eligible agency shall develop effective activities and procedures, including access to information needed to use such procedures, to allow the individuals described in paragraph (1) to participate in State and local decisions that relate to development of the State plan.

"(c) PLAN CONTENTS.—The State plan shall include information that—

"(1) describes the vocational and technical education activities to be assisted that are designed to meet or exceed the State adjusted levels of performance, including a description of—

"(A) the secondary and postsecondary vocational and technical education programs to be carried out, including programs that will be carried out by the eligible agency to develop, improve, and expand access to quality, state-of-the-art technology in vocational and technical education programs;

"(B) the criteria that will be used by the eligible agency in approving applications by eligible recipients for funds under this title;

"(C) how such programs will prepare vocational and technical education students for opportunities in postsecondary education or entry into high skill, high wage jobs in current and emerging occupations; and

"(D) how funds will be used to improve or develop new vocational and technical education courses;

"(2) describes how comprehensive professional development (including initial teacher preparation) for vocational and technical, academic, guidance, and administrative personnel will be provided;

"(3) describes how the eligible agency will actively involve parents, teachers, local businesses (including small- and medium-sized businesses), and labor organizations in the planning, development, implementation, and evaluation of such vocational and technical education programs;

"(4) describes how funds received by the eligible agency through the allotment made under section 111 will be allocated—

"(A) among secondary school vocational and technical education, or postsecondary and adult vocational and technical education, or both, including the rationale for such allocation; and

"(B) among any consortia that will be formed among secondary schools and eligible institutions, and how funds will be allocated among the members of the consortia, including the rationale for such allocation;

"(5) describes how the eligible agency will—

"(A) improve the academic and technical skills of students participating in vocational and technical education programs, including strengthening the academic, and vocational and technical, components of vocational and technical education programs through the integration of academics with vocational and technical education to ensure learning in the core academic, and vocational and technical, subjects, and provide students with strong experience in, and understanding of, all aspects of an industry; and

"(B) ensure that students who participate in such vocational and technical education programs are taught to the same challenging academic proficiencies as are taught to all other students;

"(6) describes how the eligible agency will annually evaluate the effectiveness of such vocational and technical education programs, and describe, to the extent practicable, how the eligible agency is coordinating such programs to ensure nonduplication with other existing Federal programs;

"(7) describes the eligible agency's program strategies for special populations;

"(8) describes how individuals who are members of the special populations—

"(A) will be provided with equal access to activities assisted under this title;

"(B) will not be discriminated against on the basis of their status as members of the special populations; and

"(C) will be provided with programs designed to enable the special populations to meet or exceed State adjusted levels of performance, and prepare special populations for further learning and for high skill, high wage careers;

"(9) describe what steps the eligible agency shall take to involve representatives of eligible recipients in the development of the State adjusted levels of performance;

"(10) provides assurances that the eligible agency will comply with the requirements of this title and the provisions of the State plan, including the provision of a financial audit of funds received under this title which may be included as part of an audit of other Federal or State programs;

"(11) provides assurances that none of the funds expended under this title will be used to acquire equipment (including computer software) in any instance in which such acquisition results in a direct financial benefit to any organization representing the interests of the purchasing entity, the employees of the purchasing entity, or any affiliate of such an organization;

"(12) describes how the eligible agency will report data relating to students participating in vocational and technical education in order to adequately measure the progress of the students, including special populations;

"(13) describes how the eligible agency will adequately address the needs of students in alternative education programs, if appropriate;

"(14) describes how the eligible agency will provide local educational agencies, area vocational and technical education schools, and eligible institutions in the State with technical assistance;

"(15) describes how vocational and technical education relates to State and regional occupational opportunities;

"(16) describes the methods proposed for the joint planning and coordination of programs carried out under this title with other Federal education programs;

"(17) describes how funds will be used to promote preparation for nontraditional training and employment;

"(18) describes how funds will be used to serve individuals in State correctional institutions;

"(19) describes how funds will be used effectively to link secondary and postsecondary education;

"(20) describes how the eligible agency will ensure that the data reported to the eligible agency from local educational agencies and eligible institutions under this title and the data the eligible agency reports to the Secretary are complete, accurate, and reliable; and

"(21) contains the description and information specified in sections 112(b)(8) and 121(c) of Public Law 105–220 concerning the provision of services only for postsecondary students and school dropouts.

"(d) PLAN OPTION.—The eligible agency may fulfill the requirements of subsection (a) by submitting a plan under section 501 of Public Law 105–220.

"(e) PLAN APPROVAL.—

"(1) IN GENERAL.—The Secretary shall approve a State plan, or a revision to an approved State plan, unless the Secretary determines that—

"(A) the State plan, or revision, respectively, does not meet the requirements of this section; or

"(B) the State's levels of performance on the core indicators of performance consistent with section 113 are not sufficiently rigorous to meet the purpose of this Act.

"(2) DISAPPROVAL.—The Secretary shall not finally disapprove a State plan, except after giving the eligible agency notice and an opportunity for a hearing.

"(3) CONSULTATION.—The eligible agency shall develop the portion of each State plan relating to the amount and uses of any funds proposed to be reserved for adult vocational and technical education, postsecondary vocational and technical education, tech-prep education, and secondary vocational and technical education after consultation with the State agency responsible for supervision of community colleges, technical institutes, or other 2-year postsecondary institutions primarily engaged in providing postsecondary vocational and technical education, and the State agency responsible for secondary education. If a State agency finds that a portion of the final State plan is objectionable, the State agency shall file such objections with the eligible agency. The eligible agency shall respond to any objections of the State agency in the State plan submitted to the Secretary.

"(4) TIMEFRAME.—A State plan shall be deemed approved by the Secretary if the Secretary has not responded to the eligible agency regarding the State plan within 90 days of the date the Secretary receives the State plan.

"(f) TRANSITION.—This section shall be subject to section 4 for fiscal year 1999 only, with respect to activities under this section.

"SEC. 123. IMPROVEMENT PLANS.

"(a) STATE PROGRAM IMPROVEMENT PLAN.—If a State fails to meet the State adjusted levels of performance described in the report submitted under section 113(c), the eligible agency shall develop and implement a program improvement plan in consultation with appropriate agencies, individuals, and organizations for the first program year succeeding the program year in which the eligible agency failed to meet the State adjusted levels of performance, in order to avoid a sanction under subsection (d).

"(b) LOCAL EVALUATION.—Each eligible agency shall evaluate annually, using the State adjusted levels of performance, the vocational and technical education activities of each eligible recipient receiving funds under this title.

"(c) LOCAL IMPROVEMENT PLAN.—

"(1) IN GENERAL.—If, after reviewing the evaluation, the eligible agency determines that an

eligible recipient is not making substantial progress in achieving the State adjusted levels of performance, the eligible agency shall—

"(A) conduct an assessment of the educational needs that the eligible recipient shall address to overcome local performance deficiencies;

"(B) enter into an improvement plan based on the results of the assessment, which plan shall include instructional and other programmatic innovations of demonstrated effectiveness, and where necessary, strategies for appropriate staffing and staff development; and

"(C) conduct regular evaluations of the progress being made toward reaching the State adjusted levels of performance.

"(2) CONSULTATION.—The eligible agency shall conduct the activities described in paragraph (1) in consultation with teachers, parents, other school staff, appropriate agencies, and other appropriate individuals and organizations.

"(d) SANCTIONS.—

"(1) TECHNICAL ASSISTANCE.—If the Secretary determines that an eligible agency is not properly implementing the eligible agency's responsibilities under section 122, or is not making substantial progress in meeting the purpose of this Act, based on the State adjusted levels of performance, the Secretary shall work with the eligible agency to implement improvement activities consistent with the requirements of this Act.

"(2) FAILURE.—If an eligible agency fails to meet the State adjusted levels of performance, has not implemented an improvement plan as described in paragraph (1), has shown no improvement within 1 year after implementing an improvement plan as described in paragraph (1), or has failed to meet the State adjusted levels of performance for 2 or more consecutive years, the Secretary may, after notice and opportunity for a hearing, withhold from the eligible agency all, or a portion of, the eligible agency's allotment under this title. The Secretary may waive the sanction under this paragraph due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

"(3) FUNDS RESULTING FROM REDUCED ALLOTMENTS.—

"(A) IN GENERAL.—The Secretary shall use funds withheld under paragraph (2), for a State served by an eligible agency, to provide (through alternative arrangements) services and activities within the State to meet the purpose of this Act.

"(B) REDISTRIBUTION.—If the Secretary cannot satisfactorily use funds withheld under paragraph (2), then the amount of funds retained by the Secretary as a result of a reduction in an allotment made under paragraph (2) shall be redistributed to other eligible agencies in accordance with section 111.

"SEC. 124. STATE LEADERSHIP ACTIVITIES.

"(a) GENERAL AUTHORITY.—From amounts reserved under section 112(a)(2), each eligible agency shall conduct State leadership activities.

"(b) REQUIRED USES OF FUNDS.—The State leadership activities described in subsection (a) shall include—

"(1) an assessment of the vocational and technical education programs carried out with funds under this title that includes an assessment of how the needs of special populations are being met and how such programs are designed to enable special populations to meet State adjusted levels of performance and prepare the special populations for further learning or for high skill, high wage careers;

"(2) developing, improving, or expanding the use of technology in vocational and technical education that may include—

"(A) training of vocational and technical education personnel to use state-of-the-art technology, that may include distance learning;

"(B) providing vocational and technical education students with the academic, and vocational and technical, skills that lead to entry into the high technology and telecommunications field; or

"(C) encouraging schools to work with high technology industries to offer voluntary internships and mentoring programs;

"(3) professional development programs, including providing comprehensive professional development (including initial teacher preparation) for vocational and technical, academic, guidance, and administrative personnel, that—

"(A) will provide inservice and preservice training in state-of-the-art vocational and technical education programs and techniques, effective teaching skills based on research, and effective practices to improve parental and community involvement; and

"(B) will help teachers and personnel to assist students in meeting the State adjusted levels of performance established under section 113;

"(C) will support education programs for teachers of vocational and technical education in public schools and other public school personnel who are involved in the direct delivery of educational services to vocational and technical education students to ensure that such teachers stay current with the needs, expectations, and methods of industry; and

"(D) is integrated with the professional development activities that the State carries out under title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6001 et seq.) and title II of the Higher Education Act of 1965;

"(4) support for vocational and technical education programs that improve the academic, and vocational and technical, skills of students participating in vocational and technical education programs by strengthening the academic, and vocational and technical, components of such vocational and technical education programs through the integration of academics with vocational and technical education to ensure learning in the core academic, and vocational and technical, subjects;

"(5) providing preparation for nontraditional training and employment;

"(6) supporting partnerships among local educational agencies, institutions of higher education, adult education providers, and, as appropriate, other entities, such as employers, labor organizations, parents, and local partnerships, to enable students to achieve State academic standards, and vocational and technical skills;

"(7) serving individuals in State institutions, such as State correctional institutions and institutions that serve individuals with disabilities; and

"(8) support for programs for special populations that lead to high skill, high wage careers.

"(c) PERMISSIBLE USES OF FUNDS.—The leadership activities described in subsection (a) may include—

"(1) technical assistance for eligible recipients;

"(2) improvement of career guidance and academic counseling programs that assist students in making informed academic, and vocational and technical education, decisions;

"(3) establishment of agreements between secondary and postsecondary vocational and technical education programs in order to provide postsecondary education and training opportunities for students participating in such vocational and technical education programs, such as tech-prep programs;

"(4) support for cooperative education;

"(5) support for vocational and technical student organizations, especially with respect to efforts to increase the participation of students who are members of special populations;

"(6) support for public charter schools operating secondary vocational and technical education programs;

"(7) support for vocational and technical education programs that offer experience in, and understanding of, all aspects of an industry for which students are preparing to enter;

"(8) support for family and consumer sciences programs;

"(9) support for education and business partnerships;

"(10) support to improve or develop new vocational and technical education courses;

"(11) providing vocational and technical education programs for adults and school dropouts to complete their secondary school education; and

"(12) providing assistance to students, who have participated in services and activities under this title, in finding an appropriate job and continuing their education.

"(d) RESTRICTION ON USES OF FUNDS.—An eligible agency that receives funds under section 112(a)(2) may not use any of such funds for administrative costs.

"PART C—LOCAL PROVISIONS

"SEC. 131. DISTRIBUTION OF FUNDS TO SECONDARY SCHOOL PROGRAMS.

"(a) DISTRIBUTION FOR FISCAL YEAR 1999.—Except as provided in section 133 and as otherwise provided in this section, each eligible agency shall distribute the portion of the funds made available under section 112(a)(1) to carry out this section for fiscal year 1999 to local educational agencies within the State as follows:

"(1) SEVENTY PERCENT.—From 70 percent of such portion, each local educational agency shall be allocated an amount that bears the same relationship to such 70 percent as the amount such local educational agency was allocated under section 1124 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333) for the preceding fiscal year bears to the total amount received under such section by all local educational agencies in the State for such preceding fiscal year.

"(2) TWENTY PERCENT.—From 20 percent of such portion, each local educational agency shall be allocated an amount that bears the same relationship to such 20 percent as the number of students with disabilities who have individualized education programs under section 614(d) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)) served by such local educational agency for the preceding fiscal year bears to the total number of such students served by all local educational agencies in the State for such preceding fiscal year.

"(3) TEN PERCENT.—From 10 percent of such portion, each local educational agency shall be allocated an amount that bears the same relationship to such 10 percent as the number of students enrolled in schools and adults enrolled in training programs under the jurisdiction of such local educational agency for the preceding fiscal year bears to the number of students enrolled in schools and adults enrolled in training programs under the jurisdiction of all local educational agencies in the State for such preceding fiscal year.

"(b) SPECIAL DISTRIBUTION RULES FOR SUCCEEDING FISCAL YEARS.—Except as provided in section 133 and as otherwise provided in this section, each eligible agency shall distribute the portion of funds made available under section 112(a)(1) to carry out this section for fiscal year 2000 and succeeding fiscal years to local educational agencies within the State as follows:

"(1) 30 PERCENT.—30 percent shall be allocated to such local educational agencies in proportion to the number of individuals aged 15 through 19, inclusive, who reside in the school district served by such local educational agency for the preceding fiscal year compared to the total number of such individuals who reside in the school

districts served by all local educational agencies in the State for such preceding fiscal year.

"(2) 70 PERCENT.—70 percent shall be allocated to such local educational agencies in proportion to the number of individuals aged 15 through 19, inclusive, who reside in the school district served by such local educational agency from families with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved for the fiscal year for which the determination is made compared to the number of such individuals who reside in the school districts served by all the local educational agencies in the State for such preceding fiscal year.

"(c) WAIVER FOR MORE EQUITABLE DISTRIBUTION.—The Secretary may waive the application of subsection (b) in the case of any eligible agency that submits to the Secretary an application for such a waiver that—

"(1) demonstrates that a proposed alternative formula more effectively targets funds on the basis of poverty (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) to local educational agencies within the State than the formula described in subsection (b); and

"(2) includes a proposal for such an alternative formula.

"(d) MINIMUM ALLOCATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a local educational agency shall not receive an allocation under subsection (a) unless the amount allocated to such agency under subsection (a) is greater than $15,000. A local educational agency may enter into a consortium with other local educational agencies for purposes of meeting the minimum allocation requirement of this paragraph.

"(2) WAIVER.—The eligible agency shall waive the application of paragraph (1) in any case in which the local educational agency—

"(A)(i) is located in a rural, sparsely populated area, or

"(ii) is a public charter school operating secondary vocational and technical education programs; and

"(B) demonstrates that the local educational agency is unable to enter into a consortium for purposes of providing activities under this part.

"(3) REDISTRIBUTION.—Any amounts that are not allocated by reason of paragraph (1) or paragraph (2) shall be redistributed to local educational agencies that meet the requirements of paragraph (1) or (2) in accordance with the provisions of this section.

"(e) LIMITED JURISDICTION AGENCIES.—

"(1) IN GENERAL.—In applying the provisions of subsection (a), no eligible agency receiving assistance under this title shall allocate funds to a local educational agency that serves only elementary schools, but shall distribute such funds to the local educational agency or regional educational agency that provides secondary school services to secondary school students in the same attendance area.

"(2) SPECIAL RULE.—The amount to be allocated under paragraph (1) to a local educational agency that has jurisdiction only over secondary schools shall be determined based on the number of students that entered such secondary schools in the previous year from the elementary schools involved.

"(f) ALLOCATIONS TO AREA VOCATIONAL AND TECHNICAL EDUCATION SCHOOLS AND EDUCATIONAL SERVICE AGENCIES.—

"(1) IN GENERAL.—Each eligible agency shall distribute the portion of funds made available under section 112(a)(1) for any fiscal year by such eligible agency for secondary school vocational and technical education activities under this section to the appropriate area vocational and technical education school or educational service agency in any case in which the area vocational and technical education school or educational service agency, and the local educational agency concerned—

"(A) have formed or will form a consortium for the purpose of receiving funds under this section; or

"(B) have entered into or will enter into a cooperative arrangement for such purpose.

"(2) ALLOCATION BASIS.—If an area vocational and technical education school or educational service agency meets the requirements of paragraph (1), then the amount that would otherwise be distributed to the local educational agency shall be allocated to the area vocational and technical education school, the educational service agency, and the local educational agency based on each school, agency or entity's relative share of students who are attending vocational and technical education programs (based, if practicable, on the average enrollment for the preceding 3 years;

"(3) APPEALS PROCEDURE.—The eligible agency shall establish an appeals procedure for resolution of any dispute arising between a local educational agency and an area vocational and technical education school or an educational service agency with respect to the allocation procedures described in this section, including the decision of a local educational agency to leave a consortium or terminate a cooperative arrangement.

"(g) CONSORTIUM REQUIREMENTS.—

"(1) ALLIANCE.—Any local educational agency receiving an allocation that is not sufficient to conduct a program which meets the requirements of section 135 is encouraged to—

"(A) form a consortium or enter into a cooperative agreement with an area vocational and technical education school or educational service agency offering programs that meet the requirements of section 135; and

"(B) transfer such allocation to the area vocational and technical education school or educational service agency; and

"(C) operate programs that are of sufficient size, scope, and quality to be effective.

"(2) FUNDS TO CONSORTIUM.—Funds allocated to a consortium formed to meet the requirements of this paragraph shall be used only for purposes and programs that are mutually beneficial to all members of the consortium and can be used only for programs authorized under this title. Such funds may not be reallocated to individual members of the consortium for purposes or programs benefiting only one member of the consortium.

"(h) DATA.—The Secretary shall collect information from eligible agencies regarding the specific dollar allocations made available by the eligible agency for vocational and technical education programs under subsections (a), (b), (c), and (d) and how these allocations are distributed to local educational agencies, area vocational and technical education schools, and educational service agencies, within the State in accordance with this section.

"(i) SPECIAL RULE.—Each eligible agency distributing funds under this section shall treat a secondary school funded by the Bureau of Indian Affairs within the State as if such school were a local educational agency within the State for the purpose of receiving a distribution under this section.

"SEC. 132. DISTRIBUTION OF FUNDS FOR POST-SECONDARY VOCATIONAL AND TECHNICAL EDUCATION PROGRAMS.

"(a) ALLOCATION.—

"(1) IN GENERAL.—Except as provided in subsections (b) and (c) and section 133, each eligible agency shall distribute the portion of the funds made available under section 112(a)(1) to carry out this section for any fiscal year to eligible institutions or consortia of eligible institutions within the State.

"(2) FORMULA.—Each eligible institution or consortium of eligible institutions shall be allocated an amount that bears the same relationship to the portion of funds made available under section 112(a)(1) to carry out this section for any fiscal year as the sum of the number of individuals who are Federal Pell Grant recipients and recipients of assistance from the Bureau of Indian Affairs enrolled in programs meeting the requirements of section 135 offered by such institution or consortium in the preceding fiscal year bears to the sum of the number of such recipients enrolled in such programs within the State for such year.

"(3) CONSORTIUM REQUIREMENTS.—

"(A) IN GENERAL.—In order for a consortium of eligible institutions described in paragraph (2) to receive assistance pursuant to such paragraph, such consortium shall operate joint projects that—

"(i) provide services to all postsecondary institutions participating in the consortium; and

"(ii) are of sufficient size, scope, and quality to be effective.

"(B) FUNDS TO CONSORTIUM.—Funds allocated to a consortium formed to meet the requirements of this section shall be used only for purposes and programs that are mutually beneficial to all members of the consortium and shall be used only for programs authorized under this title. Such funds may not be reallocated to individual members of the consortium for purposes or programs benefiting only one member of the consortium.

"(4) WAIVER.—The eligible agency may waive the application of paragraph (3)(A)(i) in any case in which the eligible institution is located in a rural, sparsely populated area.

"(b) WAIVER FOR MORE EQUITABLE DISTRIBUTION.—The Secretary may waive the application of subsection (a) if an eligible agency submits to the Secretary an application for such a waiver that—

"(1) demonstrates that the formula described in subsection (a) does not result in a distribution of funds to the eligible institutions or consortia within the State that have the highest numbers of economically disadvantaged individuals and that an alternative formula will result in such a distribution; and

"(2) includes a proposal for such an alternative formula.

"(c) MINIMUM GRANT AMOUNT.—

"(1) IN GENERAL.—No institution or consortium shall receive an allocation under this section in an amount that is less than $50,000.

"(2) REDISTRIBUTION.—Any amounts that are not distributed by reason of paragraph (1) shall be redistributed to eligible institutions or consortia in accordance with this section.

"SEC. 133. SPECIAL RULES FOR VOCATIONAL AND TECHNICAL EDUCATION.

"(a) SPECIAL RULE FOR MINIMAL ALLOCATION.—

"(1) GENERAL AUTHORITY.—Notwithstanding the provisions of sections 131 and 132 and in order to make a more equitable distribution of funds for programs serving the areas of greatest economic need, for any program year for which a minimal amount is made available by an eligible agency for distribution under section 131 or 132, such State may distribute such minimal amount for such year—

"(A) on a competitive basis; or

"(B) through any alternative method determined by the State.

"(2) MINIMAL AMOUNT.—For purposes of this section, the term 'minimal amount' means not more than 15 percent of the total amount made

available for distribution under section 112(a)(1).

"(b) REDISTRIBUTION.—

"(1) IN GENERAL.—In any academic year that an eligible recipient does not expend all of the amounts the eligible recipient is allocated for such year under section 131 or 132, such eligible recipient shall return any unexpended amounts to the eligible agency to be reallocated under section 131 or 132, as appropriate.

"(2) REDISTRIBUTION OF AMOUNTS RETURNED LATE IN AN ACADEMIC YEAR.—In any academic year in which amounts are returned to the eligible agency under section 131 or 132 and the eligible agency is unable to reallocate such amounts according to such sections in time for such amounts to be expended in such academic year, the eligible agency shall retain such amounts for distribution in combination with amounts provided under section 112(a)(1) for the following academic year.

"(c) CONSTRUCTION.—Nothing in section 131 or 132 shall be construed—

"(1) to prohibit a local educational agency or a consortium thereof that receives assistance under section 131, from working with an eligible institution or consortium thereof that receives assistance under section 132, to carry out secondary school vocational and technical education programs in accordance with this title;

"(2) to prohibit an eligible institution or consortium thereof that receives assistance under section 132, from working with a local educational agency or consortium thereof that receives assistance under section 131, to carry out postsecondary and adult vocational and technical education programs in accordance with this title; or

"(3) to require a charter school, that provides vocational and technical education programs and is considered a local educational agency under State law, to jointly establish the charter school's eligibility for assistance under this title unless the charter school is explicitly permitted to do so under the State's charter school statute.

"(d) CONSISTENT APPLICATION.—For purposes of this section, the eligible agency shall provide funds to charter schools offering vocational and technical education programs in the same manner as the eligible agency provides those funds to other schools. Such vocational and technical education programs within a charter school shall be of sufficient size, scope, and quality to be effective.

"SEC. 134. LOCAL PLAN FOR VOCATIONAL AND TECHNICAL EDUCATION PROGRAMS.

"(a) LOCAL PLAN REQUIRED.—Any eligible recipient desiring financial assistance under this part shall, in accordance with requirements established by the eligible agency (in consultation with such other educational entities as the eligible agency determines to be appropriate) submit a local plan to the eligible agency. Such local plan shall cover the same period of time as the period of time applicable to the State plan submitted under section 122.

"(b) CONTENTS.—The eligible agency shall determine requirements for local plans, except that each local plan shall—

"(1) describe how the vocational and technical education programs required under section 135(b) will be carried out with funds received under this title;

"(2) describe how the vocational and technical education activities will be carried out with respect to meeting State adjusted levels of performance established under section 113;

"(3) describe how the eligible recipient will—

"(A) improve the academic and technical skills of students participating in vocational and technical education programs by strengthening the academic, and vocational and technical, components of such programs through the integration of academics with vocational and technical education programs through a coherent sequence of courses to ensure learning in the core academic, and vocational and technical, subjects;

"(B) provide students with strong experience in and understanding of all aspects of an industry; and

"(C) ensure that students who participate in such vocational and technical education programs are taught to the same challenging academic proficiencies as are taught for all other students;

"(4) describe how parents, students, teachers, representatives of business and industry, labor organizations, representatives of special populations, and other interested individuals are involved in the development, implementation, and evaluation of vocational and technical education programs assisted under this title, and how such individuals and entities are effectively informed about, and assisted in understanding, the requirements of this title;

"(5) provide assurances that the eligible recipient will provide a vocational and technical education program that is of such size, scope, and quality to bring about improvement in the quality of vocational and technical education programs;

"(6) describe the process that will be used to independently evaluate and continuously improve the performance of the eligible recipient;

"(7) describe how the eligible recipient—

"(A) will review vocational and technical education programs, and identify and adopt strategies to overcome barriers that result in lowering rates of access to or lowering success in the programs, for special populations; and

"(B) will provide programs that are designed to enable the special populations to meet the State adjusted levels of performance;

"(8) describe how individuals who are members of the special populations will not be discriminated against on the basis of their status as members of the special populations;

"(9) describe how funds will be used to promote preparation for nontraditional training and employment; and

"(10) describe how comprehensive professional development (including initial teacher preparation) for vocational and technical, academic, guidance, and administrative personnel will be provided.

"SEC. 135. LOCAL USES OF FUNDS.

"(a) GENERAL AUTHORITY.—Each eligible recipient that receives funds under this part shall use such funds to improve vocational and technical education programs.

"(b) REQUIREMENTS FOR USES OF FUNDS.—Funds made available to eligible recipients under this part shall be used to support vocational and technical education programs that—

"(1) strengthen the academic, and vocational and technical, skills of students participating in vocational and technical education programs by strengthening the academic, and vocational and technical, components of such programs through the integration of academics with vocational and technical education programs through a coherent sequence of courses to ensure learning in the core academic, and vocational and technical, subjects;

"(2) provide students with strong experience in and understanding of all aspects of an industry;

"(3) develop, improve, or expand the use of technology in vocational and technical education, which may include—

"(A) training of vocational and technical education personnel to use state-of-the-art technology, which may include distance learning;

"(B) providing vocational and technical education students with the academic, and vocational and technical, skills that lead to entry into the high technology and telecommunications field; or

"(C) encouraging schools to work with high technology industries to offer voluntary internships and mentoring programs;

"(4) provide professional development programs to teachers, counselors, and administrators, including—

"(A) inservice and preservice training in state-of-the-art vocational and technical education programs and techniques, in effective teaching skills based on research, and in effective practices to improve parental and community involvement;

"(B) support of education programs for teachers of vocational and technical education in public schools and other public school personnel who are involved in the direct delivery of educational services to vocational and technical education students, to ensure that such teachers and personnel stay current with all aspects of an industry;

"(C) internship programs that provide business experience to teachers; and

"(D) programs designed to train teachers specifically in the use and application of technology;

"(5) develop and implement evaluations of the vocational and technical education programs carried out with funds under this title, including an assessment of how the needs of special populations are being met;

"(6) initiate, improve, expand, and modernize quality vocational and technical education programs;

"(7) provide services and activities that are of sufficient size, scope, and quality to be effective; and

"(8) link secondary vocational and technical education and postsecondary vocational and technical education, including implementing tech-prep programs.

"(c) PERMISSIVE.—Funds made available to an eligible recipient under this title may be used—

"(1) to involve parents, businesses, and labor organizations as appropriate, in the design, implementation, and evaluation of vocational and technical education programs authorized under this title, including establishing effective programs and procedures to enable informed and effective participation in such programs;

"(2) to provide career guidance and academic counseling for students participating in vocational and technical education programs;

"(3) to provide work-related experience, such as internships, cooperative education, school-based enterprises, entrepreneurship, and job shadowing that are related to vocational and technical education programs;

"(4) to provide programs for special populations;

"(5) for local education and business partnerships;

"(6) to assist vocational and technical student organizations;

"(7) for mentoring and support services;

"(8) for leasing, purchasing, upgrading or adapting equipment, including instructional aides;

"(9) for teacher preparation programs that assist individuals who are interested in becoming vocational and technical education instructors, including individuals with experience in business and industry;

"(10) for improving or developing new vocational and technical education courses;

"(11) to provide support for family and consumer sciences programs;

"(12) to provide vocational and technical education programs for adults and school dropouts to complete their secondary school education;

"(13) to provide assistance to students who have participated in services and activities under this title in finding an appropriate job and continuing their education;

"(14) to support nontraditional training and employment activities; and

"(15) to support other vocational and technical education activities that are consistent with the purpose of this Act.

"(d) ADMINISTRATIVE COSTS.—Each eligible recipient receiving funds under this part shall not use more than 5 percent of the funds for administrative costs associated with the administration of activities assisted under this section.

"TITLE II—TECH-PREP EDUCATION

"SEC. 201. SHORT TITLE.

"This title may be cited as the 'Tech-Prep Education Act'.

"SEC. 202. DEFINITIONS.

"(a) In this title:

"(1) ARTICULATION AGREEMENT.—The term 'articulation agreement' means a written commitment to a program designed to provide students with a non duplicative sequence of progressive achievement leading to degrees or certificates in a tech-prep education program.

"(2) COMMUNITY COLLEGE.—The term 'community college'—

"(A) means an institution of higher education, as defined in section 101 of the Higher Education Act of 1965, that provides not less than a 2-year program that is acceptable for full credit toward a bachelor's degree; and

"(B) includes tribally controlled colleges or universities.

"(3) TECH-PREP PROGRAM.—The term 'tech-prep program' means a program of study that—

"(A) combines at a minimum 2 years of secondary education (as determined under State law) with a minimum of 2 years of postsecondary education in a nonduplicative, sequential course of study;

"(B) integrates academic, and vocational and technical, instruction, and utilizes work-based and worksite learning where appropriate and available;

"(C) provides technical preparation in a career field such as engineering technology, applied science, a mechanical, industrial, or practical art or trade, agriculture, health occupations, business, or applied economics;

"(D) builds student competence in mathematics, science, reading, writing, communications, economics, and workplace skills through applied, contextual academics, and integrated instruction, in a coherent sequence of courses;

"(E) leads to an associate or a baccalaureate degree or a postsecondary certificate in a specific career field; and

"(F) leads to placement in appropriate employment or to further education.

"SEC. 203. STATE ALLOTMENT AND APPLICATION.

"(a) IN GENERAL.—For any fiscal year, the Secretary shall allot the amount made available under section 206 among the States in the same manner as funds are allotted to States under paragraph (2) of section 111(a).

"(b) PAYMENTS TO ELIGIBLE AGENCIES.—The Secretary shall make a payment in the amount of a State's allotment under subsection (a) to the eligible agency that serves the State and has an application approved under subsection (c).

"(c) STATE APPLICATION.—Each eligible agency desiring assistance under this title shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

"SEC. 204. TECH-PREP EDUCATION.

"(a) GRANT PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—From amounts made available to each eligible agency under section 203, the eligible agency, in accordance with the provisions of this title, shall award grants, on a competitive basis or on the basis of a formula determined by the eligible agency, for tech-prep education programs described in subsection (c). The grants shall be awarded to consortia between or among—

"(A) a local educational agency, an intermediate educational agency or area vocational and technical education school serving secondary school students, or a secondary school funded by the Bureau of Indian Affairs; and

"(B)(i) a nonprofit institution of higher education that offers—

"(I) a 2-year associate degree program, or a 2-year certificate program, and is qualified as institutions of higher education pursuant to section 102 of the Higher Education Act of 1965, including an institution receiving assistance under the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 et seq.) and a tribally controlled postsecondary vocational and technical institution; or

"(II) a 2-year apprenticeship program that follows secondary instruction,

if such nonprofit institution of higher education is not prohibited from receiving assistance under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.) pursuant to the provisions of section 435(a)(3) of such Act (20 U.S.C. 1083(a)); or

"(ii) a proprietary institution of higher education that offers a 2-year associate degree program and is qualified as an institution of higher education pursuant to section 102 of the Higher Education Act of 1965, if such proprietary institution of higher education is not subject to a default management plan required by the Secretary.

"(2) SPECIAL RULE.—In addition, a consortium described in paragraph (1) may include 1 or more—

"(A) institutions of higher education that award a baccalaureate degree; and

"(B) employer or labor organizations.

"(b) DURATION.—Each grant recipient shall use amounts provided under the grant to develop and operate a 4- or 6-year tech-prep education program described in subsection (c).

"(c) CONTENTS OF TECH-PREP PROGRAM.—Each tech-prep program shall—

"(1) be carried out under an articulation agreement between the participants in the consortium;

"(2) consist of at least 2 years of secondary school preceding graduation and 2 years or more of higher education, or an apprenticeship program of at least 2 years following secondary instruction, with a common core of required proficiency in mathematics, science, reading, writing, communications, and technologies designed to lead to an associate's degree or a postsecondary certificate in a specific career field;

"(3) include the development of tech-prep programs for both secondary and postsecondary, including consortium, participants in the consortium that—

"(A) meets academic standards developed by the State;

"(B) links secondary schools and 2-year postsecondary institutions, and if possible and practicable, 4-year institutions of higher education through nonduplicative sequences of courses in career fields, including the investigation of opportunities for tech-prep secondary students to enroll concurrently in secondary and postsecondary coursework;

"(C) uses, if appropriate and available, work-based or worksite learning in conjunction with business and all aspects of an industry; and

"(D) uses educational technology and distance learning, as appropriate, to involve all the consortium partners more fully in the development and operation of programs;

"(4) include in-service training for teachers that—

"(A) is designed to train vocational and technical teachers to effectively implement tech-prep programs;

"(B) provides for joint training for teachers in the tech-prep consortium;

"(C) is designed to ensure that teachers and administrators stay current with the needs, expectations, and methods of business and all aspects of an industry;

"(D) focuses on training postsecondary education faculty in the use of contextual and applied curricula and instruction; and

"(E) provides training in the use and application of technology;

"(5) include training programs for counselors designed to enable counselors to more effectively—

"(A) provide information to students regarding tech-prep education programs;

"(B) support student progress in completing tech-prep programs;

"(C) provide information on related employment opportunities;

"(D) ensure that such students are placed in appropriate employment; and

"(E) stay current with the needs, expectations, and methods of business and all aspects of an industry;

"(6) provide equal access, to the full range of technical preparation programs, to individuals who are members of special populations, including the development of tech-prep program services appropriate to the needs of special populations; and

"(7) provide for preparatory services that assist participants in tech-prep programs.

"(d) ADDITIONAL AUTHORIZED ACTIVITIES.—Each tech-prep program may—

"(1) provide for the acquisition of tech-prep program equipment;

"(2) acquire technical assistance from State or local entities that have designed, established, and operated tech-prep programs that have effectively used educational technology and distance learning in the delivery of curricula and services and in the articulation process; and

"(3) establish articulation agreements with institutions of higher education, labor organizations, or businesses located inside or outside the State and served by the consortium, especially with regard to using distance learning and educational technology to provide for the delivery of services and programs.

"SEC. 205. CONSORTIUM APPLICATIONS.

"(a) IN GENERAL.—Each consortium that desires to receive a grant under this title shall submit an application to the eligible agency at such time and in such manner as the eligible agency shall prescribe.

"(b) PLAN.—Each application submitted under this section shall contain a 5-year plan for the development and implementation of tech-prep programs under this title, which plan shall be reviewed after the second year of the plan.

"(c) APPROVAL.—The eligible agency shall approve applications based on the potential of the activities described in the application to create an effective tech-prep program.

"(d) SPECIAL CONSIDERATION.—The eligible agency, as appropriate, shall give special consideration to applications that—

"(1) provide for effective employment placement activities or the transfer of students to baccalaureate degree programs;

"(2) are developed in consultation with business, industry, institutions of higher education, and labor organizations;

"(3) address effectively the issues of school dropout prevention and reentry and the needs of special populations;

"(4) provide education and training in areas or skills in which there are significant workforce shortages, including the information technology industry; and

"(5) demonstrate how tech-prep programs will help students meet high academic and employability competencies.

"(e) EQUITABLE DISTRIBUTION OF ASSISTANCE.—In awarding grants under this title, the eligible agency shall ensure an equitable distribution of assistance between urban and rural consortium participants.

"SEC. 206. REPORT.

"Each eligible agency that receives a grant under this title annually shall prepare and submit to the Secretary a report on the effectiveness of the tech-prep programs assisted under this title, including a description of how grants were awarded within the State.

"SEC. 207. DEMONSTRATION PROGRAM.

"(a) DEMONSTRATION PROGRAM AUTHORIZED.—From funds appropriated under subsection (e) for a fiscal year, the Secretary shall award grants to consortia described in section 204(a) to enable the consortia to carry out tech-prep education programs.

"(b) PROGRAM CONTENTS.—Each tech-prep program referred to in subsection (a)—

"(1) shall—

"(A) involve the location of a secondary school on the site of a community college;

"(B) involve a business as a member of the consortium; and

"(C) require the voluntary participation of secondary school students in the tech-prep education program; and

"(2) may provide summer internships at a business for students or teachers.

"(c) APPLICATION.—Each consortium desiring a grant under this section shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may require.

"(d) APPLICABILITY.—The provisions of sections 203, 204, 205, and 206 shall not apply to this section, except that—

"(1) the provisions of section 204(a) shall apply for purposes of describing consortia eligible to receive assistance under this section;

"(2) each tech-prep education program assisted under this section shall meet the requirements of paragraphs (1), (2), (3)(A), (3)(B), (3)(C), (3)(D), (4), (5), (6), and (7) of section 204(c), except that such paragraph (3)(B) shall be applied by striking ", and if possible and practicable, 4-year institutions of higher education through nonduplicative sequences of courses in career fields"; and

"(3) in awarding grants under this section, the Secretary shall give special consideration to consortia submitting applications under subsection (c) that meet the requirements of paragraphs (1), (3), (4), and (5) of section 205(d), except that such paragraph (1) shall be applied by striking "or the transfer of students to baccalaureate degree programs".

"(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $25,000,000 for fiscal year 1999 and each of the 4 succeeding fiscal years.

"SEC. 208. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out this title (other than section 207) such sums as may be necessary for fiscal year 1999 and each of the 4 succeeding fiscal years.

"TITLE III—GENERAL PROVISIONS

"PART A—FEDERAL ADMINISTRATIVE PROVISIONS

"SEC. 311. FISCAL REQUIREMENTS.

"(a) SUPPLEMENT NOT SUPPLANT.—Funds made available under this Act for vocational and technical education activities shall supplement, and shall not supplant, non-Federal funds expended to carry out vocational and technical education activities and tech-prep activities.

"(b) MAINTENANCE OF EFFORT.—

"(1) DETERMINATION.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), no payments shall be made under this Act for any fiscal year to a State for vocational and technical education programs or tech-prep programs unless the Secretary determines that the fiscal effort per student or the aggregate expenditures of such State for vocational and technical education programs for the fiscal year preceding the fiscal year for which the determination is made, equaled or exceeded such effort or expenditures for vocational and technical education programs, for the second fiscal year preceding the fiscal year for which the determination is made.

"(B) COMPUTATION.—In computing the fiscal effort or aggregate expenditures pursuant to subparagraph (A), the Secretary shall exclude capital expenditures, special one-time project costs, and the cost of pilot programs.

"(C) DECREASE IN FEDERAL SUPPORT.—If the amount made available for vocational and technical education programs under this Act for a fiscal year is less than the amount made available for vocational and technical education programs under this Act for the preceding fiscal year, then the fiscal effort per student or the aggregate expenditures of a State required by subparagraph (B) for such preceding fiscal year shall be decreased by the same percentage as the percentage decrease in the amount so made available.

"(2) WAIVER.—The Secretary may waive the requirements of this section, with respect to not more than 5 percent of expenditures by any eligible agency for 1 fiscal year only, on making a determination that such waiver would be equitable due to exceptional or uncontrollable circumstances affecting the ability of the eligible agency to meet such requirements, such as a natural disaster or an unforeseen and precipitous decline in financial resources. No level of funding permitted under such a waiver may be used as the basis for computing the fiscal effort or aggregate expenditures required under this section for years subsequent to the year covered by such waiver. The fiscal effort or aggregate expenditures for the subsequent years shall be computed on the basis of the level of funding that would, but for such waiver, have been required.

"SEC. 312. AUTHORITY TO MAKE PAYMENTS.

"Any authority to make payments or to enter into contracts under this Act shall be available only to such extent or in such amounts as are provided in advance in appropriation Acts.

"SEC. 313. CONSTRUCTION.

"Nothing in this Act shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of a private, religious, or home school, regardless of whether a home school is treated as a private school or home school under State law. This section shall not be construed to bar students attending private, religious, or home schools from participation in programs or services under this Act.

"SEC. 314. VOLUNTARY SELECTION AND PARTICIPATION.

"No funds made available under this Act shall be used—

"(1) to require any secondary school student to choose or pursue a specific career path or major; and

"(2) to mandate that any individual participate in a vocational and technical education program, including a vocational and technical education program that requires the attainment of a federally funded skill level, standard, or certificate of mastery.

"SEC. 315. LIMITATION FOR CERTAIN STUDENTS.

"No funds received under this Act may be used to provide vocational and technical education programs to students prior to the seventh grade, except that equipment and facilities purchased with funds under this Act may be used by such students.

"SEC. 316. FEDERAL LAWS GUARANTEEING CIVIL RIGHTS.

"Nothing in this Act shall be construed to be inconsistent with applicable Federal law prohibiting discrimination on the basis of race, color, sex, national origin, age, or disability in the provision of Federal programs or services.

"SEC. 317. AUTHORIZATION OF SECRETARY.

"For the purposes of increasing and expanding the use of technology in vocational and technical education instruction, including the training of vocational and technical education personnel as provided in this Act, the Secretary is authorized to receive and use funds collected by the Federal Government from fees for the use of property, rights-of-way, and easements under the control of Federal departments and agencies for the placement of telecommunications services that are dependent, in whole or in part, upon the utilization of general spectrum rights for the transmission or reception of such services.

"SEC. 318. PARTICIPATION OF PRIVATE SCHOOL PERSONNEL.

"An eligible agency or eligible recipient that uses funds under this Act for inservice and preservice vocational and technical education professional development programs for vocational and technical education teachers, administrators, and other personnel may, upon request, permit the participation in such programs of vocational and technical education teachers, administrators, and other personnel in nonprofit private schools offering vocational and technical education programs located in the geographical area served by such agency or recipient.

"PART B—STATE ADMINISTRATIVE PROVISIONS

"SEC. 321. JOINT FUNDING.

"(a) GENERAL AUTHORITY.—Funds made available to eligible agencies under this Act may be used to provide additional funds under an applicable program if—

"(1) such program otherwise meets the requirements of this Act and the requirements of the applicable program;

"(2) such program serves the same individuals that are served under this Act;

"(3) such program provides services in a coordinated manner with services provided under this Act; and

"(4) such funds are used to supplement, and not supplant, funds provided from non-Federal sources.

"(b) APPLICABLE PROGRAM.—For the purposes of this section, the term "applicable program" means any program under any of the following provisions of law:

"(1) Chapters 4 and 5 of subtitle B of title I of Public Law 105–220.

"(2) The Wagner-Peyser Act.

"(c) USE OF FUNDS AS MATCHING FUNDS.—For the purposes of this section, the term 'additional funds' does not include funds used as matching funds.

"SEC. 322. PROHIBITION ON USE OF FUNDS TO INDUCE OUT-OF-STATE RELOCATION OF BUSINESSES.

"No funds provided under this Act shall be used for the purpose of directly providing incentives or inducements to an employer to relocate a business enterprise from one State to another State if such relocation will result in a reduction in the number of jobs available in the State where the business enterprise is located before such incentives or inducements are offered.

"SEC. 323. STATE ADMINISTRATIVE COSTS.

"(a) GENERAL RULE.—Except as provided in subsection (b), for each fiscal year for which an eligible agency receives assistance under this Act, the eligible agency shall provide, from non-Federal sources for the costs the eligible agency incurs for the administration of programs under this Act an amount that is not less than the amount provided by the eligible agency from non-Federal sources for such costs for the preceding fiscal year.

"(b) EXCEPTION.—If the amount made available for administration of programs under this

Act for a fiscal year is less than the amount made available for administration of programs under this Act for the preceding fiscal year, the amount the eligible agency is required to provide from non-Federal sources for costs the eligible agency incurs for administration of programs under this Act shall be the same percentage as the amount made available for administration of programs under this Act.

"SEC. 324. LIMITATION ON FEDERAL REGULATIONS.

"The Secretary may issue regulations under this Act only to the extent necessary to administer and ensure compliance with the specific requirements of this Act.

"SEC. 325. STUDENT ASSISTANCE AND OTHER FEDERAL PROGRAMS.

"(a) ATTENDANCE COSTS NOT TREATED AS INCOME OR RESOURCES.—The portion of any student financial assistance received under this Act that is made available for attendance costs described in subsection (b) shall not be considered as income or resources in determining eligibility for assistance under any other program funded in whole or in part with Federal funds.

"(b) ATTENDANCE COSTS.—The attendance costs described in this subsection are—

"(1) tuition and fees normally assessed a student carrying an academic workload as determined by the institution, and including costs for rental or purchase of any equipment, materials, or supplies required of all students in that course of study; and

"(2) an allowance for books, supplies, transportation, dependent care, and miscellaneous personal expenses for a student attending the institution on at least a half-time basis, as determined by the institution.

"(c) COSTS OF VOCATIONAL AND TECHNICAL EDUCATION SERVICES.—Funds made available under this Act may be used to pay for the costs of vocational and technical education services required in an individualized education plan developed pursuant to section 614(d) of the Individuals with Disabilities Education Act and services necessary to meet the requirements of section 504 of the Rehabilitation Act of 1973 with respect to ensuring equal access to vocational and technical education.".

SEC. 2. PROMOTING SCHOLAR-ATHLETE COMPETITIONS.

Section 10104 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8004) is amended—

(1) in subsection (a), by striking "to be held in 1995" and inserting "to be held in 1999"; and

(2) in subsection (b)—

(A) in paragraph (4), by striking "in the summer of 1995" and inserting "in the summer of 1999";

(B) in paragraph (5), by striking "in 1996 and thereafter, as well as replicate such program"; and

(C) in paragraph (6), by striking "1995" and inserting "1999".

SEC. 3. REFERENCES TO CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT.

(a) IMMIGRATION AND NATIONALITY ACT.—Section 245A(h)(4)(C) of the Immigration and Nationality Act (8 U.S.C. 1255a(h)(4)(C)) is amended by striking "Vocational Education Act of 1963" and inserting "Carl D. Perkins Vocational and Technical Education Act of 1998".

(b) NATIONAL DEFENSE AUTHORIZATION ACT.—Section 4461 of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 1143 note) is amended—

(1) by striking paragraph (4); and

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

(c) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—The Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended—

(1) in section 1114(b)(2)(C)(v) (20 U.S.C. 6314(b)(2)(C)(v)), by striking "Carl D. Perkins Vocational and Applied Technical Education Act," and inserting "Carl D. Perkins Vocational and Technical Education Act of 1998";

(2) in section 9115(b)(5) (20 U.S.C. 7815(b)(5)), by striking "Carl D. Perkins Vocational and Technical Education Act" and inserting "Carl D. Perkins Vocational and Technical Education Act of 1998";

(3) in section 14302(a)(2) (20 U.S.C. 8852(a)(2))—

(A) by striking subparagraph (C); and

(B) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E), respectively; and

(4) in the matter preceding subparagraph (A) of section 14307(a)(1) (20 U.S.C. 8857(a)(1)), by striking "Carl D. Perkins Vocational and Applied Technology Technical Education Act" and inserting "Carl D. Perkins Vocational and Technical Education Act of 1998".

(d) EQUITY IN EDUCATIONAL LAND-GRANT STATUS ACT OF 1994.—Section 533(c)(4)(A) of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note) is amended by striking "(20 U.S.C. 2397h(3)" and inserting ", as such section was in effect on the day preceding the date of enactment of the Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998".

(e) IMPROVING AMERICA'S SCHOOLS ACT OF 1994.—Section 563 of the Improving America's Schools Act of 1994 (20 U.S.C. 6301 note) is amended by striking "the date of enactment of an Act reauthorizing the Carl D. Perkins Vocational and Technical Education Act (20 U.S.C. 2301 et seq.)" and inserting "July 1, 1999".

(f) WORKFORCE INVESTMENT ACT OF 1998.—Section 101(3) of the Workforce Investment Act of 1998 (29 U.S.C. 2801(3)) is amended by striking "section 521 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471)" and inserting "section 3 of the Carl D. Perkins Vocational and Technical Education Act of 1998".

(g) APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1965.—Section 214(c) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 214(c)) is amended by striking "Carl D. Perkins Vocational Education Act" and inserting "Carl D. Perkins Vocational and Technical Education Act of 1998".

(h) VOCATIONAL EDUCATION AMENDMENTS OF 1968.—Section 104 of the Vocational Education Amendments of 1968 (82 Stat. 1091) is amended by striking "section 3 of the Carl D. Perkins Vocational Education Act" and inserting "the Carl D. Perkins Vocational and Technical Education Act of 1998".

(i) OLDER AMERICANS ACT OF 1965.—The Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) is amended—

(1) in section 502(b)(1)(N)(i) (42 U.S.C. 3056(b)(1)(N)(i)), by striking "or the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.)"; and

(2) in section 505(d)(2) (42 U.S.C. 3056c(d)(2))—

(A) by striking "employment and training programs" and inserting "workforce investment activities"; and

(B) by striking "the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.)" and inserting "the Carl D. Perkins Vocational and Technical Education Act of 1998".

SEC. 4. ADULT EDUCATION AND FAMILY LITERACY.

The Adult Education and Family Literacy Act (20 U.S.C. 9201 et seq.) is amended—

(1) in section 224, by adding at the end the following:

"(g) TRANSITION.—The provisions of this section shall be subject to section 506(b).'; and

(2) by amending paragraph (2) of section 506(b) to read as follows:

"(2) LIMITATION.—The authority to take actions under paragraph (1) shall apply until July 1, 2000.".

SEC. 5. TECHNICAL AND CONFORMING AMENDMENTS.

(a) WORKFORCE INVESTMENT ACT OF 1998.—Section 121 of the Workforce Investment Act of 1998 (29 U.S.C. 2841) is amended—

(1) in subsection (b)(1)(B)(iv), by inserting before the semicolon the following: "(other than part C of title I of such Act and subject to subsection (f))"; and

(2) by adding at the end the following:

"(f) APPLICATION TO CERTAIN VOCATIONAL REHABILITATION PROGRAMS.—

"(1) LIMITATION.—Nothing in this section shall be construed to apply to part C of title I of the Rehabilitation Act of 1973 (29 U.S.C. 741).

"(2) CLIENT ASSISTANCE.—Nothing in this Act shall be construed to require that any entity carrying out a client assistance program authorized under section 112 of the Rehabilitation Act of 1973 (29 U.S.C. 732)—

"(A) violate the requirement of section 112(c)(1)(A) of that Act that the entity be independent of any agency which provides treatment, services, or rehabilitation to individuals under that Act; or

"(B) carry out any activity not authorized under section 112 of that Act (including appropriate Federal regulations).".

(b) WAGNER-PEYSER ACT.—

(1) IN GENERAL.—Section 15 of the Wagner-Peyser Act (as added by section 309 of the Workforce Investment Act of 1998) is amended—

(A) in subsection (a)(2)(A)(i), by striking "under" and all that follows through "for which" and inserting "under the provisions of this section for any purpose other than the statistical purposes for which"; and

(B) in subsection (e)(2)(G), by striking "complementary" and inserting "complementarity".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) take effect July 2, 1999.

(c) REHABILITATION ACT OF 1973.—Section 725(c)(7) of the Rehabilitation Act of 1973 (as amended by section 410 of the Workforce Investment Act of 1998) is amended by striking "management," and all that follows and inserting "management;".

SEC. 6. REPEALS AND EXTENSIONS OF PREVIOUS HIGHER EDUCATION AMENDMENTS PROVISIONS.

(a) HIGHER EDUCATION AMENDMENTS OF 1986.—Title XIII of the Higher Education Amendments of 1986 (Public Law 99–498) is repealed.

(b) HIGHER EDUCATION AMENDMENTS OF 1992.—The following provisions of the Higher Education Amendments of 1992 (Public Law 102–325) are repealed:

(1) Parts E, F, and G of title XIII.

(2) Title XIV.

(3) Parts A, B, C, and D of title XV.

And the Senate agree to the same.

BILL GOODLING,
HOWARD "BUCK" MCKEON,
FRANK RIGGS,
JOHN E. PETERSON,
SAM JOHNSON,
BILL CLAY,
MATTHEW G. MARTINEZ,
DALE E. KILDEE,
Managers on the Part of the House.

JIM JEFFORDS,
DAN COATS,
JUDD GREGG,
BILL FRIST,
MIKE DEWINE,
MICHAEL B. ENZI,

TIM HUTCHINSON,
SUSAN COLLINS,
MITCH MCCONNELL,
TED KENNEDY,
CHRIS DODD,
TOM HARKIN,
BARBARA A. MIKULSKI,
PAUL WELLSTONE,
JACK REED,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1853) to amend the Carl D. Perkins Vocational and Applied Technology Education Act, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I—VOCATIONAL AND TECHNICAL EDUCATION ASSISTANCE TO THE STATES

The Conference agreement improves vocational and technical education by strengthening academics, broadening vocational opportunities for students, sending more money to the local level, and increasing flexibility for State and local program needs.

FORMULA PROVISIONS

The Conference agreement authorizes such sums for Fiscal Years 1999–2003.

Federal to State formula

The House bill changes the formula provisions in the Act. The Federal to State formula allots basic State grant funds to States based upon two populations. Fifty percent would be sent based upon the population aged 15–19 in each State, and 50 percent based upon the population aged 20–24 in the State. This distribution would be subject to each State receiving a minimum amount of one half of one percent of the total grant amounts (small state minimum). State allotments would be adjusted by the per capita income of the State, with the maximum adjustment ratio being 0.55 and the minimum being 0.4.

The Senate bill follows current law.

The Conference agreement follows the Senate bill.

Outlying areas

Both bills provide for grants of $500,000 made to Guam, and $190,000 each to American Samoa, and the Commonwealth of the Northern Marianna Islands from reserved funds. In addition, both bills require the Freely Associated States (the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau) to compete for their allotment with Guam and American Samoa.

The House bill terminates funding for the Freely Associated States (the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau) on September 30, 2001.

The Senate bill terminates funding for the Freely Associated States (the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau) on September 30, 2004.

The Conference agreement follows the House bill.

Within State formula

The House bill requires States to send 90 percent of their basic State grant to the local level for secondary, postsecondary, and adult vocational education activities. Of this 90 percent, a State may reserve up to ten percent for rural (five percent) and urban (five percent) areas in the State. A State is required to reserve eight percent of the basic State grant for State leadership activities and two percent for administrative activities.

The Senate bill maintains several key set-asides found in current law. The Senate bill allocates 75 percent of the State grant for secondary, postsecondary, and adult vocational and technical education activities. The bill allows States to reserve 14 percent of their allotment for State leadership activities, ten percent for administration, and one percent for programming for criminal offenders.

The Conference agreement allocates 85 percent of the State grant for secondary, postsecondary, and adult vocational and technical education programs at the local level. Of this allocation, ten percent may be made available to award grants to rural areas; areas with high percentages of vocational and technical education students; areas with high numbers of vocational and technical education students; and communities negatively impacted as a result of changes in the new within State formula. In adopting this change, the Conferees recognize the inequities inherent in any formula toward rural areas and provide through this reserve a mechanism for States to compensate for these inequities. In addition to rural areas, the Conferees realize that the formula may not adequately reflect those schools or local areas that have a high percentage or population of students in vocational technical education programs.

The agreement also authorizes the State eligible agency to reserve an amount equal to ten percent of the total allotment for State leadership activities. Included in the funds reserved for State Leadership activities, up to one percent of the total allotment shall be used to serve criminal offenders, and not less than $60,000 but no more than $150,000 shall be used for services targeting preparation for nontraditional training and employment. The Conference agreement authorizes the State eligible agency to reserve up to five percent of the total allotment, or $250,000 (whichever is greater), for State administrative activities. This may be used for the costs of developing a State plan, reviewing a local plan, monitoring and evaluating the effectiveness of a program, assuring the compliance with all of the applicable federal laws, or providing technical assistance. Each State that receives this financial assistance shall match the reserve funds on a dollar-for-dollar basis.

NATIONAL ACTIVITIES

Both bills require the Secretary to develop and implement a plan for evaluation and dissemination of vocational and technical education programs. Both bills include provisions with regard to what is to be included in the evaluation and assessment plans. In addition, both bills allow the Secretary to award grants to establish national research centers. Demonstration and dissemination activities are also included. Both bills also require information collection on vocational and technical education programs. Adequate information on access to vocational and technical education by secondary students with disabilities is maintained in the data system.

The House bill extends the authorization of the National Occupational Information Coordinating Committee.

The Senate bill had no comparable provision.

The Conference agreement includes authority for the Secretary of Education to designate an entity at the national level to carry out certain functions related to occupational and employment information for vocational and technical education programs. The agreements also gives authority to the Secretary to award grants to designated State entities, which may include State Occupational Information Coordinating Committees established prior to enactment of this Act, to carry out State activities related to such information. The agreement prohibits any duplication of activities authorized under section 15 of the Wagner-Peyser Act. The Conferees expect the Secretary of Education, in carrying out this section, to consult with the Bureau of Labor Statistics and the Employment and Training Administration in order to avoid any duplication of activities.

INDIAN AND NATIVE HAWAIIAN PROGRAM AND TRIBALLY CONTROLLED POSTSECONDARY VOCATIONAL AND TECHNICAL INSTITUTIONS

Section 103 of the House bill authorizes grants to Indian tribes, tribal organizations, and Alaska Native entities for the purposes of carrying out vocational and technical education, but bars Bureau Funded secondary schools from receiving assistance under this Section. The Secretary is also directed to enter into contracts with organizations primarily serving Native Hawaiian programs. In addition, section 104 of the House bill also authorizes the Secretary to make grants to tribally controlled postsecondary vocational and technical institutions.

Section 114 of the Senate bill authorizes the Secretary to enter into grants or contracts to Indian tribes, tribal organizations, Bureau funded schools, and organizations primarily serving native Hawaiians for the purposes of carrying out vocational and technical education programs. Any organization that receives a grant or enters into a contract would be required to establish adjusted levels of performance to be achieved by students served and evaluate the quality and effectiveness of the program. In addition, the Section 115 of the Senate bill also authorizes the Secretary to make grants to tribally controlled postsecondary vocational and technical institutions.

The Conference agreement follows the Senate bill with regard to the issuance of grants or contracts to Indian tribes, tribal organizations, but adds Alaska Native entities as eligible to receive a grant or enter into a contract. The agreement follows the House bill with regard to the majority of the provisions relating to tribally controlled postsecondary vocational and technical education institutions, including the maintenance of a separate authorization of appropriations for these activities. In addition, the agreement follows the Senate bill on the requirement to conduct needs estimates and reports on facility quality. The Conference agreement closely follows current law on these provisions.

STATE ORGANIZATIONAL AND PLANNING RESPONSIBILITIES

State plan

The House bill requires a State plan to be for a minimum of five years. The plan would describe the vocational and technical education programs that would be carried out with funds received by the State. In addition, the plan would describe how funds received by the State would be allocated; describe how the State would improve the academic and technical skills of vocational technical education students; ensure that participating students are taught to the

same academic proficiencies as are provided all other students; and describe how the State would evaluate the effectiveness of the programs annually.

The Senate bill requires a State plan to be for a minimum of three years. The plan would describe the vocational education activities designed to meet the State adjusted levels of performance. It would also describe how funds would be allocated. The plan would describe how funds would be used to expand and improve technology in instruction; to serve individuals in correctional institutions; and to link secondary and postsecondary education.

The Conference agreement follows the House bill with a few modifications. The State plan is to include information that describes the vocational education activities to be assisted that are designed to meet the State adjusted levels of performance. The plan is to be reviewed prior to the third program year. In addition, the plan describes the eligible agency's program strategies for special populations.

State leadership

Required use of funds

The House bill requires State leadership funds to be used for activities targeting the use of technology, professional development, and support for programs that improve the academic and technical skills of participating vocational technical education students.

The Senate bill requires State leadership funds be used for monitoring and evaluating the quality and improvement of vocational and technical education activities and for improving and expanding technology. In addition, the bill requires that funds be used to provide comprehensive professional development. The bill also requires that funds be used to: provide preparation for nontraditional training and employment; support tech-prep education activities; support partnerships among LEAs, institutions of higher education, adult education providers, and other entities; and to serve individuals in State institutions.

The Conference agreement merges the provisions of the two bills. The agreement also includes support for programs for special populations, and describes how funds will be used to serve individuals in correctional institutions.

Permissive use of funds

The House bill allows State leadership funds to be used for technical support of eligible recipients and to establish agreements between secondary and postsecondary programs. It also allows funds to be used for: support for programs for special populations; cooperative education; vocational student organizations; support for public charter schools operating secondary vocational and technical education programs; and programs that offer experience in all aspects of an industry for which students would be preparing to enter. In addition funds may be used for: family and consumer sciences programs; corrections education; education and business partnerships; and to improve or develop new vocational and technical education courses.

The Senate bill permits funds to be used for an array of activities, including support for vocational student organizations, and to provide programs for adults and school dropouts. It also allows funds to be used to provide assistance to participating students in finding a job and continuing their education.

The Conference agreement merges the provisions of the two bills.

Substate formula at the secondary level

The House bill phases in a new secondary substate formula over five years. Year one would operate under current law, and subsequent years would transition to a formula based 60 percent on poverty of individuals aged 15–19, and 40 percent on the population of individuals aged 15–19. The minimum grant would be $10,000. The House bill also includes a waiver ability for States that develop an alternative formula that more effectively targets funds on the basis of poverty to Local Educational Agencies (LEAs).

The Senate bill follows current law on the distribution of funds, but raises the minimum grant to $25,000.

The Conference agreement changes the secondary substate formula over two years. In the first year of the reauthorization, funds for secondary activities would be distributed under current law. Beginning in year two, seventy percent of the funds would be distributed based upon each LEA's share of the individuals aged 15–19 from economically disadvantaged families, and 30 percent distributed based upon the LEA's share of population aged 15–19. The agreement follows the House bill with regard to the waiver authority, and maintains current law with regard to the minimum grant of $15,000.

Substate funding at the postsecondary level

The House bill follows current law on the postsecondary substate formula, which is based upon an institution's share of Pell Grant recipients. It sets the minimum grant at $35,000. The bill also allows the Secretary to waive requirements to permit alternative formulas.

The Senate bill follows current law for the postsecondary substate formula, but sets the minimum grant at $65,000.

The Conference agreement follows current law with regard to the formula, the minimum grant of $50,000, and waiver authority.

ACCOUNTABILITY

The House bill requires the State to develop performance measures to measure the progress of the State. If the State has not demonstrated improvement in meeting its performance measures for 2 or more consecutive years, the Secretary may withhold all, or a portion of, the allotment. In addition, each eligible agency that receives an allotment must annually prepare and submit a report to the Secretary on the State's performance. This report is to include, in addition to other things, a description of the progress of special populations.

The Senate bill requires the Secretary to publish performance measures to assess the progress of each eligible agency. Each eligible agency is to negotiate with the Secretary the adjusted levels of performance. Each eligible agency is to annually evaluate the vocational and technical education and tech-prep activities to determine the progress. If an organization is not making substantial progress, it is to conduct an assessment, enter into an improvement plan based on the assessment, and conduct regular evaluations of the progress being made. If the organization continues to not demonstrate improvement, the Secretary may withhold all, or a portion of, the allotment. The eligible agency that receives the allotment is to report annually on the progress made, including a description of the progress of special populations.

The Conference agreement requires the State performance measures to be established solely by the State, and are to include core indicators of performance. The State adjusted levels of performance shall be agreed upon by the State adjusted levels of performance shall be agreed upon by the State eligible agency (with input from local eligible recipients) and the Secretary for the first two program years covered by the State plan. Prior to the third program year, the Secretary and eligible agency shall reach agreement on the core indicators of performance for the third, fourth and fifth program years. Each eligible agency that receives this allotment shall prepare and submit an annual report to the Secretary describing the agency's progress.

LOCAL PROVISIONS

LOCAL USES OF FUNDS

Required use of funds

The House bill requires funds to be used for strengthening the academic and technical skills of participating students by strengthening the program components through the integration of academics with vocational and technical education; developing, improving, or expanding the use of technical in vocational and technical education; and providing professional development programs.

The Senate bill requires funds to be used to integrate academic education with vocational and technical education for particapting student; to improve or expand the use of technology in vocational and technical education, including professional development; to provide professional development activities to teachers, counselors, and administrators; to develop and implement performance management systems and evaluations; to initiate and improve quality programs; to link secondary and postsecondary education, including tech-prep programs; to develop implement programs that provide access to quality programs for participating students, including special populations; to promote preparation for nontraditional training and employment.

The Conference agreement follows the majority of the provisions in the House bill. The agreement also requires funds to be used for programs designed to train teachers specifically in the use of technology; to provide services and activities that are of sufficient size, scope, and quality to be effective; and to link, secondary and postsecondary vocational and technical education, including implementing tech-prep programs.

Permissive use of funds

The House bill permits funds to be used for establishing agreements between secondary and postsecondary vocational and technical education programs; involving parents, businesses, and employee representatives in the design and implementation of programs; providing career counseling; providing work related experience; programs for special populations; local education and business partnerships; vocational and technical student organizations; mentoring and support services; equipment used on the programs; establishing programs and procedures that allow students and their parents to participate directly in decisions that influence the programs; teacher preparation programs; improving or developing new vocational and technical education programs; and support for family and consumer sciences programs.

The Senate bill allows funds to be used for providing guidance and counseling to participating students; supporting vocational and technical student organizations; student internships; providing vocational and technical education programs for adults and school dropouts; acquiring and adapting equipment; providing assistance to students in finding an appropriate job and continuing their education; and supporting other vocational and technical education activities.

The Conference agreement merges the two bills.

TITLE II—TECH-PREP PROGRAMS

The House bill permits the eligible agency to award grants to consortia on a competitive basis or on the basis of formula, in order to develop and operate a four to six year tech-prep education program. The tech-prep program is to be carried out with agreement among the participants in the consortium; consist of at least two years secondary school and two years higher education or a two year apprenticeship program; include the development of tech-prep education program components appropriate to the participants; include in-service training for teachers and training programs for counselors; provide equal access to tech-prep programs; and provide for preparatory services that assist participants.

The Senate bill permits the eligible agency to award grants to consortia for the development and operation of programs designed to provide tech-prep education. The tech-prep program is to be carried out with agreement among the participants; consist of at least two years of secondary school, two years of higher education or a two year apprenticeship program; include the development of tech-prep education programs for participants; meet State academic standards; link secondary schools and two-year postsecondary institutions; use work-based or worksite learning along with business and industry; use educational technology and distance learning; include a professional development program for teachers and training programs for counselors; provide equal access to tech-prep programs; and provide preparatory programs to assist special populations.

Both bills include provisions regarding the application process. The Conference agreement provides for grants to be awarded. These grants are to be awarded on a competitive basis or on the basis of formula. The agreement merges the House and the Senate bill with regard to the contents of the program. In addition, the agreement authorizes additional activities, including the acquisition of tech-prep education equipment, acquisition of technical assistance from State or local entities, the establishment of articulation agreements. The agreement also follows the House bill on the allotment provisions, but the Senate bill on appropriations and demonstration programs.

TITLE III—GENERAL PROVISIONS

Both bills clarify that the funds received under this Act shall be used to supplement, not supplant, the amount of funds that would be made available from non-Federal sources for vocational and technical education. Both bills also mandate that nothing in this Act shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of a private, religious, or home school.

The House bill includes provisions clarifying that: none of the funds under this Act shall be used for students prior to the seventh grade; and that none of the funds under the Act shall be used to require any secondary school student to choose or pursue a specific career path or major or to mandate participation in a vocational and technical education program or attain a federally funded skill level, standard, or certificate of mastery. the bill further includes provisions clarifying that: nothing in the Act shall be construed to be inconsistent with Federal laws guaranteeing civil rights; permits the participation of personnel in non-profit private schools; allows the State to use additional funds under applicable programs; and prohibits funds to be used for the sole purpose of providing incentives to relocate a business from one State to another.

The Conference agreement generally follows the House bill, but merges provisions from both bills.

DEFINITIONS

SPECIAL POPULATIONS

The House bill includes individuals with disabilities, economically disadvantaged individuals, individuals with limited English proficiency, and individuals participating in nontraditional training and employment when describing special populations.

The Senate bill includes low-income individuals including foster children, individuals with disabilities, single parents and displaced homemakers, and individuals with other barriers to educational achievement including individuals with limited English proficiency when describing special populations.

The Conference agreement defines special populations as individuals with disabilities; individuals from economically disadvantaged families, including foster children; individuals preparing for non-traditional training and employment; single parents, including single pregnant women; displaced homemakers; and individuals with other barriers to educational achievement, including individuals with limited English proficiency.

BILL GOODLING,
HOWARD "BUCK" MCKEON,
FRANK RIGGS,
JOHN E. PETERSON,
SAM JOHNSON,
BILL CLAY,
MATTHEW G. MARTINEZ,
DALE E. KILDEE,
Managers on the Part of the House.

JIM JEFFORDS,
DAN COATS,
JUDD GREGG,
BILL FRIST,
MIKE DEWINE,
MICHAEL B. ENZI,
TIM HUTCHINSON,
SUSAN COLLINS,
MITCH MCCONNELL,
TED KENNEDY,
CHRIS DODD,
TOM HARKIN,
BARBARA A. MIKULSKI,
PAUL WELLSTONE,
JACK REED,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 2281, DIGITAL MILLENNIUM COPYRIGHT ACT

Mr. COBLE submitted the following conference report and statement on 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, and for other purposes:

CONFERENCE REPORT (H. REPT. 105–796)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to 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, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

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

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

SECTION 1. SHORT TITLE.

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.

TITLE I—WIPO TREATIES IMPLEMENTATION

Sec. 101. Short title.
Sec. 102. Technical amendments.
Sec. 103. Copyright protection systems and copyright management information.
Sec. 104. Evaluation of impact of copyright law and amendments on electronic commerce and technological development.
Sec. 105. Effective date.

TITLE II—ONLINE COPYRIGHT INFRINGEMENT LIABILITY LIMITATION

Sec. 201. Short title.
Sec. 202. Limitations on liability for copyright infringement.
Sec. 203. Effective date.

TITLE III COMPUTER MAINTENANCE OR REPAIR COPYRIGHT EXEMPTION

Sec. 301. Short title.
Sec. 302. Limitations on exclusive rights; computer programs.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Provisions Relating to the Commissioner of Patents and Trademarks and the Register of Copyrights.
Sec. 402. Ephemeral recordings.
Sec. 403. Limitations on exclusive rights; distance education.
Sec. 404. Exemption for libraries and archives.
Sec. 405. Scope of exclusive rights in sound recordings; ephemeral recordings.
Sec. 406. Assumption of contractual obligations related to transfers of rights in motion pictures.
Sec. 407. Effective date.

TITLE V—PROTECTION OF CERTAIN ORIGINAL DESIGNS

Sec. 501. Short title.
Sec. 502. Protection of certain original designs.
Sec. 503. Conforming amendments.
Sec. 504. Joint study of the effect of this title.
Sec. 505. Effective date.

TITLE I—WIPO TREATIES IMPLEMENTATION

SEC. 101. SHORT TITLE.

This title may be cited as the "WIPO Copyright and Performances and Phonograms Treaties Implementation Act of 1998".

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.

"§ 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) The prohibition contained in subparagraph (A) shall not apply to persons who are users of a copyrighted work which is in a particular class of works, 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).

"(C) During the 2-year period described in subparagraph (A), and during each succeeding 3-year period, the Librarian of Congress, upon the recommendation of the Register of Copyrights, who shall consult with the Assistant Secretary for Communications and Information of the Department of Commerce and report and comment on his or her views in making such recommendation, shall make the determination in a rulemaking proceeding on the record for purposes of subparagraph (B) of whether persons who are users of 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 Librarian 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 that the prohibition on the circumvention of technological measures applied to copyrighted works has 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 Librarian considers appropriate.

"(D) The Librarian shall publish any class of copyrighted works for which the Librarian has determined, pursuant to the rulemaking conducted under subparagraph (C), that noninfringing uses by persons who are users of a copyrighted work are, or are likely to be, adversely affected, and the prohibition contained in subparagraph (A) shall not apply to such users with respect to such class of works 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, so long as such part or component, or the product in which such part or component is integrated, does not otherwise fall within the prohibitions of subsection (a)(2) or (b)(1).

"(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, INTELLIGENCE, AND OTHER GOVERNMENT ACTIVITIES.—This section does not prohibit any lawfully authorized investigative, protective, information security, 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. For purposes of this subsection, the term 'information security' means activities carried out in order to identify and address the vulnerabilities of a government computer, computer system, or computer network.

"(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 to enable the identification and analysis under paragraph (1), or for the purpose of enabling 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 paragraph (1) or (2), as the case may be, provides such information or means solely for the purpose of enabling 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 applicable law other than this section.

"(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 Register of Copyrights and the Assistant Secretary for Communications and Information of the Department of Commerce 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) EXCEPTIONS REGARDING MINORS.—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—

"(1) does not itself violate the provisions of this title; and

"(2) has the sole purpose to prevent the access of minors to material on the Internet.

"(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.

"(j) SECURITY TESTING.—

"(1) DEFINITION.—For purposes of this subsection, the term 'security testing' means accessing a computer, computer system, or computer network, solely for the purpose of good faith testing, investigating, or correcting, a security flaw or vulnerability, with the authorization of the owner or operator of such computer, computer system, or computer network.

"(2) PERMISSIBLE ACTS OF SECURITY TESTING.—Notwithstanding the provisions of subsection (a)(1)(A), it is not a violation of that subsection for a person to engage in an act of security testing, if 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 security testing was used solely to promote the security of the owner or operator of such computer, computer system or computer network, or shared directly with the developer of such computer, computer system, or computer network; and

"(B) whether the information derived from the security testing was used or maintained in a manner that does not facilitate infringement under this title or a violation of applicable law other than this section, including a violation of privacy or breach of security.

"(4) USE OF TECHNOLOGICAL MEANS FOR SECURITY TESTING.—Notwithstanding the provisions of subsection (a)(2), it is not a violation of that subsection for a person to develop, produce, distribute or employ technological means for the sole purpose of performing the acts of security testing described in subsection (2), provided such technological means does not otherwise violate section (a)(2).

"(k) CERTAIN ANALOG DEVICES AND CERTAIN TECHNOLOGICAL MEASURES.—

"(1) CERTAIN ANALOG DEVICES.—

"(A) Effective 18 months after the date of the enactment of this chapter, no person shall manufacture, import, offer to the public, provide or otherwise traffic in any—

"(i) VHS format analog video cassette recorder unless such recorder conforms to the automatic gain control copy control technology;

"(ii) 8mm format analog video cassette camcorder unless such camcorder conforms to the automatic gain control technology;

"(iii) Beta format analog video cassette recorder, unless such recorder conforms to the automatic gain control copy control technology, except that this requirement shall not apply until there are 1,000 Beta format analog video cassette recorders sold in the United States in any one calendar year after the date of the enactment of this chapter;

"(iv) 8mm format analog video cassette recorder that is not an analog video cassette camcorder, unless such recorder conforms to the automatic gain control copy control technology, except that this requirement shall not apply until there are 20,000 such recorders sold in the United States in any one calendar year after the date of the enactment of this chapter; or

"(v) analog video cassette recorder that records using an NTSC format video input and that is not otherwise covered under clauses (i) through (iv), unless such device conforms to the automatic gain control copy control technology.

"(B) Effective on the date of the enactment of this chapter, no person shall manufacture, import, offer to the public, provide or otherwise traffic in—

"(i) any VHS format analog video cassette recorder or any 8mm format analog video cassette recorder if the design of the model of such recorder has been modified after such date of enactment so that a model of recorder that previously conformed to the automatic gain control copy control technology no longer conforms to such technology; or

"(ii) any VHS format analog video cassette recorder, or any 8mm format analog video cassette recorder that is not an 8mm analog video cassette camcorder, if the design of the model of such recorder has been modified after such date of enactment so that a model of recorder that previously conformed to the four-line colorstripe copy control technology no longer conforms to such technology.

Manufacturers that have not previously manufactured or sold a VHS format analog video cassette recorder, or an 8mm format analog cassette recorder, shall be required to conform to the four-line colorstripe copy control technology in the initial model of any such recorder manufactured after the date of the enactment of this chapter, and thereafter to continue conforming to the four-line colorstripe copy control technology. For purposes of this subparagraph, an analog video cassette recorder 'conforms to' the four-line colorstripe copy control technology if it records a signal that, when played back by the playback function of that recorder in the normal viewing mode, exhibits, on a reference display device, a display containing distracting visible lines through portions of the viewable picture.

"(2) CERTAIN ENCODING RESTRICTIONS.—No person shall apply the automatic gain control copy control technology or colorstripe copy control technology to prevent or limit consumer copying except such copying—

"(A) of a single transmission, or specified group of transmissions, of live events or of audiovisual works for which a member of the public has exercised choice in selecting the transmissions, including the content of the transmissions or the time of receipt of such transmissions, or both, and as to which such member is charged a separate fee for each such transmission or specified group of transmissions;

"(B) from a copy of a transmission of a live event or an audiovisual work if such transmission is provided by a channel or service where payment is made by a member of the public for such channel or service in the form of a subscription fee that entitles the member of the public to receive all of the programming contained in such channel or service;

"(C) from a physical medium containing one or more prerecorded audiovisual works; or

"(D) from a copy of a transmission described in subparagraph (A) or from a copy made from a physical medium described in subparagraph (C).

In the event that a transmission meets both the conditions set forth in subparagraph (A) and those set forth in subparagraph (B), the transmission shall be treated as a transmission described in subparagraph (A).

"(3) INAPPLICABILITY.—This subsection shall not—

"(A) require any analog video cassette camcorder to conform to the automatic gain control copy control technology with respect to any video signal received through a camera lens;

"(B) apply to the manufacture, importation, offer for sale, provision of, or other trafficking in, any professional analog video cassette recorder; or

"(C) apply to the offer for sale or provision of, or other trafficking in, any previously owned analog video cassette recorder, if such recorder was legally manufactured and sold when new and not subsequently modified in violation of paragraph (1)(B).

"(4) DEFINITIONS.—For purposes of this subsection:

"(A) An 'analog video cassette recorder' means a device that records, or a device that includes a function that records, on electromagnetic tape in an analog format the electronic impulses produced by the video and audio portions of a television program, motion picture, or other form of audiovisual work.

"(B) An 'analog video cassette camcorder' means an analog video cassette recorder that contains a recording function that operates through a camera lens and through a video input that may be connected with a television or other video playback device.

"(C) An analog video cassette recorder 'conforms' to the automatic gain control copy control technology if it—

"(i) detects one or more of the elements of such technology and does not record the motion picture or transmission protected by such technology; or

"(ii) records a signal that, when played back, exhibits a meaningfully distorted or degraded display.

"(D) The term 'professional analog video cassette recorder' means an analog video cassette

recorder that is designed, manufactured, marketed, and intended for use by a person who regularly employs such a device for a lawful business or industrial use, including making, performing, displaying, distributing, or transmitting copies of motion pictures on a commercial scale.

"(E) The terms 'VHS format,' '8mm format,' 'Beta format,' 'automatic gain control copy control technology,' 'colorstripe copy control technology,' 'four-line version of the colorstripe copy control technology,' and 'NTSC' have the meanings that are commonly understood in the consumer electronics and motion picture industries as of the date of the enactment of this chapter.

"(5) VIOLATIONS.—Any violation of paragraph (1) of this subsection shall be treated as a violation of subsection (b)(1) of this section. Any violation of paragraph (2) of this subsection shall be deemed an 'act of circumvention' for the purposes of section 1203(c)(3)(A) of this chapter.

"§ 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, INTELLIGENCE, AND OTHER GOVERNMENT ACTIVITIES.—This section does not prohibit any lawfully authorized investigative, protective, information security, 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. For purposes of this subsection, the term 'information security' means activities carried out in order to identify and address the vulnerabilities of a government computer, computer system, or computer network.

"(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. EVALUATION OF IMPACT OF COPYRIGHT LAW AND AMENDMENTS ON ELECTRONIC COMMERCE AND TECHNOLOGICAL DEVELOPMENT.

(a) EVALUATION BY THE REGISTER OF COPYRIGHTS AND THE ASSISTANT SECRETARY FOR COMMUNICATIONS AND INFORMATION.—The Register of Copyrights and the Assistant Secretary for Communications and Information of the Department of Commerce 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.

(b) REPORT TO CONGRESS.—The Register of Copyrights and the Assistant Secretary for Communications and Information of the Department of Commerce 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 (a), including any legislative recommendations the Register and the Assistant Secretary may have.

SEC. 105. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this title, 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 (j), 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 (j), 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 (j), 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 (3), 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) 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 (3), 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.

"(3) 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 (j), 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)(3), 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)(3)(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) LIMITATION ON LIABILITY OF NONPROFIT EDUCATIONAL INSTITUTIONS.—(1) When a public or other nonprofit institution of higher education is a service provider, and when a faculty member or graduate student who is an employee of such institution is performing a teaching or research function, for the purposes of subsections (a) and (b) such faculty member or graduate student shall be considered to be a person other than the institution, and for the purposes of subsections (c) and (d) such faculty member's or graduate student's knowledge or awareness of his or her infringing activities shall not be attributed to the institution, if—

"(A) such faculty member's or graduate student's infringing activities do not involve the provision of online access to instructional materials that are or were required or recommended, within the preceding 3-year period, for a course taught at the institution by such faculty member or graduate student;

"(B) the institution has not, within the preceding 3-year period, received more than 2 notifications described in subsection (c)(3) of claimed infringement by such faculty member or graduate student, and such notifications of claimed infringement were not actionable under subsection (f); and

"(C) the institution provides to all users of its system or network informational materials that accurately describe, and promote compliance with, the laws of the United States relating to copyright.

"(2) INJUNCTIONS.—For the purposes of this subsection, the limitations on injunctive relief contained in subsections (j)(2) and (j)(3), but not those in (j)(1), shall apply.

"(f) 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.

"(g) 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).

"(h) 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)(3)(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)(3)(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)(3)(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.

"(i) 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.

"(j) 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.

"(k) 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.

"(l) 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.

"(m) 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 (i); or

"(2) a service provider gaining access to, removing, or disabling access to material in cases in which such conduct is prohibited by law.

"(n) 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.".

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

SEC. 401. PROVISIONS RELATING TO THE COMMISSIONER OF PATENTS AND TRADEMARKS AND THE REGISTER OF COPYRIGHTS

(a) COMPENSATION.—(1) Section 3(d) of title 35, United States Code, is amended by striking "prescribed by law for Assistant Secretaries of Commerce" and inserting "in effect for level III of the Executive Schedule under section 5314 of title 5, United States Code".

(2) Section 701(e) of title 17, United States Code, is amended—

(A) by striking "IV" and inserting "III"; and

(B) by striking "5315" and inserting "5314".

(3) Section 5314 of title 5, United States Code, is amended by adding at the end the following:

"Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.

"Register of Copyrights.".

(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 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 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 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 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."

SEC. 402. 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)";

(3) by inserting after "under a license" the following: ", including a statutory license under section 114(f),";

(4) 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 and that makes a broadcast transmission of a performance of a sound recording in a digital format on a nonsubscription basis,"; and

(5) 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. 403. 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. 404. 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. 405. 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) in paragraph (1) 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), an eligible nonsubscription transmission, or a transmission not exempt under paragraph (1) that is made by a preexisting satellite digital audio radio service shall be subject to statutory licensing, in accordance with subsection (f) if—

"(A)(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, if technically feasible, 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) that is made by a preexisting subscription service in the same transmission medium used by such service on July 31, 1998, or in the case of a transmission not exempt under paragraph (1) that is made by a preexisting satellite digital audio radio service—

"(i) the transmission does not exceed the sound recording performance complement; and

"(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) that is made 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—

"(I) the broadcast station makes broadcast transmissions—

"(aa) in digital format that regularly exceed the sound recording performance complement; or

"(bb) in analog format, a substantial portion of which, on a weekly basis, exceed the sound recording performance complement; and

"(II) 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 performance 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 the case of a retransmission of a broadcast transmission by a transmitting entity that does not have the right or ability to control the programming of the broadcast transmission, the requirement of this clause shall not apply to a prior oral announcement by the broadcast station, or to an advance program schedule published, induced, or facilitated by the broadcast station, if the transmitting entity does not have actual knowledge and has not received written notice from the copyright owner or its representative that the broadcast station publishes or induces or facilitates the publication of such advance program schedule, or if such advance program schedule is a schedule of classical music programming published by the broadcast station in the same manner as published by that broadcast station on or before September 30, 1998;

"(iii) the transmission—

"(I) is not part of an archived program of less than 5 hours duration;

"(II) is not part of an archived program of 5 hours or greater in duration that is made available for a period exceeding 2 weeks;

"(III) is not part of a continuous program which is of less than 3 hours duration; or

"(IV) is not part of an identifiable program in which performances of sound recordings are rendered in a predetermined order, other than an archived or continuous program, that is transmitted at—

"(aa) more than 3 times in any 2-week period that have been publicly announced in advance, in the case of a program of less than 1 hour in duration, or

"(bb) more than 4 times in any 2-week period that have been publicly announced in advance, in the case of a program of 1 hour or more in duration,

except that the requirement of this subclause shall not apply in the case of a retransmission of a broadcast transmission by a transmitting entity that does not have the right or ability to control the programming of the broadcast transmission, unless the transmitting entity is given notice in writing by the copyright owner of the sound recording that the broadcast station makes broadcast transmissions that regularly violate such requirement;

"(iv) the transmitting entity does not knowingly perform the sound recording, as part of a service that offers transmissions of visual images contemporaneously with transmissions of sound recordings, 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 alone or together with transmissions by other transmitting entities in order to select a particular sound recording to be transmitted to the transmission recipient, except that the requirement of this clause shall not apply to a satellite digital audio service that is in operation, or that is licensed by the Federal Communications Commission, on or before July 31, 1998;

"(vi) the transmitting entity takes no affirmative steps to cause or induce the making of a phonorecord by the transmission recipient, and if the technology used by the transmitting entity enables the transmitting entity to limit the making by the transmission recipient of phonorecords of the transmission directly in a digital format, the transmitting entity sets such technology to limit such making of phonorecords to the extent permitted by such technology;

"(vii) phonorecords of the sound recording have been distributed to the public 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 the authority of the copyright owner, except that the requirement of this clause shall not apply to a retransmission of a broadcast transmission by a transmitting entity that does not have the right or ability to control the programming of the broadcast transmission, unless the transmitting entity is given notice in writing by the copyright owner of the sound recording that the broadcast station makes broadcast transmissions that regularly violate such requirement;

"(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, except that the requirement of this clause shall not apply to a satellite digital audio service that is in operation, or that is licensed under the authority of the Federal Communications Commission, on or before July 31, 1998, to the extent that such service has designed, developed, or made commitments to procure equipment or technology that is not compatible with such technical measures before such technical measures are widely adopted by sound recording copyright owners; and

"(ix) the transmitting entity identifies in textual data 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 displayed to the transmission recipient by the device or technology intended for receiving the service provided by the transmitting entity, 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 and shall not apply in the case of a retransmission of a broadcast transmission by a transmitting entity that does not have the right or ability to control the programming of the broadcast transmission, or in the case in which devices or technology intended for receiving the service provided by the transmitting entity that have the capability to display such textual data are not common in the marketplace.".

(2) Subsection (f) is amended—

(A) in the subsection heading by striking "NONEXEMPT SUBSCRIPTION" and inserting "CERTAIN NONEXEMPT";

(B) 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 transmissions by preexisting satellite digital audio radio 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, preexisting subscription services, or preexisting satellite digital audio radio services may submit to the Librarian of Congress licenses covering such subscription transmissions with respect to such sound recordings."; and

(C) 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 entities performing sound recordings affected by this paragraph. In establishing rates and terms for preexisting subscription services and preexisting satellite digital audio radio 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, any preexisting subscription services, or any preexisting satellite digital audio radio 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 public performances of sound recordings by means of 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 and new subscription 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 paragraph may submit to the Librarian of Congress licenses covering such eligible nonsubscription transmissions and new subscription services 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 affected by this paragraph 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 transmitting entity 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 for comparable types of digital audio transmission services and comparable circumstances under voluntary license agreements negotiated under 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 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 striking paragraphs (4) and (9) and redesignating paragraphs (2), (3), (5), (6), (7), and (8) as paragraphs (3), (5), (9), (12), (13), and (14), respectively;

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

"(2) An 'archived program' is a predetermined program that is available repeatedly on the demand of the transmission recipient and that is performed in the same order from the beginning, except that an archived program shall not include a recorded event or broadcast transmission that makes no more than an incidental use of sound recordings, as long as such recorded event or broadcast transmission does not contain an entire sound recording or feature a particular sound recording.";

(C) by inserting after paragraph (3), as so redesignated, the following:

"(4) A 'continuous program' is a predetermined program that is continuously performed in the same order and that is accessed at a point in the program that 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 digital

audio transmission not exempt under subsection (d)(1) that is 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, or in the case of a subscription service, by all subscribers of the service, 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 noninteractive subscription digital audio transmissions and that is not a preexisting subscription service or a preexisting satellite digital audio radio service.";

(E) by inserting after paragraph (9), as so redesignated, the following:

"(10) A 'preexisting satellite digital audio radio service' is a subscription satellite digital audio radio service provided pursuant to a satellite digital audio radio service license issued by the Federal Communications Commission on or before July 31, 1998, and any renewal of such license to the extent of the scope of the original license, and may include a limited number of sample channels representative of the subscription service that are made available on a nonsubscription basis in order to promote the subscription service.

"(11) 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 transmissions to the public for a fee on or before July 31, 1998, and may include a limited number of sample channels representative of the subscription service that are made available on a nonsubscription basis in order to promote the subscription service."; and

(F) by adding at the end the following:

"(15) A 'transmission' is either an initial transmission or a retransmission.".

(5) The amendment made by paragraph (2)(B)(i)(III) of this subsection shall be deemed to have been enacted as part of the Digital Performance Right in Sound Recordings Act of 1995, and the publication of notice of proceedings under section 114(f)(1) of title 17, United States Code, as in effect upon the effective date of that Act, for the determination of royalty payments shall be deemed to have been made for the period beginning on the effective date of that Act and ending on December 1, 2001.

(6) The amendments made by this subsection do not annul, limit, or otherwise impair the rights that are preserved by section 114 of title 17, United States Code, including the rights preserved by subsections (c), (d)(4), and (i) of such section.

(b) EPHEMERAL RECORDINGS.—Section 112 of title 17, United States Code, is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

"(e) STATUTORY LICENSE.—(1) A transmitting organization entitled to transmit to the public a performance of a sound recording under the limitation on exclusive rights specified by section 114(d)(1)(C)(iv) or under a statutory license in accordance with section 114(f) is entitled to a statutory license, under the conditions specified by this subsection, to make no more than 1 phonorecord of the sound recording (unless the terms and conditions of the statutory license allow for more), if the following conditions are satisfied:

"(A) The phonorecord is retained and used solely by the transmitting organization that made it, and no further phonorecords are reproduced from it.

"(B) The phonorecord is used solely for the transmitting organization's own transmissions originating in the United States under a statutory license in accordance with section 114(f) or the limitation on exclusive rights specified by section 114(d)(1)(C)(iv).

"(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.

"(D) Phonorecords of the sound recording have been distributed to the public 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 phonorecord under this subsection from a phonorecord lawfully made and acquired under the authority of the copyright owner.

"(3) Notwithstanding any provision of the antitrust laws, any copyright owners of sound recordings and any transmitting organizations entitled to a statutory license under this subsection may negotiate and agree upon royalty rates and license terms and conditions for making phonorecords of such sound recordings under this section 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 offered by transmitting organizations. Any copyright owners of sound recordings or any transmitting organizations entitled to 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 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 offered by transmitting organizations. 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; and

"(B) the relative roles of the copyright owner and the transmitting organization 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 a phonorecord 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 as permitted under 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.

"(10) Nothing in this subsection annuls, limits, impairs, or otherwise affects in any way the existence or value of any of the exclusive rights of the copyright owners in a sound recording, except as otherwise provided in this subsection, or in a musical work, including the exclusive rights to reproduce and distribute a sound recording or musical work, including by means of a digital phonorecord delivery, under section 106(1), 106(3), and 115, and the right to perform publicly a sound recording or musical work, including by means of a digital audio transmission, under sections 106(4) and 106(6).".

(c) SCOPE OF SECTION 112(a) OF TITLE 17 NOT AFFECTED.—Nothing in this section or the amendments made by this section shall affect the scope of section 112(a) of title 17, United States Code, or the entitlement of any person to an exemption thereunder.

(d) PROCEDURAL AMENDMENTS TO CHAPTER 8.—Section 802 of title 17, United States Code, is amended—

(1) in subsection (f)—

(A) in the first sentence by striking "60" and inserting "90"; and

(B) in the third sentence by striking "that 60-day period" and inserting "an additional 30-day period"; and

(2) in subsection (g) by inserting after the second sentence the following: "When this title provides that the royalty rates or terms that were previously in effect are to expire on a specified date, any adjustment by the Librarian of those rates or terms shall be effective as of the day following the date of expiration of the rates or terms that were previously in effect, even if the Librarian's decision is rendered on a later date.".

(e) CONFORMING AMENDMENTS.—(1) Section 801(b)(1) of title 17, United States Code, is amended in the second sentence by striking "sections 114, 115, and 116" and inserting "sections 114(f)(1)(B), 115, and 116".

(2) Section 802(c) of title 17, United States Code, is amended by striking "section 111, 114, 116, or 119, any person entitled to a compulsory license" and inserting "section 111, 112, 114, 116, or 119, any transmitting organization entitled to a statutory license under section 112(f), any person entitled to a statutory license".

(3) Section 802(g) of title 17, United States Code, is amended by striking "sections 111, 114" and inserting "sections 111, 112, 114".

(4) Section 802(h)(2) of title 17, United States Code, is amended by striking "section 111, 114" and inserting "section 111, 112, 114".

(5) Section 803(a)(1) of title 17, United States Code, is amended by striking "sections 114, 115" and inserting "sections 112, 114, 115".

(6) Section 803(a)(5) of title 17, United States Code, is amended—

(A) by striking "section 114" and inserting "section 112 or 114"; and

(B) by striking "that section" and inserting "those sections".

SEC. 406. 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.—(1) In the case of a transfer of copyright ownership under United States law in a motion picture (as the terms 'transfer of copyright ownership' and 'motion picture' are 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—

"(A) 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

"(B) 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.

"(2) For purposes of paragraph (1)(A), 'knows or has reason to know' means any of the following:

"(A) Actual knowledge that the collective bargaining agreement was or will be applicable to the motion picture.

"(B)(i) Constructive knowledge that the collective bargaining agreement was or will be applicable to the motion picture, arising from recordation of a document pertaining to copyright in the motion picture under section 205 of title 17 or from publication, at a site available to the public on-line that is operated by the relevant union, of information that identifies the motion picture as subject to a collective bargaining agreement with that union, if the site permits commercially reasonable verification of the date on which the information was available for access.

"(ii) Clause (i) applies only if the transfer referred to in subsection (a)(1) occurs—

"(i) after the motion picture is completed, or

"(ii) before the motion picture is completed and—

"(I) within 18 months before the filing of an application for copyright registration for the motion picture under section 408 of title 17, or

"(II) if no such application is filed, within 18 months before the first publication of the motion picture in the United States.

"(C) Awareness of other facts and circumstances pertaining to a particular transfer from which it is apparent that the collective bargaining agreement was or will be applicable to the motion picture.

"(b) SCOPE OF EXCLUSION OF TRANSFERS OF PUBLIC PERFORMANCE RIGHTS.—For purposes of this section, the exclusion under subsection (a) of transfers of copyright ownership in a motion picture that are limited to public performance rights includes transfers to a terrestrial broadcast station, cable system, or programmer to the extent that the station, system, or programmer is functioning as an exhibitor of the motion picture, either by exhibiting the motion picture on its own network, system, service, or station, or by initiating the transmission of an exhibition that is carried on another network, system, service, or station. When a terrestrial broadcast station, cable system, or programmer, or other transferee, is also functioning otherwise as a distributor or as a producer of the motion picture, the public performance exclusion does not affect any obligations imposed on the transferee to the extent that it is engaging in such functions.

"(c) EXCLUSION FOR GRANTS OF SECURITY INTERESTS.—Subsection (a) shall not apply to—

"(1) a transfer of copyright ownership consisting solely of a mortgage, hypothecation, or other security interest; or

"(2) a subsequent transfer of the copyright ownership secured by the security interest described in paragraph (1) by or under the authority of the secured party, including a transfer through the exercise of the secured party's rights or remedies as a secured party, or by a subsequent transferee.

The exclusion under this subsection shall not affect any rights or remedies under law or contract.

"(d) DEFERRAL PENDING RESOLUTION OF BONA FIDE DISPUTE.—A transferee on which obligations are imposed under subsection (a) by virtue of paragraph (1) of that subsection may elect to defer performance of such obligations that are subject to a bona fide dispute between a union and a prior transferor until that dispute is resolved, except that such deferral shall not stay accrual of any union claims due under an applicable collective bargaining agreement.

"(e) SCOPE OF OBLIGATIONS DETERMINED BY PRIVATE AGREEMENT.—Nothing in this section shall expand or diminish the rights, obligations, or remedies of any person under the collective bargaining agreements or assumption agreements referred to in this section.

"(f) 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)(1)(B), the transferor shall be liable to the transferee for any damages suffered by the transferee as a result of the failure to notify.

"(g) DETERMINATION OF DISPUTES AND CLAIMS.—Any dispute concerning the application of subsections (a) through (f) 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.

"(h) STUDY.—The Comptroller General, in consultation with the Register of Copyrights, shall conduct a study of the conditions in the motion picture industry that gave rise to this section, and the impact of this section on the motion picture industry. The Comptroller General shall report the findings of the study to the Congress within 2 years after the effective date of this chapter.".

(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. 407. EFFECTIVE DATE.

Except as otherwise provided in this title, this title and the amendments made by this title shall take effect on the date of the enactment of this Act.

TITLE V—PROTECTION OF CERTAIN ORIGINAL DESIGNS

SEC. 501. SHORT TITLE.

This Act may be referred to as the "Vessel Hull Design Protection Act".

SEC. 502. PROTECTION OF CERTAIN ORIGINAL DESIGNS.

Title 17, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 13—PROTECTION OF ORIGINAL DESIGNS

"Sec.
"1301. Designs protected.
"1302. Designs not subject to protection.
"1303. Revisions, adaptations, and rearrangements.
"1304. Commencement of protection.
"1305. Term of protection.
"1306. Design notice.
"1307. Effect of omission of notice.
"1308. Exclusive rights.
"1309. Infringement.
"1310. Application for registration.
"1311. Benefit of earlier filing date in foreign country.
"1312. Oaths and acknowledgments.
"1313. Examination of application and issue or refusal of registration.
"1314. Certification of registration.
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"1331. Administrator; Office of the Administrator.
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"§ 1301. 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 1302(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.

"§ 1302. 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.

"§ 1303. 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 1302 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.

"§ 1304. 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 1313(a) or the date the design is first made public as defined by section 1310(b).

"§ 1305. 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 1304.

"(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.

"§ 1306. Design notice

"(a) CONTENTS OF DESIGN NOTICE.—(1) Whenever any design for which protection is sought under this chapter is made public under section 1310(b), the owner of the design shall, subject to the provisions of section 1307, 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.

"§ 1307. Effect of omission of notice

"(a) ACTIONS WITH NOTICE.—Except as provided in subsection (b), the omission of the notice prescribed in section 1306 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 1306 shall prevent any recovery under section 1323 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.

"§ 1308. 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.

"§ 1309. 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.

"§ 1310. 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 1306, 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.

"§ 1311. 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.

"§ 1312. 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.

"§ 1313. 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 1310, and upon payment of the fee prescribed under section 1316, 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.

"§ 1314. 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.

"§ 1315. 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.

"§ 1316. 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.

"§ 1317. Regulations

"The Administrator may establish regulations for the administration of this chapter.

"§ 1318. 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.

"§ 1319. 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.

"§ 1320. 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 1312 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.

"§ 1321. 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 1313(c).

§ 1322. 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.

"§ 1323. 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.

"§ 1324. 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.

"§ 1325. 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.

"§ 1326. 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 1306, 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.

"§ 1327. 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.

"§ 1328. 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 1308 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 1308 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.

"§ 1329. 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.

"§ 1330. 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.

"§ 1331. 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.

"§ 1332. No retroactive effect

"Protection under this chapter shall not be available for any design that has been made public under section 1310(b) before the effective date of this chapter.".

SEC. 503. 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:

"13. Protection of Original Designs .... 1301".

(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 13 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.—(1) Section 1400(a) of title 28, United States Code, is amended by inserting "or designs" after "mask works".

(2) The section heading for section 1400 of title 28, United States Code is amended to read as follows:

"§ Patents and copyrights, mask works, and designs".

(3) The item relating to section 1400 in the table of sections at the beginning of chapter 87 of title 28, United States Code, is amended to read as follows:

"1400. Patents and copyrights, mask works, and designs.".

(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 13 of title 17," after "title 17".

SEC. 504. JOINT STUDY OF THE EFFECT OF THIS TITLE.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, and not later than 2 years after such date of enactment, the Register of Copyrights and the Commissioner of Patents and Trademarks shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a joint report evaluating the effect of the amendments made by this title.

(b) ELEMENTS FOR CONSIDERATION.—In carrying out subsection (a), the Register of Copyrights and the Commissioner of Patents and Trademarks shall consider—

(1) the extent to which the amendments made by this title has been effective in suppressing infringement of the design of vessel hulls;

(2) the extent to which the registration provided for in chapter 13 of title 17, United States Code, as added by this title, has been utilized;

(3) the extent to which the creation of new designs of vessel hulls have been encouraged by the amendments made by this title;

(4) the effect, if any, of the amendments made by this title on the price of vessels with hulls protected under such amendments; and

(5) such other considerations as the Register and the Commissioner may deem relevant to accomplish the purposes of the evaluation conducted under subsection (a).

SEC. 505. EFFECTIVE DATE.

The amendments made by sections 502 and 503 shall take effect on the date of the enactment of this Act and shall remain in effect until the end of the 2-year period beginning on such date of enactment. No cause of action based on chapter 13 of title 17, United States Code, as added by this title, may be filed after the end of that 2-year period.

Amend the title 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.".

And the Senate agree to the same.

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

TOM BLILEY,
BILLY TAUZIN,
JOHN D. DINGELL,

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

HENRY J. HYDE,
HOWARD COBLE,
BOB GOODLATTE,
JOHN CONYERS, Jr.,
HOWARD L. BERMAN,
Managers on the Part of the House.

ORRIN G. HATCH,
STROM THURMOND,
PATRICK J. LEAHY,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2281) 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, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

TITLE I—WIPO TREATIES IMPLEMENTATION

This title implements two new intellectual property treaties, the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty, signed in Geneva, Switzerland in December 1996.

SECTION 101. SHORT TITLE

The House recedes to the Senate section 101. This section sets forth the short title of the Act. As between the short titles in the House bill and the Senate amendment, it is believed that the title in Section 101 of the Senate amendment more accurately reflects the effect of the Act.

SECTION 102. TECHNICAL AMENDMENTS

The Senate recedes to House section 102. This section makes technical and conforming amendments to the U.S. Copyright

Act in order to comply with the obligations of the two WIPO treaties.

SECTION 103. COPYRIGHT PROTECTION SYSTEMS AND COPYRIGHT MANAGEMENT INFORMATION

The Senate recedes to House section 103 with modification. The two new WIPO Treaties include substantively identical provisions on technological measures of protection (also commonly referred to as the "black box" or "anticircumvention" provisions). These provisions require contracting parties to 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 or the Berne Convention and that restrict acts, in respect of their works, which are not authorized by the authors concerned or permitted by law."

Both of the new WIPO treaties also include substantively identical provisions requiring contracting parties to protect the integrity of copyright management information. The treaties define copyright management information as "information which identifies the work, the author of the work, the owner of any right in the work, or information about the terms and conditions of use of the work, and any numbers or codes that represent such information, when any of these items of information is attached to a copy of a work or appears in connection with the communication of a work to the public."

Legislation is required to comply with both of these provisions. To accomplish this, both the House bill and the Senate amendment, in section 103, would add a new chapter (chapter twelve) to title 17 of the United States Code. This new chapter twelve includes five sections—(1) section 1201, which prohibits the circumvention of technological measures of protection; (2) section 1202, which protects the integrity of copyright management information; (3) section 1203, which provides for civil remedies for violations of sections 1201 and 1202; (4) section 1204, which provides for criminal penalties for violations of sections 1201 and 1202; and (5) section 1205, which provides a savings clause to preserve the effectiveness of federal and state laws in protecting individual privacy on the Internet. The House bill and the Senate amendment differ in several respects, primarily related to the scope and availability of exemptions from the prohibitions under section 1201.

Section 1201(a)(1)—Rulemaking by the Librarian of Congress. Section 1201(a)(1)(C) provides that the determination of affected classes of works described in subparagraph (A) shall be made by the Librarian of Congress "upon the recommendation of the Register of Copyrights, who shall consult with the Assistant Secretary for Communications and Information of the Department of Commerce and report and comment on his or her views in making such recommendation." The determination will be made in a rulemaking proceeding on the record. It is the intention of the conferees that, as is typical with other rulemaking under title 17, and in recognition of the expertise of the Copyright Office, the Register of Copyrights will conduct the rulemaking, including providing notice of the rulemaking, seeking comments from the public, consulting with the Assistant Secretary for Communications and Information of the Department of Commerce and any other agencies that are deemed appropriate, and recommending final regulations in the report to the Librarian.

Section 1201(a) and 1202—technological measures. It is the understanding of the conferees that technological measures will most often be developed through consultative, private sector efforts by content owners, and makers of computers, consumer electronics and telecommunications devices. The conferees expect this consultative approach to continue as a constructive and positive method. One of the benefits of such consultation is to allow testing of proposed technologies to determine whether there are adverse effects on the ordinary performance of playback and display equipment in the marketplace, and to take steps to eliminate or substantially mitigate those effects before technologies are introduced. The public interest is well-served by such activities.

Persons may also choose to implement a technological measure without vetting it through an inter-industry consultative process, or without regard to the input of affected parties. Under such circumstances, such a technological measure may materially degrade or otherwise cause recurring appreciable adverse effects on the authorized performance or display of works. Steps taken by the makers or servicers of consumer electronics, telecommunications or computing products used for such authorized performances or displays solely to mitigate these adverse effects on product performance (whether or not taken in combination with other lawful product modifications) shall not be deemed a violation of sections 1201(a) or (b).

However, this construction is not meant to afford manufacturers or servicers an opportunity to give persons unauthorized access to protected content, or to exercise the rights under the Copyright Act of copyright owners in such works, under the guise of "correcting" a performance problem that results from the implementation of a particular technological measure. Thus, it would violate sections 1201(a) or (b) for a manufacturer or servicer to take remedial measures if they are held out for or undertaken with, or result in equipment with only limited commercially significant use other than, the prohibited purpose of allowing users to gain unauthorized access to protected content or to exercise the rights under the Copyright Act of copyright owners in such works.

With regard to section 1202, product adjustments made to eliminate recurring appreciable adverse effects on the authorized performance or display of works caused by copyright management information will not be deemed a violation of section 1202 unless such steps are held out for or undertaken with a prohibited purpose, or the requisite knowledge, of inducing, enabling, facilitating or concealing infringement of rights of copyright owners under the Copyright Act.

Section 1201(e) and 1202(d)—Law enforcement, intelligence, and other government activities. Sections 1201(e) and 1202(d) create and exception to the prohibitions of sections 1201 and 1202 for the lawfully authorized investigative, protective, or intelligence activities of an officer, agent, or employee of, the United States, a State, or a political subdivision of a State, or of persons acting pursuant to a contract with such an entity. The anticircumvention provisions of this legislation might be read to prohibit some aspects of the information security testing that is critical to preventing cyber attacks against government computers, computer systems, and computer networks. The conferees have added language to sections 1201(e) and 1202(d) to make it clear that the anticircumvention prohibition does not apply to lawfully authorized information security activities of the federal government, the states, political subdivisions of states, or persons acting within the scope of their government information security contract. In this way, the bill will permit the continuation of information security activities that protect the country against one of the greatest threats to our national security as well as to our economic security.

At the same time, this change is narrowly drafted so that it does not open the door to the very piracy the treaties are designed to prevent. For example, the term "information security" activities is intended to include presidential directives and executive orders concerning the vulnerabilities of a computer, computer system, or computer network. By this, the conferees intent to include the recently-issued Presidential Decision Directive 63 on Critical Infrastructure Protection. PDD–63 contains a number of initiatives to ensure that the United States takes all necessary measures to swiftly eliminate any significant vulnerability to both physical and cyber attacks on the nation's critical infrastructures, including especially our cyber systems.

The Term "computer system" has the same definition for purposes of this section as that term is defined in the Computer Security Act, 15 U.S.C. §278g–3(d)(1).

Subsection 1201(g)—Encryption Research. Subsection (g) permits the circumvention of access control technologies in certain circumstances for the purpose of good faith encryption research. The conferees note that section 1201(g)(3)(A) does not imply that the results of encryption research must be disseminated. There is no requirement that legitimate encryption researchers disseminate their findings in order to quality for the encryption research exemption in section 1201(g). Rather, the subsection describes circumstances in which dissemination, if any, would be weighed in determining eligibility.

Section 1201(j)—Security Testing. Subsection (j) clarifies the intended effect of the bill with respect to information security. The conferees understand this act to prohibit unauthorized circumvention of technological measures applied to works protected under title 17. The conferees recognize that technological measures may also be used to protect the integrity and security of computers, computer systems or computer networks. It is not the intent of this act to prevent persons utilizing technological measures in respect of computers, computer systems or networks from testing the security value and effectiveness of the technological measures they employ, or from contracting with companies that specialize in such security testing.

Thus, in addition to the exception for good faith encryption research contained in Section 1201(g), the conferees have adopted Section 1201(j) to resolve additional issues related to the effect of the anti-circumvention provision on legitimate information security activities. First, the conferees were concerned that Section 1201(g)'s exclusive focus on encryption-related research does not encompass the entire range of legitimate information security activities. Not every technological means that is used to provide security relies on encryption technology, or does so to the exclusion of other methods. Moreover, an individual who is legitimately testing a security technology may be doing so not to advance the state of encryption research or to develop encryption products, but rather to ascertain the effectiveness of that particular security technology.

The conferees were also concerned that the anti-circumvention provision of Section

1201(a) could be construed to inhibit legitimate forms of security testing. It is not unlawful to test the effectiveness of a security measure before it is implemented to protect the work covered under title 17. Not it is unlawful for a person who has implemented a security measure to test its effectiveness. In this respect, the scope of permissible security testing under the Act should be the same as permissible testing of a simple door lock; a prospective buyer may test the lock at the store with the store's consent, or may purchase the lock and test it at home in any manner that he or she sees fit—for example, by installing the lock on the front door and seeing if it can be picked. What that person may not do, however, it test the lock once it has been installed on someone's else's door, without the consent of the person whose property is protected by the lock.

In order to resolve these concerns, Section 1201(j) creates a exception of "security testing." Section 1201(j)(1) defines "security testing" as obtaining access to a computer, computer system, or computer network for the sole purpose of testing, investigating, or correcting a security flaw or vulnerability, provided that the person engaging in such testing is doing so with the consent of the owner or operator of the computer, computer system, or computer network. Section 102(j)(2) provides that, notwithstanding the provisions of Section 1201(a), a person may engage in such testing, provided that the act does not constitute infringement or violate any other applicable law. Section 1201(j)(3) provides a non-exclusive list of factors that a court shall consider in determining whether a person benefits from this exception.

Section 1201(j)(4) permits an individual, notwithstanding the prohibition contained in Section 1201(a)(2), to develop, produce, distribute, or employ technological means for the sole purpose of performing acts of good faith security testing under Section 1201(j)(2), provided that technological means do not otherwise violate section 1201(a)(2). It it Congress' intent for this subsection to have application only with respect to good faith security testing. The intent is to ensure that parties engaged in good faith security testing have the tools available to them to complete such acts. The conferees understand that such tools may be coupled with additional tools that serve purposes wholly unrelated to the purposes of this Act. Eligibility for this exemption should not be precluded because these tools are coupled in such a way. The exemption would not be available, however, when such tools are coupled with a product or technology that violates section 1201(a)(2).

Section 1201(k)—Certain Analog Devices and Certain Technological Measures.—The conferees included a provision in the final legislation to require that analog video cassette recorders must conform to the two forms of copy control technology that are in wide use in the market today—the automatic gain control copy control technology and the colorstripe copy control technology. Neither are currently required elements of any format of video recorder, and the ability of each technology to work as intended depends on the consistency of design of video recorders or on incorporation of specific response elements in video recorders. Moreover, they do not employ encryption or scrambling of the content being protected.

As a consequence, these analog copy control technologies may be rendered ineffective either by redesign of video recorders or by intervention of "black box" devices or software "hacks". The conferees believe, and specifically intend, that the general circumvention prohibition in Section 1201(b)(2) will prohibit the manufacture and sale of "black box" devices that defeat these technologies. Moreover, the conferees believe and intend that the term "technology" should be read to include the software "hacks" of this type, and that such "hacks" are equally prohibited by the general circumvention provision. Devices have been marketed that claim to "fix" television picture disruptions allegedly caused by these technologies. However, as described in more detail below, there is no justification for the existence of any intervention device to "fix" such problems allegedly caused by these technologies, including "fixes" allegedly related to stabilization or clean up of the picture quality. Such devices should be seen for what they are—circumvention devices prohibited by this legislation.

The conferees emphasize that this particular provision is being included in this bill in order to deal with a very specific situation involving the protection of analog television programming and prerecorded movies and other audiovisual works in relation to recording capabilities of ordinary consumer analog video cassette recorders. The conferees also acknowledge that numerous other activities are underway in the private sector to develop, test, and apply copy control technologies, particularly in the digital environment. Subject to the other requirements of this section, circumvention of these technologies may be prohibited under this Act. Moreover, in some cases, these technologies are subject to licensing arrangements that provide legally enforceable obligations. The conferees applaud these undertakings and encourage their continuation, including the inter-industry meetings and working groups that are essential to their success. If, as a result of such activities, the participants request further Congressional action, the conferees expect that the Congress, and the committees involved in this Conference specifically, will consider whether additional statutory requirements are necessary and appropriate.

Before agreeing to include this requirement in the final legislation, the conferees assured themselves in relation to two critical issues—that these analog copy control technologies do not create "playability" problems on normal consumer electronics products and that the intellectual property necessary for the operation of these technologies will be available on reasonable and non-discriminatory terms.

In relation to the playability issue, the conferees have received authoritative assurances that playability issues have already been resolved in relation to the current specifications for these technologies and that an inter-industry forum will be established to resolve any playability issues that may arise in the future in relation to either revisions to the copy control specifications or development of new consumer technologies and products.

As further explanation on the playability issue, the conferees understand that the existing technologies were the subject of extensive testing that included all or virtually all of the major consumer electronics manufacturers and that this testing resulted in modification of the specifications to assure that the technologies do not produce noticeable adverse effects on the normal display of content that is protected utilizing these technologies. Currently, all manufacturers are effectively "on notice" of the existence of these technologies and their specifications and should be able to design their products to avoid any adverse effects.

In relation to the intellectual property licensing issues, the owner of the analog copy control intellectual property—Macrovision Corporation—has written a letter to the Chairman of the Conference Committee to provide the following assurances in relation to the licenses for intellectual property necessary to implement these analog copy control technologies: (1) that its intellectual property is generally available on reasonable and non-discriminatory terms, as that phrase is used in normal industry parlance; (2) that manufacturers of the analog video cassette recorders that are required by this legislation to conform to the technologies will be provided royalty-free licenses for the use of its relevant intellectual property in any device that plays back packaged, prerecorded content, or that reads and responds to or generates or carries forward the elements of these technologies associated with such content; (3) in the same circumstances as described in (2), other manufacturers of devices that generate, carry forward, or read and respond to these technologies will be provided licenses carrying only modest fees (in the range of $25,000—in current dollars—initial payment and lesser amounts as recurring annual fees); (4) that manufacturers of other products, including set-top-boxes and devices that perform similar functions (including integrated devices containing such functionality), will receive licenses on reasonable and non-discriminatory terms, including royalty terms and other considerations; and (5) that playability issues will not be the subject of license requirements but rather will be handled through an inter-industry forum that is being established for this purpose. The conferees emphasize the need for the technology's proprietor to adhere to these assurances in all future licensing.

With regard to the specific elements of this provision:

First, these technologies operate within the general NTSC television signal environment, and the conferees understand that this means that they work in relation to television signals that are of the 525/60 interlaced type, i.e., the standard definition television signal that has been used in the United States. The S-video and Hi-8 versions of covered devises are, of course, included with the coverage. Further, the new format analog video cassette recorders that are covered by paragraph (1)(A)(v) are those that receive the 525/60 interlaced type of input.

Second, it is the conferees understanding that not all analog video signals will utilize this technology, and, obviously, a device that receives a signal that does not contain these technologies need not read and respond to what might have been there if the signal had utilized the technology.

Third, a violation of paragraph (1) is a form of circumvention under Section 1201(b)(1). Accordingly, the enforcement of this provision is through the penalty provisions applicable to Section 1201 generally. A violation of paragraph (2) is also a violation of Section 1201 and hence subject to those penalty provisions. The inclusion of paragraph (5) with regard to enforcement of paragraph (2) is intended merely to allow the particular statutory damage provisions of Section 1203 to apply to violations of this subsection.

Fourth, the conferees understand that minor modifications may be necessary in the specifications for these technologies and intend that any such modifications (and related new "revised specifications") should

not negate in any way the requirements imposed by this subsection. The modifications should, however, be sufficiently minor that manufacturers of analog video cassette recorders should be free to continue to design products to conform to these technologies on the basis of the specifications existing, or actually implemented by manufacturers, as of the date of enactment of this Act.

Fifth, the provisions of paragraph (2) are intended to operate to allow copyright owners to use these technologies to prevent the making of a viewable copy of a pay-per-view, near video on demand, or video on demand transmission or prerecorded tape or disc containing one or more motion pictures or other audiovisual works, at the same time as consumers are afforded their customary ability to make analog copies of programming offered through other channels or services. Copyright owners may utilize these technologies to prevent the making of a "second generation" copy where the original transmission was through a pay television service (such as HBO, Showtime, or the like). The basic and extended basic tiers of programming services, whether provided through cable or other wireline, satellite, or future over the air terrestrial systems, may not be encoded with these technologies at all. The inclusion of paragraph (2)(D) is not intended to be read to authorize the making of a copy by consumers or others in relation to pay-per-view, near video on demand or video-on-demand transmissions or prerecorded media.

Sixth, the exclusion of professional analog video cassette recorders is necessary in order to allow the motion picture, broadcasting, and other legitimate industries and individual businesses to obtain and use equipment that is essential to their normal, lawful business operations. As a further explanation of the types of equipment that are to be subject to this exception, the following factors should be used in evaluating whether a specific product is a "professional" product:

(1) whether, in the preceding year, only a small number of the devices that are of the same kind, nature, and description were sold to consumers other than professionals employing such devices in a lawful business or industrial use;

(2) whether the device has special features designed for use by professionals employing the device in a lawful business or industrial use;

(3) whether the advertising, promotional and descriptive literature or other materials used to market the device were directed at professionals employing such devices in a lawful business or industrial use;

(4) whether the distribution channels and retail outlets through which the device is distributed and sold are ones used primarily to make sales to professionals employing such devices in a lawful business or industrial use; and

(5) whether the uses to which the device is most commonly put are those associated with the work of professionals employing the device in a lawful business or industrial use.

Seventh, paragraph (1)(B) contains a number of points worthy of explanation. In general, the requirement in paragraph (1)(B) is that manufacturers not materially reduce the responsiveness of their existing products and is also intended to be carried forward in the introduction of new models. This is particularly important in relation to the four-line colorstripe copy control technology, where the basic requirement in the statute is that a model of a recorder not be modified to eliminate conformance with the four-line colorstripe technology and where the standard for "conformance" is simply that the lines be visible and distracting in the display of a copy of material that was protected with the technology when the copy is played back, in normal viewing mode, by the recorder that made the copy and displayed on a reference display device. Specific elements of that requirement include:

(1) "Normal viewing mode" is intended to mean the viewing of a program in its natural sequence at the regular speed for playback and is not intended to allow "AGC-stripping viewing modes" to be developed. It is intended to exclude still frame or slow motion viewing from this definition.

(2) The "reference display device" concept is used in the legislation to acknowledge that manufacturers of analog video cassette recorders may use a specific display device to test their responsiveness to the colorstripe technology and then may use the level of such responsiveness as their baseline to achieve compliance. The reference display device for manufacturers that make televisions is intended to be a television set also made by that manufacturer. Where an analog video cassette recorder manufacturer does not make display devices, that manufacturer may choose a display device made by another manufacturer to serve as a reference. In general, a reference display device should be one that is generally representative of display devices in the U.S. market at the time of the testing.

(3) The conferees intend that the word "model" should be interpreted broadly and is not to be determined exclusively by alphabetic, numeric, name, or other label. Courts should look with suspicion at "new models" that reduce or eliminate conformance with this technology, as compared with that manufacturer's "previous models." Further, a manufacturer should not replace a previous model that showed intense lines with a model that shows weak lines in the played back picture.

For any new entrant into the VHS format analog video cassette recorder manufacturing business, the legislation provides that such a manufacturer will build its initial devices so as to be in conformance with the four-line colorstripe copy control technology based on the playback on a reference display device and thereafter not modify the design so that its products no longer conform to this technology.

Finally, the proprietor of the colorstripe copy control technology has supplied the Committee with a description of how the technology should work so as to provide the desired copy protection benefits. That description is as follows: the colorstripe copy control technology works as intended if a recorder records a signal that, when played back by the playback function of that recorder in the normal viewing mode, exhibits on a reference display device a significant distortion of color on the lines which begin with a colorstripe colorburst, or a complete or intermittent loss of color throughout at least 50% of the visible image. While the conferees realize that there may be variations among recorders in relation to this technology, the conferees expect the affected manufacturers to work with the proprietor of the technology to ensure that the basic goal of content protection through this technology is achieved. The conferees understand that content protection through this technology is to the manufacturers' benefit, as well, since it encourages content providers to release more valuable content than they might otherwise release without such protection. The conferees further intend that manufacturers should seek to respond to the colorstripe technology at the highest feasible level and should not modify their recorder designs, or substitute weaker responding recorders for stronger responding recorders in order to avoid the requirements of this subsection.

Eighth, the type of colorstrip copy control technology to which the legislation requires conformance is the four-line "half burst" type version of this technology. The content provider may shift, in an adaptive fashion, from no colorstripe encoding to the two-line version to the four-line version, in order to balance the copy control features of the technology against the possible playback distortion that the four-line technology occasionally creates. This legislation requires conformance only to the four-line version, but prohibits any effort to eliminate or reduce materially the effectiveness of the two-line version in relation to any particular analog video cassette recorder that, in fact, provides a response to the two-line version. The legislation also applies the "encoding rules" in paragraph (2) to either the two-line or four-line versions of this technology.

SECTION 104. EVALUATION OF IMPACT OF COPYRIGHT LAW AND AMENDMENTS ON ELECTRONIC COMMERCE AND TECHNOLOGICAL DEVELOPMENT

The Senate recedes to House section 105 with modification.

SECTION 105. EFFECTIVE DATE

The Senate recedes to House section 106. This section sets forth the effective date of the amendments made by this title. The corresponding sections of the House bill and the Senate amendment are substantively identical.

TITLE II—ONLINE COPYRIGHT INFRINGEMENT LIABILITY LIMITATION

Title II preserves strong incentives for service providers and copyright owners to cooperate to detect and deal with copyright infringements that take place in the digital networked environment. At the same time, it provides greater certainty to service providers concerning their legal exposure for infringements that may occur in the course of their activities.

SECTION 201. SHORT TITLE

The Senate recedes to House section 201. This section sets forth the short title of the Act. The Senate accepts the House formulation.

SECTION 202. LIMITATIONS ON LIABILITY FOR COPYRIGHT INFRINGEMENT

The Senate recedes to House section 202 with modification. This section amends chapter 5 of the Copyright Act (17 U.S.C. 501, *et. seq.*) to create a new section 512, titled "Limitations on liability relating to material online." New Section 512 contains limitations on service providers' liability for five general categories of activity set forth in subsections (a) through (d) and subsection (g). As provided in subsection (l), Section 512 is not intended to imply that a service provider is or is not liable as an infringer either for conduct that qualifies for a limitation of liability or for conduct that fails to so qualify. Rather, the limitations of liability apply if the provider is found to be liable under existing principles of law. This legislation is not intended to discourage the service provider from monitoring its service for infringing material. Courts should not conclude that the service provider loses eligibility for limitations on liability under section 512 solely because it engaged in a monitoring program.

The limitations in subsections (a) through (d) protect qualifying service providers from liability for all monetary relief for direct, vicarious and contributory infringement. Monetary relief is defined in subsection (k)(2) as encompassing damages, costs, attorneys' fees, and any other form of monetary payment. These subsections also limit injunctive relief against qualifying service providers to the extent specified in subsection (j). To qualify for these protections, service providers must meet the conditions set forth in subsection (i), and service providers' activities at issue must involve a function described in subsection (a), (b), (c), (d) or (g), respectively. The liability limitations apply to networks "operated by or for the service provider," thereby protecting both service providers who offer a service and subcontractors who may operate parts of, or an entire, system or network for another service provider.

Subsection (b) provides for a limitation on liability with respect to certain acts of "system caching". Paragraphs (5) and (6) of this subsection refer to industry standard communications protocols and technologies that are only now in the initial stages of development and deployment. The conferees expect that the Internet industry standards setting organizations, such as the Internet Engineering Task Force and the World Wide Web Consortium, will act promptly and without delay to establish these protocols so that subsection (b) can operate as intended.

Subsection (e) is included by the conferees in order to clarify the provisions of the bill with respect to the liability of nonprofit institutions of higher learning that act as service providers. This provision serves as a substitute for section 512(c)(2) of the House bill and for the study proposed by section 204 of the Senate amendment.

In general, Title II provides that a university or other public or nonprofit institution of higher education which is also a "service provider" (as that term is defined in title II) is eligible for the limitations on liability provided in title II to the same extent as any other service provider.

However, the conferees recognize that the university environment is unique. Ordinarily, a service provider may fail to qualify for the liability limitations in Title II simply because the knowledge or actions of one of its employees may be imputed to it under basic principles of respondeat superior and agency law. The special relationship which exists between universities and their faculty members (and their graduate student employees) when they are engaged in teaching or research is different from the ordinary employer-employee relationship. Since independence—freedom of thought, word and action—is at the core of academic freedom, the actions of university faculty and graduate student teachers and researchers warrant special consideration in the context of this legislation. This special consideration is embodied in new subsection (e), which provides special rules for determining whether universities, in their capacity as a service provider, may or may not be liable for acts of copyright infringement by faculty members or graduate students in certain circumstances.

Subsection (e)(1) provides that the online infringing actions of faculty members or graduate student employees, which occur when they are "performing a teaching or research function," will not be attributed to an institution of higher education in its capacity as their employer for purposes of section 512, if certain conditions are met. For the purposes of subsections (a) and (b) of section 512, such faculty member or graduate student shall be considered to be a person other than the institution, and for the purposes of subsections (c) and (d) of section 512 the faculty member's or graduate student's knowledge or awareness of his or her infringing activities will not be attributed to the institution, when they are performing a teaching or research function and the conditions in paragraphs (A)–(C) are met.

When the faculty member or the graduate student employee is performing a function other than teaching or research, this subsection provides no protection against liability for the institution if infringement occurs. For example, a faculty member or graduate student is performing a function other than teaching or research when the faculty member or graduate student is exercising institutional administrative responsibilities, or is carrying out operational responsibilities that relate to the institution's function as a service provider. Further, for the exemption to apply on the basis of research activity, the research must be a genuine academic exercise—i.e. a legitimate scholarly or scientific investigation or inquiry—rather than an activity which is claimed to be research but is undertaken as a pretext for engaging in infringing activity.

In addition to the "teaching or research function" test, the additional liability protections contained in subsection (e)(1) do not apply unless the conditions in paragraphs (A) through (C) are satisfied. First, paragraph (A) requires that the infringing activities must not involve providing online access to instructional materials that are "required or recommended" for a course taught by the infringing faculty member and/or the infringing graduate student within the last three years. The reference to "providing online access" to instructional materials includes the use of e-mail for that purpose. The phrase "required or recommended" is intended to refer to instructional materials that have been formally and specifically identified in a list of course materials that is provided to all students enrolled in the course for credit; it is not intended, however, to refer to the other materials which, from time to time, the faculty member or graduate student may incidentally and informally bring to the attention of students for their consideration during the course of instruction.

Second, under paragraph (B) the institution must not have received more than two notifications of claimed infringement with respect to the particular faculty member or particular graduate student within the last three years. If more than two such notifications have been received, the institution may be considered to be on notice of a pattern of infringing conduct by the faculty member or graduate student, and the limitation of subsection (e) does not apply with respect to the subsequent infringing actions of that faculty member or that graduate student. Where more than two notifications have previously been received with regard to a particular faculty member or graduate student, the institution will only become potentially liable for the infringing actions of that faculty member or that graduate student. Any notification of infringement that gives rise to a cause of action for misrepresentation under subsection (f) does not count for purposes of paragraph (B).

Third, paragraph (C) states that the institution must provide to the users of its system or network—whether they are administrative employees, faculty, or students—materials that accurately describe and promote compliance with copyright law. The legislation allows, but does not require, the institutions to use relevant informational materials published by the U.S. Copyright Office in satisfying the condition imposed by paragraph (C).

Subsection (e)(2) defines the terms and conditions under which an injunction may be issued against an institution of higher education that is a service provider in cases to which subsection (e)(1) applies. First, all the factors and considerations taken into account by a court under 17 U.S.C. §502 will apply in the case of any application for an injunction in cases covered by this subsection. In addition, the court is also required to consider the factors of particular significance in the digital environment listed in subsection (j)(2). Finally, the provisions contained in (j)(3), concerning notice to the service provider and the opportunity to appear, are also applicable in cases to which subsection (e)(1) applies.

The conferees also want to emphasize that nothing contained in subsection (e) should be interpreted to establish new liability for institutions of higher education, including under the doctrines of respondeat superior, or of contributory liability, where liability does not now exist. Further, subsection (e) does not alter any of the existing limitations on the rights of copyright owners that are already contained in the Copyright Act. So, for example, subsection (e) has no impact on the fair use (section 107) doctrine or the availability of fair use in a university setting; similarly, section 110 of the Copyright Act dealing with classroom performance and distance learning is not changed by subsection (e). In this regard, subsection (e) is fully consistent with the rest of section 512, which neither creates any new liabilities for service providers, nor affects any defense to infringement available to a service provider. Finally, subsection (e) has no applicability to any case asserting that a university is liable for copyright infringement in any capacity other than as a service provider.

SECTION 203. EFFECTIVE DATE

The Senate recedes to House section 203. This section sets forth the effective date of the amendments made by this title. The corresponding sections of the House bill and the Senate amendment are substantively identical.

TITLE III—COMPUTER MAINTENANCE OR REPAIR COPYRIGHT EXEMPTION

SECTIONS 301–302

The Senate recedes to the House sections 301–302. These sections effect a minor, yet important clarification in section 117 of the Copyright Act to ensure that the lawful owner or lessee of a computer machine may authorize an independent service provider—a person unaffiliated with either the owner or lessee of the machine—to activate the machine for the sole purpose of servicing its hardware components. When a computer is activated, certain software or parts thereof is automatically copied into the machine's random access memory, or "RAM". A clarification in the Copyright Act is necessary in light of judicial decisions holding that such copying is a "reproduction" under section 106 of the Copyright Act (17 U.S.C. 106),[1] thereby calling into question the right of an independent service provider who is not the licensee of the computer program resident on the client's machine to even activate that machine for the purpose of servicing the

[1] *See MAI Sys. Corp.* v. *Peak Computer*, 991 F. 2d 511 (9th Cir. 1993), cert. denied, 114 S. Ct. 671 (1994).

hardware components. This section does not in any way alter the law with respect to the scope of the term "reproduction" as it is used the Copyright Act. Rather, this section it is narrowly crafted to achieve the objectives just described—namely, ensuring that an independent service provider may turn on a client's computer machine in order to service its hardware components, provided that such service provider complies with the provisions of this section designed to protect the rights of copyright owners of computer software. The corresponding sections of the House bill and the Senate amendment are substantively identical.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. PROVISIONS RELATING TO THE COMMISSIONER OF PATENTS AND TRADEMARKS AND THE REGISTER OF COPYRIGHTS

The Senate recedes to the House sections 401–402 with modification. This section provides parity in compensation between the Register of Copyrights and the Commissioner of Patent and Trademarks and clarifies the duties and functions of the Register of Copyrights.

The new subsection to be added to 17 U.S.C. §701 sets forth in express statutory language the functions presently performed by the Register of Copyrights under her general administrative authority under subsection 701(a). Like the Library of Congress, its parent agency, the Copyright Office is a hybrid entity that historically has performed both legislative and executive or administrative functions. *Eltra Corp.* v. *Ringer*, 579 F.2d 294 (4th Cir. 1978). Existing subsection 701(a) addresses some of the latter functions. New subsection 701(b) is intended to codify the other traditional roles of the Copyright Office and to confirm the Register's existing areas of jurisdiction.

Paragraph (1) of new subsection 701(b) reflects the Copyright Office's longstanding role as advisor to Congress on matters within its competence. This includes copyright and all matters within the scope of title 17 of the U.S. Code. Such advice, which often takes the form of testimony of pending legislation, is separate from testimony or other recommendations by the Administration pursuant to the President's concurrent constitutional power to make recommendations to Congress.

Paragraph (2) reflects the Copyright Office's longstanding role in advising federal agencies on matters within its competence. For example, the Copyright Office advises the U.S. Trade Representative and the State Department on an ongoing basis on the adequacy of foreign copyright laws, and serves as a technical consultant to those agencies in bilateral, regional and multilateral consultations or negotiations with other countries on copyright-related issues.

Paragraph (3) reflects the Copyright Office's longstanding role as a key participant in international meetings of various kinds, including as part of U.S. delegations as authorized by the Executive Branch, serving as substantive experts on matters within the Copyright Office's competence. Recent examples of the Copyright Office acting in the capacity include its central role on the U.S. delegation that negotiated the two new WIPO treaties at the 1996 Diplomatic Conference in Geneva, and its ongoing contributions of technical assistance in the TRIPS Council of the World Trade Organization and the Register's role as a featured speaker at numerous WIPO conferences.

Paragraph (4) describes the studies and programs that the Copyright Office has long carried out as the agency responsible for administering the copyright law and other chapters of title 17. Among the most important of these studies historically was a series of comprehensive reports on various issues produced in the 1960's as the foundation of the last general revision of U.S. copyright law, enacted as the 1976 Copyright Act. Most recently the Copyright Office has completed reports on the cable and satellite compulsory licenses, legal protection for databases, and the economic and policy implications of term extension. Consistent with the Copyright Office's role as a legislative branch agency, these studies have often included specific policy recommendations to Congress. The reference to "programs" includes such projects as the conferences the Copyright Office cosponsored in 1996–97 on the subject of technology-based intellectual property management, and the International Copyright Institutes that the Copyright Office has conducted for foreign government officials at least annually over the past decade, often in cooperation with WIPO.

Paragraph (5) makes clear that the functions and duties set forth in this subsection are illustrative, not exhaustive. The Register of Copyrights would continue to be able to carry out other functions under her general authority under subsection 701(a), or as Congress may direct. The latter may include specific requests by Committees for studies and recommendations on subjects within the Copyright Office's area of competence. It may also include, when appropriate or required for constitutional reasons, directions to the Office in separate legislation.

SEC. 402. EPHEMERAL RECORDINGS

The Senate recedes to House section 411 with modification. This section amends section 112 of the Copyright Act (17 U.S.C. 112) to address two issues concerning the application of the ephemeral recording exemption in the digital age. The first of these issues is the relationship between the ephemeral recording exemption and the Digital Performance Right in Sound Recordings Act of 1995 ("DPRA"). The DPRA granted sound recording copyright owners the exclusive right to perform their works publicly by means of digital audio transmission, subject to certain limitations, particularly those set forth in section 114(d). Among those limitations is an exemption for nonsubscription broadcast transmissions, which are defined as those made by terrestrial broadcast stations licensed as such by the FCC. 17 U.S.C. §§114(d)(1)(A)(iii) and (j)(2). The ephemeral recording exemption presently privileges certain activities of a transmitting organization when it is entitled to transmit a performance or display under a license or transfer of copyright ownership or under the limitations on exclusive rights in sound recordings specified by section 114(a). The House bill and the Senate amendment propose changing the existing language of the ephemeral recording exemption (redesignated as 112(a)(1)) to extend explicitly to broadcasters the same privilege they already enjoy with respect to analog broadcasts.

The second of these issues is the relationship between the ephemeral recording exemption and the anticircumvention provisions that the bill adds as section 1201 of the Copyright Act. Concerns were expressed that if use of copy protection technologies became widespread, a transmitting organization might be prevented from engaging in its traditional activities of assembling transmission programs and making ephemeral recordings permitted by section 112 for purposes of its own transmissions within its local service area and of archival preservation and security. To address this concern, the House bill and the Senate amendment propose adding to section 112 a new paragraph that permits transmitting organizations to engage in activities that otherwise would violate section 1201(a)(1) in certain limited circumstances when necessary for the exercise of the transmitting organization's privilege to make ephemeral recordings under redesignated section 112(a)(1). By way of example, if a radio station could not make a permitted ephemeral recording from a commercially available phonorecord without violating section 1201(a)(1), then the radio station could request from the copyright owner the necessary means of making a permitted ephemeral recording. If the copyright owner did not then either provide a phonorecord that could be reproduced or otherwise provide the necessary means of making a permitted ephemeral recording from the phonorecord already in the possession of the radio station, the radio station would not be liable for violating section 1201(a)(1) for taking the steps necessary for engaging in activities permitted under section 112(a)(1). The radio station would, of course, be liable for violating section 1201(a)(1) if it engaged in activities prohibited by that section in other than the limited circumstances permitted by section 112(a)(1).

House section 411 is modified in two respects. First, the House provision is modified by adding a new paragraph (3) to include specific reference to section 114(f) in section 112(a) of the Copyright Act. The addition to section 112(a) of a reference to section 114(f) is intended to make clear that subscription music services, webcasters, satellite digital audio radio services and others with statutory licenses for the performance of sound recordings under section 114(f) are entitled to the benefits of section 112(a) with repsect to the sound recordings they transmit.

Second, the House provision is modified in paragraph (4). This amendment to section 112(a) is intended to clarify the application of section 112(a) to FCC-licensed broadcasters with respect to digital nonsubscription broadcast transmissions. Notwithstanding this clarification, neither the amendment in paragraph (4) of section 411 nor the creation of a statutory license in section 112(e) is in any manner intended to narrow the scope of section 112(a) or the entitlement of any transmitting entity to the exemption provided thereunder with respect to copies made for other transmissions.

SECTION 403. LIMITATIONS ON EXCLUSIVE RIGHTS; DISTANCE EDUCATION

The Senate recedes to House section 412. The corresponding sections of the House bill and the Senate amendment are substantively identical.

SECTION 404. EXEMPTION FOR LIBRARIES AND ARCHIVES

The Senate recedes to House section 413. The corresponding sections of the House bill and the Senate amendment are substantively identical.

SECTION 405. SCOPE OF EXCLUSIVE RIGHTS IN SOUND RECORDINGS; EPHEMERAL RECORDINGS

The Senate recedes to section 415 of the House bill with modification.

The amendments to sections 112 and 114 of the Copyright Act that are contained in this section of the bill are intended to achieve two purposes: first, to further a stated objective of Congress when it passed the Digital Performance Right in Sound Recordings Act of 1995 ("DPRA") to ensure that recording artists and record companies will be protected as new technologies affect the ways in

which their creative works are used; and second, to create fair and efficient licensing mechanisms that address the complex issues facing copyright owners and copyright users as a result of the rapid growth of digital audio services. This section contains amendments to sections 112 and 114 of Title 17 as follows:

Section 114(d)(1). Exempt Transmissions and Retransmissions. Section 114(d)(1)(A) is amended to delete two exemptions that were either the cause of confusion as to the application of the DPRA to certain nonsubscription services (especially webcaster) or which overlapped with other exemptions (such as the exemption in subsection (A)(iii) for nonsubscription broadcast transmissions). The deletion of these two exemptions is not intended to affect the exemption for nonsubscription broadcast transmissions.

Section 114(d)(2). Statutory Licensing of Certain Transmissions. The amendment to subsection (d)(2) extends the availability of a statutory license for subscription transmissions to cover certain eligible nonsubscription transmissions. "Eligible nonsubscription transmissions" are defined in subsection (j)(6). The amendment subdivides subsection (d)(2) into three subparagraphs ((A), (B), and (C)), each of which contains conditions of a statutory license for certain nonexempt subscription and eligible nonsubscription transmissions.

The conferees note that if a sound recording copyright owner authorizes a transmitting entity to take an action with respect to that copyright owner's sound recordings that is inconsistent with the requirements set forth in section 114(d)(2), the conferees do not intend that the transmitting entity be disqualified from obtaining a statutory license by virtue of such authorized actions.

The conferees intend that counts considering claims of infringement involving violation of the requirements set forth in section 114(d)(2) should judiciously apply the doctrine of de minimis non curat lex. A transmitting entity's statutory license should not be lost, and it becomes subject to infringement damages for transmissions that have been made as part of its service, merely because, through error, it has committed nonmaterial violations of these conditions that, once recognized, are not repeated. Similarly, if a service has multiple channels, the transmitting entity's statutory license should not be lost, and it become subject to infringement damages for transmissions that have been made on other channels, merely because of a violation in connection with one channel. Conversely, courts should not apply such doctrine in cases in which repeated or intentional violations occur.

Subparagraph (A) sets forth three conditions of a statutory license applicable to all nonexempt subscription and eligible nonsubscription transmissions. These three conditions are taken from previous subsection (d)(2).

Subparagraphs (B) and (C) are alternatives: a service is subject to the conditions in one or the other in addition to those in subparagraph (A). Subparagraph (B) contains conditions applicable only to nonexempt subscription transmissions made by a preexisting subscription service in the same transmission medium as was used by the service on July 31, 1998 or a preexisting satellite digital audio radio service. A preexisting subscription service is defined in subsection (j)(11); a preexisting satellite digital audio radio service is defined in (j)(10). The purpose of distinguishing preexisting subscription services making transmissions in the same medium as on July 31, 1998, was to prevent disruption of the existing operations by such services. There was only three such services that exist: DMX (operated by TCI Music), Music Choice (operated by Digital Cable Radio Associates), and the DiSH Network (operated by Muzak). As of July 31, 1998, DMX and Music Choice made transmissions via both cable and satellite media; the DiSH Network was available only via satellite. The purpose of distinguishing the preexisting satellite digital audio radio services is similar. The two preexisting satellite digital audio radio services, CD Radio and American Mobile Radio Corporation, have purchased licenses at auction from the FCC and have begun developing their satellite systems.

The two conditions contained in subparagraph (B) are taken directly from previous subsection (d)(2). Thus, preexisting satellite digital audio radio services and the historical operations of preexisting subscription services are subject to the same five conditions for eligibility for a statutory license, as set forth in subparagraphs (A) and (B), as have applied previously to these services.

Subparagraph (C) sets forth additional conditions for a statutory license applicable to all transmissions not subject to subparagraph (B), namely all eligible nonsubscription transmissions, subscription transmissions made by a new subscription service, and subscription transmissions made by a preexisting subscription service other than those made in the same transmission medium. Subparagraph (C) contains nine conditions.

Subparagraph (C)(i) requires that transmissions subject to a statutory license cannot exceed the sound recording performance complement defined in subsection (j)(13), which is unchanged by this amendment. Subparagraph (C)(i) eliminates this requirement for retransmissions of over-the-air broadcast transmissions by a transmitting entity that does not have the right or ability to control the programming of the broadcast station making the initial broadcast transmission, subject to two limitations.

First, the retransmissions are not eligible for statutory licensing if the retransmitted broadcast transmissions are in digital format and regularly exceed the sound recording performance complement. Second, the retransmissions are not eligible for statutory licensing if the retransmitted broadcast transmissions are in analog format and a substantial portion of the transmissions, measured on a weekly basis, violate the sound recording performance complement. In both cases, however, the retransmitter is disqualified from making its transmissions under a statutory license only if the sound recording copyright owner or its representative notifies the retransmitter in writing that the broadcast transmissions exceed the sound recording performance complement. Once notification is received, the transmitting entity making the retransmissions must cease retransmitting those broadcast transmissions that exceed the sound recording performance complement.

Subparagraph (C)(ii) imposes limitations on the types of prior announcements, in text, video or audio, that may be made by a service under the statutory license. Services may not publish advance program schedules or make prior announcements of the titles of specific sound recordings or the featured artists to be performed on the service. Moreover, services may not induce or facilitate the advance publication of schedules or the making of prior announcements, such as by providing a third party the list of songs or artists to be performed by the transmitting entity for publication or announcement by the third party. The conferees do not intend that the term "prior announcement" preclude a transmitting entity from identifying specific sound recordings immediately before they are performed.

However, services may generally use the names of several featured recording artists to illustrate the type of music being performed on a particular channel. Subparagraph (C)(iii) addresses limitations for archived programs and continuous programs, which are defined in subsections (j)(2) and (j)(4), respectively. Subparts (I) and (II) address archived programs. Archived programs often are available to listeners indefinitely or for a substantial period of time, thus permitting listeners to hear the same songs on demand any time the visitor wishes. Transmissions that are part of archived programs that are less than five hours long are ineligible for a statutory license. Transmissions that are part of archived programs more than five hours long are eligible only if the archived program is available on the webcaster's site or a related site for two weeks or less. The two-week limitation is to be applied in a reasonable manner to achieve the objectives of this subparagraph, so that, for example, archived programs that have been made available for two weeks are not removed from a site for a short period of time and then made available again. Furthermore, altering an archived program only in insignificant respects, such as by replacing or reordering only a small number of the songs comprising the program, does not render the program eligible for statutory licensing.

Subparagraph (C)(iii) also limits eligibility for a statutory license to transmissions that are not part of a continuous program of less than three hours duration (subparagraph (C)(iii)(III)). A listener to a continous program hears that portion of the program that is being transmitted to all listeners at the particular time that the listener accesses the program, much like a person who tunes in to an over-the-air broadcast radio station.

Finally, subparagraph (C)(iii)(IV) limits eligibility for a statutory license to transmissions that are not part of an identifiable program in which performances of sound recordings are rendered in a predetermined order that is transmitted at (a) more than three times in any two week period, which times have been publicly announced in advance, if the program is of less than one hour duration, or (b) more than four times in any two week period, which times have been publicly announced in advance, if the program is one hour or more. It is the conferee's intention that the two-week limitation in subclause (IV) be applied in a reasonable manner consistent with its purpose so that, for example, a transmitting entity does not regularly make all of the permitted repeat performances within several days.

Subparagraph (C)(iv) states that the transmitting entity may not avail itself of a statutory license if it knowingly performs a sound recording, as part of a service that offers transmissions of visual images contemporaneous with transmissions of sound recordings, in a manner that is likely to cause a listener to believe that there is an affiliation or association between the sound recording copyright owner or featured artist and a particular product or service advertised by the transmitting entity. This would cover, for example, transmitting an advertisement for a particular product or service every time a particular sound recording or

artist is transmitted; it would not cover more general practices such as targeting advertisements of particular products or services to specific channels of the service according to user demographics. If, for example, advertisements are transmitted randomly while sound recordings are performed, this subparagraph would be satisfied.

Subparagraph (C)(v) provides that, in order to qualify for a statutory license, a transmitting entity must cooperate with sound recording copyright owners to prevent a transmission recipient from scanning the transmitting entity's transmissions to select particular sound recordings. In the future, a device or software may be developed that would enable its user to scan one or more digital transmissions to select particular sound recordings or artists requested by its user. Such devices or software would be the equivalent of an on demand service that would not be eligible for the statutory license. Technology may be developed to defeat such scanning, and transmitting entities taking a statutory license are required to cooperate with sound recording copyright owners to prevent such scanning, provided that such cooperation does not impose substantial costs or burdens on the transmitting entity. This requirement does not apply to a satellite digital audio service, including a preexisting satellite digital audio radio service, that is in operation, or that is licensed by the FCC, on or before July 31, 1998.

Subparagraph (C)(vi) requires that if the technology used by the transmitting entity enables the transmitting entity to limit the making by the transmission recipient of phonorecords in a digital format directly of the transmission, the transmitting entity sets such technology to limit such making of phonorecords to the extent permitted by such technology. The conferees note that some software used to "stream" transmissions of sound recordings enables the transmitting entity to disable such direct digital copying of the transmitted data by transmission recipients. In such circumstances the transmitting entity must disable that direct copying function. Likewise, a transmitting entity may not take affirmative steps to cause or induce the making of any copies by a transmission recipient. For example, a transmitting entity may not encourage a transmission recipient to make either digital or analog copies of the transmission such as by suggesting that recipients should record copyrighted programming transmitted by the entity.

Subparagraph (C)(vii) requires that each sound recording transmitted by the transmitting entity must have been distributed to the public under authority of the copyright owner or provided to the transmitting entity with authorization that the transmitting entity may perform such sound recording. The conferees recognize that a disturbing trend on the Internet is the unauthorized performance of sound recordings not yet released for broadcast or sale to the public. The transmission of such pre-released sound recordings is not covered by the statutory license unless the sound recording copyright owner has given explicit authorization to the transmitting entity. This subparagraph also requires that the transmission be made from a phonorecord lawfully made under the authority of the copyright owner. A phonorecord provided by the copyright owner or an authorized phonorecord purchased through commercial distribution channels would qualify. However, the transmission of bootleg sound recordings (e.g., the recording of a live musical performance without the authority of the performer, as prohibited by Chapter 11) is ineligible for a statutory license.

Subparagraph (C)(viii) conditions a statutory license on whether a transmitting entity has accommodated and does not interfere with technical measures widely used by sound recording copyright owners to identify or protect their copyrighted works. Thus, the transmitting entity must ensure that widely used forms of identifying information, embedded codes, encryption or the like are not removed during the transmission process, provided that accommodating such measures is technologically feasible, does not impose substantial costs or burdens on the transmitting entity, and does not result in perceptible degradation of the digital audio or video signals being transmitted. This requirement shall not apply to a satellite digital audio service, including a preexisting satellite digital audio radio service, that is in operation, or that is licensed under the authority of the Federal communications Commission, on or before July 31, 1998, to the extent that such service has designed, developed or made commitments to procure equipment or technology that is not compatible with such technical measures before such technical measures are widely adopted by sound recording copyright owners.

Subparagraph (C)(ix) requires transmitting entities eligible for the statutory license to identify in textual data the title of the sound recording, the title of the album on which the sound recording appears (if any), and the name of the featured recording artist. These titles and names must be made during, but not before, the performance of the sound recording. A transmitting entity must ensure that the identifying information can easily be seen by the transmission recipient in visual form. For example, the information might be displayed by the software player used on a listener's computer to decode and play the sound recordings that are transmitted. Many webcasters already provide such information, but in order to give those who do not an adequate opportunity to do so this obligation does not take effect until one year after the effective date of the amendment. This requirement does not apply to the retransmission of broadcast transmissions by a transmitting entity that does not have the right or ability to control the programming of the broadcast station making the broadcast transmission, or where devices or technology intended for receiving the service that have the capability to display the identifying information are not common in the marketplace.

Section 114(f). Licenses for Certain Nonexempt Transmissions. Section 114(f) is amended to set forth procedures for determining reasonable rates and terms for those transmissions that qualify for statutory licensing under section 114(d)(2). Section 114(f) is divided into two parts: one applying to transmissions by preexisting subscription services and preexisting satellite digital audio radio services (subsection (f)(1)), and the other applying to transmissions by new subscription services (including subscription transmissions made by a preexisting subscription service other than those that qualify under subsection (f)(1)) as well as eligible nonsubscription transmissions (subsection (f)(2)).

Subsection (f)(1) provides for procedures applicable to subscription transmission by preexisting subscription services and preexisting satellite digital audio radio services. The conferees note that this subsection applies only to the three services considered preexisting subscription services, DMX, Music Choice and the DiSH Network, and the two services considered preexisting satellite digital audio radio services, CD Radio and American Mobile Radio Corporation. The procedures in this subsection remain the same as those applicable before the amendment, except that the rate currently in effect under prior section 114(f) is extended from December 31, 2000 until December 31, 2001. That rate currently applies to the three preexisting subscription services, and the Conferees take no position on its applicability to the two preexisting satellite digital audio radio services. Likewise, the initiation of the next voluntary negotiation period shall take place in the first week of January 2001 instead of January 2000 (subsection (f)(1)(C)(i)). These extensions are made purely to facilitate the scheduling of proceedings.

Subsection (f)(1)(B), which sets forth procedures for arbitration in the absence of negotiated license agreement, continues to provide that a copyright arbitration royalty panel should consider the objectives set forth in section 801(b)(1) as well as rates and terms for comparable types of subscription services.

Subsection (f)(2) addresses procedures applicable to eligible nonsubscription transmissions and subscription transmissions by new subscription services. The first such voluntary negotiation proceeding is to commence within 30 days after the enactment of this amendment upon publication by the Librarian of Congress of a notice in the Federal Register. The terms and rates established will cover qualified transmissions made between the effective date of this amendment and December 31, 2000, or such other date as the parties agree.

Subsection (f)(2) directs that rates and terms must distinguish between the different types of eligible nonsubscription transmission services and new subscription services then in operation. The conferees recognize that the nature of qualified transmissions may differ significantly based on a variety of factors. The conferees intend that criteria including, but not limited to, the quantity and nature of the use of sound recordings, and the degree to which use of the services substitutes for or promotes the purchase of phonorecords by consumers may account for differences in rates and terms between different types of transmissions.

Subsection (f)(2) also directs that a minimum fee should be established for each type of service. A minimum fee should ensure that copyright owners are fairly compensated in the event that other methodologies for setting rates might deny copyright owners an adequate royalty. For example, a copyright arbitration royalty panel should set a minimum fee that guarantees that a reasonable royalty rate is not diminished by different types of marketing practices or contractual relationships. For example, if the base royalty for a service were a percentage of revenues, the minimum fee might be a flat rate per year (or a flat rate per subscriber per year for a new subscription service).

Also, although subsection (f)(1) remains silent on the setting of a minimum fee for preexisting subscription services and preexisting satellite digital audio radio services, the Conferees do not intend that silence to mean that a minimum fee may or may not be established in appropriate circumstances when setting rates under subsection (f)(1) for preexisting subscription services and preexisting satellite digital audio radio services. Likewise, the absence of criteria that

should be taken into account for distinguishing rates and terms for different services in subsection (f)(1) does not mean that evidence relating to such criteria may not be considered when adjusting rates and terms for preexisting subscription services and preexisting satellite digital audio radio services in the future.

Subsection (f)(2)(B) sets forth procedures in the absence of a negotiated license agreement for rates and terms for qualifying transmissions under this subsection. Consistent with existing law, a copyright arbitration proceeding should be empaneled to determine reasonable rates and terms. The test applicable to establishing rates and terms is what a willing buyer and willing seller would have arrived at in marketplace negotiations. In making that determination, the copyright arbitration royalty panel shall consider economic, competitive and programming information presented by the parties including, but not limited to, the factors set forth in clauses (i) and (ii).

Subsection (f)(2)(C) specifies that rates and terms for new subscription and eligible nonsubscription transmissions should be adjusted every two years, unless the parties agree as to another schedule. These two-year intervals are based upon the conferees' recognition that the types of transmission services in existence and the media in which they are delivered can change significantly in a short period of time.

Subsection (j)(2)—"archived program." A program is considered an "archived program" if it is prerecorded or preprogrammed, available repeatedly on demand to the public and is performed in virtually the same order from the beginning.

The exception to the definition of "archived program" for a recorded event or broadcast transmission is intended to allow webcasters to make available on demand transmissions of recorded events or broadcast shows that do not include performances of entire sound recordings or feature performances of sound recordings (such as a commercially released sound recording used as a theme song), but that instead use sound recordings only in an incidental manner (such as in the case of brief musical transitions in and out of commercials and music played in the background at sporting events). Some broadcast shows may be part of series that do not regularly feature performances of sound recordings but that occasionally prominently include a sound recording (such as a performance of a sound recording in connection with an appearance on the show by the recording artist). The recorded broadcast transmission of the show should not be considered an "archived program" merely because of such a prominent performance in a show that is part of a series that does not regularly feature performances of sound recordings. The inclusion of this exception to the definition of "archived program" is not intended to impose any new license requirement where the broadcast programmer or syndicator grants the webcaster the right to transmit a sound recording, such as may be the case where the sound recording has been specially created for use in a broadcast show.

Subsection 114(j)(4)—"continuous program." A "continuous program" is one that is continuously performed in the same predetermined order. Such a program generally takes the form of a loop whereby the same set of sound recordings is performed repeatedly; rather than stopping at the end of the set, the program automatically restarts generally without interruption. In contrast to an archived program (which always is accessed from the beginning of the program), a transmission recipient typically accesses a continuous program in the middle of the program. Minor alterations in the program should not render a program outside the definition of "continuous program."

Subsection 114(j)(6)—"eligible nonsubscription transmission". An "eligible nonsubscription transmission" is one that meets the following criteria. First, the transmission must be noninteractive and nonsubscription in nature. Second, the transmission must be made as part of a service that provides audio programming consisting in whole or in part of performances of sound recordings. Third, the purpose of the transmission service must be to provide audio or entertainment programming, not to sell, advertise or promote particular goods or services. Thus, for example, an ordinary commercial Web site that was primarily oriented to the promotion of a particular company or to goods or services that are unrelated to the sound recordings or entertainment programming, but that provides background music would not qualify as a service that makes eligible nonsubscription transmissions. The site's background music transmissions would need to be licensed through voluntary negotiations with the copyright owners. However, the sale or promotion of sound recordings, live concerts or other musical events does not disqualify a service making a nonsubscription transmission. Furthermore, the mere fact that a transmission service is advertiser-based or may promote itself or an affiliated entertainment service does not disqualify it from being considered an eligible nonsubscription transmission service.

Subsection 114(j)(7)—"interactive service." The definition of "interactive service" is amended in several respects. First, personalized tranmissions—those that are specially created for a particular individual—are to be considered interactive. The recipient of the transmission need not select the particular recordings in the program for it to be considered personalized, for example, the recipient might identify certain artists that become the basis of the personal program. The conferees intend that the phrase "program specially created for the recipient" be interpreted reasonably in light of the remainder of the definition of "interactive service." For example, a service would be interactive if it allowed a small number of individuals to request that sound recordings be performed in a program specially created for that group and not available to any individuals outside of that group. In contrast, a service would not be interactive if it merely transmitted to a large number of recipients of the service's transmissions a program consisting of sound recordings requested by a small number of those listeners.

Second, a transmission of a particular sound recording on request is considered interactive "whether or not [the sound recording is] part of a program." This language clarifies that if a transmission recipient is permitted to select particular sound recordings in a prerecorded or predetermined program, the transmission is considered interactive. For example, if a transmission recipient has the ability to move forward and backward between songs in a program, the transmission is interactive. It is not necessary that the transmission recipient be able to select the actual songs that comprise the program. Additionally, a program consisting only of one sound recording would be considered interactive.

Third, the definition of "interactive service" is amended to clarify that certain channels or programs are not considered interactive provided that they do not substantially consist of requested sound recordings that are performed within one hour of the request or at a designated time. Thus, a service that engaged in the typical broadcast programming practice of including selections requested by listeners would not be considered interactive, so long as the programming did not substantially consist of requests regularly performed within an hour of the request, or at a time that the transmitting entity informs the recipient it will be performed.

The last sentence of the definition is intended to make clear that if a transmitting entity offers both interactive and noninteractive services then the noninteractive components are not to be treated as part of an interactive service, and thus are eligible for statutory licensing (assuming the other requirements of the statutory license are met). For example, if a Web site offered certain programming that was transmitted to all listeners who chose to receive it at the same time and also offered certain sound recordings that were transmitted to particular listeners on request, the fact that the latter are interactive transmissions would not preclude statutory licensing of the former.

Subsection 114(j)(8)—"new subscription service." A "new subscription service" is any service that is not a preexisting subscription service as defined in subsection (j)(11) or a preexisting satellite digital audio radio service as defined in subsection (j)(10).

Subsection 114(j)(10)—"preexisting satellite digital audio radio service." A "preexisting satellite digital audio service" is a subscription digital audio radio service provided pursuant to a satellite digital audio radio service license issued by the Federal Communications Commission on or before July 31, 1998. Subscription services offered by these licensed entities do not qualify as "preexisting subscription services" under section 114(j)(11) because they had not commenced making transmissions to the public for a fee on or before July 31, 1998. Only two entities received these licenses: CD Radio and American Mobile Radio Corporation.

A "preexisting satellite digital audio radio service" and "preexisting subscription service" may both include a limited number of sample channels representative of the subscription service that are made available on a nonsubscription basis in order to promote the subscription service. Such sample channels are to be treated as part of the subscription service and should be considered in determining the royalty rate for such subscription service. The conferees do not intend that the ability to offer such sample channels be used as a means to offer a nonsubscription service under the provisions of section 114 applicable to subscription services. The term "limited number" should be evaluated in the context of the overall service. For example, a service consisting of 100 channels should have no more than a small percentage of its channels as sample channels.

Subsection 114(j)(11)—"preexisting subscription service." A "preexisting subscription service" is a noninteractive subscription service that was in existence and was making transmissions to the public on or before July 31, 1998, and which is making transmissions similar in character to such transmissions made on or before July 31, 1998. Only three services qualify as a preexisting subscription service—DMX, Music Choice and the DiSH Network. As of July 31, 1998, DMX and Music Choice made transmissions

via both cable and satellite media; the DiSH Network was available only via satellite.

In grandfathering these services, the conferee's objective was to limit the grandfather to their existing services in the same transmission medium and to any new services in a new transmission medium where only transmissions similar to their existing service are provided. Thus, if a cable subscription music service making transmissions on July 31, 1998, were to offer the same music service through the Internet, then such Internet service would be considered part of a preexisting subscription service.

If, however, a subscription service making transmissions on July 31, 1998, were to offer a new service either in the same or new transmission medium by taking advantages of the capabilities of that medium, such new service would not qualify as a preexisting subscription service. For example, a service that offers video programming, such as advertising or other content, would not qualify as a preexisting service, provided that the video programming is not merely information about the service itself, the sound recordings being transmitted, the featured artists, composers or songwriters, or an advertisement to purchase the sound recording transmitted.

Section 114 in General. These amendments are fully subject to all the existing provisions of section 114. Specifically, these amendments and the statutory licenses they create are all fully subject to the safeguards for copyright owners of sound recordings and musical works contained in sections 114(c), 114(d)(4) and 114(i), as well as the other provisions of section 114. In addition, the conferees do not intend to affect any of the rights in section 115 that were clarified and confirmed in the DPRA.

Section 112(e)—Statutory License. Section 112(e) creates a statutory license for the making of an "ephemeral recording" of a sound recording by certain transmitting organizations. The new statutory license in section 112(e) is intended primarily for the benefit of entities that transmit performances of sound recordings to business establishments pursuant to the limitation on exclusive rights set forth in section 114(d)(1)(C)(iv). However, the new section 112(e) statutory license also is available to a transmitting entity with a statutory license under section 114(f) that chooses to avail itself of the section 112(e) statutory license to make more than the one phonorecord it is entitled to make under section 112(a). For example, the conferees understand that a webcaster might wish to reproduce multiple copies of a sound recording to use on different servers or to make transmissions at different transmission rates or using different transmission software. Under section 112(a), as amended by this bill, a webcaster with a section 114(f) statutory license is entitled to make only a single copy of the sound recording. Thus, the webcaster might choose to obtain a statutory license under section 112(e) to allow it to make such multiple copies. The conferees intend that the royalty rate payable under the statutory license may reflect the number of phonorecords of a sound recording made under a statutory license for use in connection with each type of service.

Ephemeral recordings of sound recordings made by certain transmitting organizations under section 112(e) may embody copyrighted musical compositions. The making of an ephemeral recording by such a transmitting organization of each copyrighted musical composition embodied in a sound recording it transmits is governed by existing section 112(a) (or section 112(a)(1) as revised by the Digital Millennium Copyright Act), and, pursuant to that section, authorization for the making of an ephemeral recording is conditioned in part on the transmitting organization being entitled to transmit to the public the performance of a musical composition under a license or transfer of the copyright.

The conditions listed in section 112(e)(1), most of which are also found in section 112(a), must be met before a transmitting organization is eligible for statutory licensing in accordance with section 112(e). First, paragraph (1)(A) provides that the transmitting organization may reproduce and retain only one phonorecord, solely for its own use (unless the terms and conditions of the statutory license allow for more). Thus, trafficking in ephemeral recordings, such as by preparing prerecorded transmission programs for use by third parties, is not permitted. This paragraph provides that the transmitting organization may reproduce and retain more than one ephemeral recording, in the manner permitted under the terms and conditions as negotiated or arbitrated under the statutory license. This provision is intended to facilitate efficient transmission technologies, such as the use of phonorecords encoded for optimal performance at different transmission rates or use of different software programs to receive the transmissions.

Second, paragraph (1)(B) requires that the phonorecord be used only for the transmitting organization's own transmissions originating in the United States, and such transmissions must be made under statutory license pursuant to section 114(f) or the exemption in section 114(d)(1)(C)(iv). Third, paragraph (1)(C) mandates that, unless preserved exclusively for archival purposes, the phonorecord be destroyed within six months from the time that the sound recording was first performed publicly by the transmitting organization. Fourth, paragraph (1)(D) limits the statutory license to reproductions of sound recordings that have been distributed to the public and that are made from a phonorecord lawfully made and acquired under the authority of the copyright owner.

Subsection (e)(3) clarifies the applicability of the antitrust laws to the use of common agents in negotiations and agreements relating to statutory licenses and other licenses. Under this subsection, the copyright owners of sound recordings and transmitting organizations entitled to obtain the statutory license in this section may negotiate collectively regarding rates and terms for the statutory license or other licenses. This subsection provides that such copyright owners and transmitting organizations may designate common agents to represent their interests to negotiate or administer such license agreements. This subsection closely follows the language of existing antitrust exemptions in copyright law, including the exemption found in the statutory licenses for transmitting sound recordings by digital audio transmission found in section 114(f).

Subsections (e)(4) and (5) address the procedures for determining rates and terms for the statutory license provided for in this section. These procedures are parallel to the procedures found in section 114(f)(2) for public performances of sound recordings by digital audio transmission by new subscription services and services making eligible Nonsubscription transmissions.

Subsection (e)(4) provides that the Librarian of Congress should publish notice of voluntary negotiation proceedings 30 days after enactment of this amendment. Such voluntary negotiation proceedings should address rates and terms for the making of ephemeral recordings under the conditions of this section for the period beginning on the date of enactment and ending on December 31, 2000. This subsection requires that a minimum fee be established as part of the rates and terms.

In the event that interested parties do not arrive at negotiated rates and terms during the voluntary negotiation proceedings, subsection (e)(5) provides for the convening of a copyright arbitration royalty panel to determine reasonable rates and terms for the making of ephemeral recordings under this subsection. This paragraph requires the copyright arbitration royalty panel to establish rates that reflect the fees that a willing buyer and seller would have agreed to in marketplace negotiations. In so doing, the copyright arbitration royalty panel should base its decision on economic, competitive and programming information presented by the parties, including, but not limited to, such evidence as described in subparagraphs (A) and (B).

Subseciton (e)(7) states that rates and terms either negotiated or established pursuant to arbitration shall be effective for two-year periods, and the procedures set forth in subsections (e)(4) and (5) shall be repeated every two years unless otherwise agreed to by the parties.

The conferees intend that the amendments regarding the statutory licenses in sections 112 and 114 contained in section 415 of this bill apply only to those statutory licenses.

SECTION 406. ASSUMPTION OF CONTRACTUAL OBLIGATIONS RELATED TO TRANSFERS OF RIGHTS IN MOTION PICTURES

The Senate recedes to House section 416 with modification.

Paragraph (a)—Assumption of obligations. The conferees have added to paragraph (a) language that defines more specifically the meaning of the "knows or has reason to know" standard in subsection (a)(1). There are three ways to satisfy this standard. The first is actual knowledge that a motion picture is or will be covered by a collective bargaining agreement. Subparagraph (ii) provides for constructive knowledge, established through two alternative mechanisms: recordation with the Copyright Office or identification of the motion picture on an online web site maintained by the relevant Guild, where the site makes it possible for users to verify their access date in a commercially reasonable way. In order to ensure that the transferee has a reasonable opportunity to obtain the relevant information, these mechanisms for providing constructive notice apply with respect to transfers that take place after the motion picture is completed. They also apply to transfer that take place before the motion picture is completed, but only if the transfer is within eighteen months prior to the filing of an application for copyright registration for the motion picture or, if there is no application for registration, within eighteen months of its first publication in the United States.

The constructive notice established by recordation for purposes of application of this section is entirely separate and independent from the constructive notice established by recordation under section 205(c) of the Copyright Act. This section does not condition constructive notice on prior registration of the motion picture with the Copyright Office, and does not have any hearing on the issue of priority between conflicting transfers as described in section 205(d) of the Copyright Act.

Subparagraph (iii) provides a more general standard for circumstances where the transferee does not have actual knowledge or constructive knowledge through one of the two mechanisms set out in subparagraph (ii), but is aware of facts and circumstances about the transfer that make it apparent that the motion picture is subject to a collective bargaining agreement. Such facts and information might include, for example, budget, location of principal photography, the identity of the talent associated with a project, or the existence of a personal service contract that references terms or conditions of collective bargaining agreements.

Paragraph (b)—Scope of exclusion of transfer of public performance rights.—New paragraph (b) clarifies that the "public performance" exclusion from the operation of paragraph (a) is intended to include performances described in paragraph (b) that reach viewers through transmission or retransmission of programming or program services via satellite, MMDS, cable, and other means of carriage. This paragraph does not expand or restrict in any way what constitutes a "public performance" for any other purpose. The public performance exclusion would not be rendered inoperable simply because a transfer of public performance rights is accompanied by a transfer of limited, incidental other rights necessary to implement or facilitate the exercise of the performance rights.

Paragraph (c)—Exclusion for grants of security interests.—The purpose of this paragraph is to ensure that banks and others providing financing for motion pictures will not be made subject to the assumption of obligations required by this section merely because they obtain a security interest in the motion picture. Because the term "transfer of copyright ownership" is defined in section 101 of the Copyright Act to include a "mortgage . . . or hypothecation" of any exclusive copyright right, this could be the unintended result of the statutory language. Under this exclusion, a bank or other party would not be subject to the application of paragraph (a) based solely on the acts of taking a security interest in a motion picture, foreclosing on that interest or otherwise exercising its rights as a secured party, or transferring or authorizing transfer of copyright ownership rights secured by its security interest to a third party. Neither would any subsequent transferee downstream from the initial secured party be subject to paragraph (a). The exclusion would apply irreespective of the form or language used to grant or create the security interest.

It should be clear that the only agreements whose terms are enforced by this section are collective bargaining agreements and assumption agreements. In the course of financing a motion picture, a lender, other financier or completion guarantor may execute an inter-creditor or subordination agreement with a union including obligations with respect to the payment of residuals or the obtaining of assumption agreements. Such agreements are not within the scope of this section, and nothing in this section obligates lenders, other financiers or completion guarantors to enter into these agreements, enforces any terms thereof or diminishes any rights that the parties may have under these agreements.

Paragraph (d)—Deferral pending resolution of bona fide dispute. Paragraph (d) allows a remote transferee obligated under paragraph (a)(1) to stay enforcement of this section while there exists a bona fide dispute between the applicable union and a prior transferor regarding obligations under this section. It contemplates that union claims not subject to bona fide dispute will be payable when due under the applicable collective bargaining agreement or through application of this section. Such disputes may be manifested through grievance or arbitration claims, litigation, or other claims resolution procedures in effect between the applicable parties.

Paragraph (e)—Scope of obligations determined by private agreement. Paragraph (e) states explicitly the basic principle of operation of this section. It makes clear that the section simply provides an enforcement mechanism for obligations that have already been agreed to in a collective bargaining agreement. It is not intended to affect in any way the scope or interpretation of the provisions of, or the acts required by, any collective bargaining agreement. The rights and obligations themselves, as well as the remedies for breach, are those that have been agreed to among the parties. Accordingly, they can be changed at any time by agreement.

The collective bargaining agreements contemplate that producers will obtain assumption agreements from distributors in certain circumstances. The statute states that where a producer does not comply with the obligation and obtain an assumption agreement where required, the law will act as though the producer has in fact done so. Thus, it removes the possibility of noncompliance with the obligation to obtain an assumption agreement. It does not require assumption agreements to be obtained in circumstances where the collective bargaining agreement would not require it. If there is a dispute over the meaning and applicabiity of provisions in the collective bargaining agreement, for example over the question of which distributors must be required to execute an assumption agreement, the statue does not resolve the dispute. It only requires whatever the collective bargaining agreement would require, and relegates the parties to the dispute mechanisms set out in that agreement.

This section does not expand or diminish rights or obligations under other laws that might regulate contractual obligations beyond the purpose of enforcing assumption agreements required by applicable collective bargaining agreements. Nor does this section prevent a person or entity that is subject to obligations under an assumption agreement (whether through application of this section or otherwise) from transferring any such obligations to a subsequent transferee of the applicable copyright rights, and thereby being relieved of its own obligations under the assumption agreement, to the extent permitted by, and under the conditions established in, the applicable assumption agreements.

TITLE V—PROTECTION OF CERTAIN ORIGINAL DESIGNS

Sections 501–505. The Senate recedes to House sections 601–602 with modification.

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

TOM BLILEY,
BILLY TAUZIN,
JOHN D. DINGELL,

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

HENRY J. HYDE,
HOWARD COBLE,
BOB GOODLATTE,
JOHN CONYERS, Jr.,
HOWARD L. BERMAN,
Managers on the Part of the House.

ORRIN G. HATCH,
STROM THURMOND,
PATRICK J. LEAHY,
Managers on the Part of the Senate.

□ 0140

ADJOURNMENT

Mr. LEACH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 40 minutes a.m.), the House adjourned until 9 a.m. today.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. YATES (at the request of Mr. GEPHARDT) for after 6 p.m. on Thursday, October 8, on account of wife's illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LAFALCE) to revise and extend their remarks and include extraneous material:)

Mr. BLUMENAUER, for 5 minutes, today.

Mr. HINCHEY, for 5 minutes, today.

Mr. SKAGGS, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Ms. JACKSON LEE of Texas, for 5 minutes, today.

Mr. FALEOMAVAEGA, for 5 minutes, today.

Ms. CARSON, for 5 minutes today.

(The following Members (at the request of Mr. LEACH) to revise and extend their remarks and include extraneous material:)

Mr. PAUL, for 5 minutes, today.

Mr. FOX of Pennsylvania.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. LAFALCE) and to include extraneous material:)

Mr. KIND.

Mr. MATSUI.

Mr. DINGELL.

Mrs. MEEK of Florida.

Mr. PAYNE.

Mr. LEVIN.

Mr. MILLER of California.

Mr. GUTIERREZ.

Mr. HAMILTON.

Mr. HINOJOSA.

Mr. STARK.

Mr. KUCINICH.

Mrs. CAPPS.
Ms. JACKSON-LEE of Texas.
Ms. EDDIE BERNICE JOHNSON of Texas.
Mr. DEUTSCH.
Ms. PELOSI.
Mr. LANTOS.
Mr. VISCLOSKY.
Mr. EVANS.
Mr. MARTINEZ.
Mr. SANDERS.
Ms. KAPTUR.
Mr. RANGEL.
Mr. HALL of Ohio.
Mr. TORRES.
Mr. BERMAN.
Mr. ROEMER.
Mr. BONIOR.
Mr. ABERCROMBIE.
Mr. CLEMENT.
Mr. UNDERWOOD.
Mr. BORSKI.

(The following Members (at the request of Mr. LEACH) and to include extraneous material:)

Mr. OXLEY.
Mr. CAMPBELL.
Mr. GILMAN.
Mr. BARR of Georgia.
Mr. MICA.
Mr. CRANE.
Mr. EHLERS.
Mr. MILLER of Florida.
Mr. LEWIS of California.
Mr. BEREUTER.
Mr. SHUSTER.
Mr. FRELINGHUYSEN.
Mr. SMITH of New Jersey.
Mr. SOLOMON.
Ms. ROS-LEHTINEN.
Mr. MANZULLO.
Mr. FORBES.
Mrs. KELLY.
Mr. CALLAHAN.
Mr. STUMP.

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. 449. To provide for the orderly disposal of certain Federal lands in Clark County, Nevada, and to provide for the acquisition of environmentally sensitive lands in the State of Nevada.

H.R. 930. To require Federal employees to use Federal travel charge cards for all payments of expenses of official Government travel, to amend title 31, United States Code, to establish requirements for prepayment audits of Federal agency transportation expenses, to authorize reimbursement of Federal agency employees for taxes incurred on travel or transportation reimbursements, and to authorize test programs for the payment of Federal employee travel expenses and relocation expenses.

H.R. 1481. To amend the Great Lakes Fish and Wildlife Restoration Act of 1990 to provide for implementation of recommendations of the United States Fish and Wildlife Service contained in the Great Lakes Fishery Resources Restoration Study.

H.R. 1836. To amend chapter 89 of title 5, United States Code, to improve administration of sanctions against unfit health care providers under the Federal Employees Health Benefits Program, and for other purposes.

H.R. 3381. To direct the Secretary of the Interior to exchange land and other assets with Big Sky Lumber Co, and other entities.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 744. An act to authorize the construction of the Fall River Water Users District Rural Water System and authorize financial assistance to the Fall River Water Users District, a nonprofit corporation, in the planning and construction of the water supply system, and for other purposes; to the Committee on Resources.

S. 736. An act to convey certain real property within the Carlsbad Project in New Mexico to the Carlsbad Irrigation District; to the Committee on Resources.

S. 1175. An act to reauthorize the Delaware Water Gap National Recreation Area Citizen Advisory Commission for 10 additional years; to the Committee on Resources.

S. 1637. An act to expedite State review of criminal records of applicants for bail enforcement officer employment, and for other purposes; to the Committee on Judiciary.

S. 1641. An act to direct the Secretary of the Interior to study alternatives for establishing a national historic trail to commemorate and interpret the history of women's rights in the United States; to the Committee on Resources.

S. 2041. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design, planning, and construction of the Willow Lake Natural Treatment System Project for the reclamation and reuse of water, and for other purposes; to the Committee on Resources.

S. 2086. An act to revise the boundaries of the George Washington Birthplace National Monument; to the Committee on Resources.

S. 2117. An act to authorize the construction of the Perkins County Rural Water System and authorize financial assistance to the Perkins County Rural Water System, Inc., a nonprofit corporation, in the planning and construction of the water supply system, and for other purposes; to the Committee on Resources.

S. 2140. An act to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to authorize the Secretary of the Interior to participate in the design, planning, and construction of the Denver Water Reuse project; to the Committee on Resources.

S. 2142. An act to authorize the Secretary of the Interior to convey the facilities of the Pine River Project, to allow jurisdictional transfer of lands between the Department of Agriculture, Forest Service, and the Department of the Interior, Bureau of Reclamation, and the Bureau of Indian Affairs; and for other purposes; to the Committee on Resources.

S. 2235. An act to amend part Q of the Omnibus Crime Control and Safe Streets Act of 1968 to encourage the use of school resource officers; to the Committee on the Judiciary and Education and the Workforce.

S. 2239. An act to revise the boundary of Fort Matanzas National Monument, and for other purposes; to the Committee on Resources.

S. 2240. An act to establish the Adams National Historical Park in the Commonwealth of Massachusetts, and for other purposes; to the Committee on Resources.

S. 2241. An act to provide for the acquisition of lands formerly occupied by the Franklin D. Roosevelt family at Hyde Park, New York, and for other purposes; to the Committee on Resources.

S. 2246. An act to amend the Act which established the Frederick Law Olmsted National Historic Site, in the Commonwealth of Massachusetts, by modifying the boundary, and for other purposes; to the Committee on Resources.

S. 2247. An act to permit the payment of medical expenses incurred by the United States Park Police in the performance of duty to be made directly by the National Park Service, and for other purposes; to the Committee on Government Reform and Oversight.

S. 2248. An act to allow for waiver and indemnification in mutual law enforcement agreements between the National Park Service and a State or political subdivision, when required by State law, and for other purposes; to the Committee on Resources.

S. 2284. An act to establish the Minuteman Missile National Historic Site in the State of South Dakota, and for other purposes; to the Committee on Resources and National Security.

S. 2285. An act to establish a commission, in honor of the 150th 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.

S. 2309. An act to authorize the Secretary of the Interior to enter into an agreement for the construction and operation of the Gateway Visitor Center at Independence National Historical Park; to the Committee on Resources.

S. 2468. An act to designate the Biscayne National Park Visitor Center as the Dante Fascell Visitor Center; to the Committee on Resources.

S. 2584. An act to provide aviator continuation pay for military members killed in Operation Desert Shield; to the Committee on National Security.

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. COBLE: Committee of Conference. Conference report on H.R. 2281. A bill to amend title 17, United States Code, to implement the World Intellectual Property Organization Copyright Treaty and Performances and Phonograms Treaty (Rept. 105–796). Ordered to be printed.

Mr. HANSEN: Committee on Standards of Official Conduct. Report in the matter of Representative Jay Kim (Rept. 105–797). Referred to the House Calendar.

Mr. DREIER: Committee of Rules. House Resolution 584. Resolution further providing for consideration of the bill (H.R. 4274) making appropriations for the Department of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1999, and for other purposes (Rept. 105–798). Referred to the House Calendar.

Mr. LINDER: Committee on Rules. House Resolution 586. Resolution waiving points of

order against the conference report to accompany the bill (H.R. 3150) to amend title 11 of the United States Code, and for other purposes (Rept. 105–799). Referred to the House Calendar.

Mr. GOODLING: Committee of Conference. Conference report on H.R. 1853. A bill to amend the Carl D. Perkins Vocational and Applied Technology Education Act (Rept. 105–800). Ordered to be printed.

Mr. BLILEY: Committee on Commerce. H.R. 3888. A bill to amend the Communications Act of 1934 to improve the protection of consumers against "slamming" by telecommunications carriers, and for other purposes; with an amendment (Rept. 105–801). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 4353. A bill to amend the Securities Exchange Act of 1934 and the Foreign Corrupt Practices Act of 1977 to improve the competitiveness of American business and promote foreign commerce, and for other purposes (Rept. 105–802). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

[Omitted from the RECORD of October 6, 1998]

Mr. BLILEY: Committee on Commerce. H.R. 3610. A bill to authorize and facilitate a program to enhance training, research and development, energy conservation and efficiency, and consumer education in the oilheat industry for the benefit of oilheat consumers and the public, and for other purposes, with an amendment; referred to the Committee on Science for a period ending not later than October 7, 1998, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(n), rule X. (Rept. 105–787, Pt. 1). Ordered to be printed.

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. MATSUI (for himself and Mr. NEAL of Massachusetts):

H.R. 4732. A bill to amend the Internal Revenue Code of 1986 to provide for the treatment of bonds issued to finance electric output facilities, and for other purposes; to the Committee on Ways and Means.

By Mr. MATSUI (for himself and Mr. BONIOR):

H.R. 4733. A bill to amend the Trade Act of 1974 to consolidate and enhance the trade adjustment assistance and NAFTA transitional adjustment assistance programs under that Act, and for other purposes; to the Committee on Ways and Means.

By Mr. WELLER:

H.R. 4734. A bill to amend part Q of the Omnibus Crime Control and Safe Streets Act of 1968 to reduce the local matching amount to ensure more local communities can qualify for a grant to hire additional police officers; to the Committee on the Judiciary.

By Mr. HANSEN:

H.R. 4735. A bill to make technical corrections to the Omnibus Parks and Public Lands Management Act of 1996; to the Committee on Resources.

By Mr. BENTSEN (for himself, Mr. CRANE, Mr. GANSKE, Mr. CARDIN, Mr. RANGEL, Mr. STARK, and Mr. JEFFERSON):

H.R. 4736. A bill to amend title XVIII of the Social Security Act to ensure the proper payment of approved nursing and paramedical education programs under the Medicare Program; to the Committee on Ways and Means, and in addition to the Committee on 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 Mrs. KELLY (for herself, Mr. FROST, Mr. GANSKE, Mrs. MCCARTHY of New York, Mr. GILMAN, Mr. CONDIT, Mr. LOBIONDO, and Mrs. MALONEY of New York):

H.R. 4737. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group and individual health insurance coverage and group health plans provide coverage for treatment of a minor child's congenital or developmental deformity or disorder due to trauma, infection, tumor, or disease; to the Committee on Commerce, and in addition to the Committees on Education and the Workforce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ARCHER:

H.R. 4738. A bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, provide tax relief for farmers and small businesses, and for other purposes; to the Committee on Ways and Means.

By Mr. CARDIN (for himself, Mr. STARK, and Mr. JEFFERSON):

H.R. 4739. A bill to amend the Internal Revenue Code of 1986 and title XVIII of the Social Security Act to provide for comprehensive financing for graduate medical education; to the Committee on Ways and Means, and in addition to the Committee on 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. CRANE:

H.R. 4740. A bill to amend the Internal Revenue Code of 1986 to permit early distributions from employee stock ownership plans for higher education expenses and first-time homebuyer purchases; to the Committee on Ways and Means.

By Mr. CRANE:

H.R. 4741. A bill to amend the Internal Revenue Code of 1986 to permit 401(k) contributions which would otherwise be limited by employer contributions to employee stock ownership plans; to the Committee on Ways and Means.

By Mr. DEFAZIO (for himself, Mr. SANDERS, and Ms. KAPTUR):

H.R. 4742. A bill to improve consumers' access to airline industry information, to promote competition in the aviation industry, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. FRANK of Massachusetts (for himself and Mr. NEAL of Massachusetts):

H.R. 4743. A bill to reauthorize the Public Safety and Community Policing Grants, and for other purposes; to the Committee on the Judiciary.

By Mr. GREENWOOD (for himself and Mr. GINGRICH):

H.R. 4744. A bill to amend the Public Health Service Act to provide for a system of sanctuaries for chimpanzees that have been designated as being no longer needed in research conducted or supported by the Public Health Service, and for other purposes; to the Committee on Commerce.

By Mr. GUTIERREZ:

H.R. 4745. A bill to establish a program to assist homeowners experiencing unavoidable, temporary difficulty making payments on mortgages insured under the National Housing Act; to the Committee on Banking and Financial Services.

By Mr. HANSEN:

H.R. 4746. A bill to provide for the settlement of the reserved water rights of the Shivwits and for the construction of certain water projects; to the Committee on Resources.

By Mr. MINGE (for himself and Mr. POMEROY):

H.R. 4747. A bill to respond to the needs of United States farmers experiencing exceptionally low commodity prices and extensive crop failures; to the Committee on Agriculture, and in addition to the Committee on the Budget, 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. QUINN:

H.R. 4748. A bill to amend title XVIII of the Social Security Act to require 6-months' advance notice to enrollees of Medicare managed care plans of termination of hospital participation under such plans; to the Committee on Ways and Means, and in addition to the Committee on 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. SAXTON (by request):

H.R. 4749. A bill to approve a governing international fishery agreement between the United States and the Republic of Estonia; to the Committee on Resources.

By Mr. SAXTON (by request):

H.R. 4750. A bill to approve a governing international fishery agreement between the United States and the Republic of Lithuania; to the Committee on Resources.

By Mr. SNYDER (for himself, Mr. EVANS, Mr. KENNEDY of Massachusetts, Mr. ABERCROMBIE, Mr. PETERSON of Minnesota, Ms. CARSON, Mr. MASCARA, Mr. FILNER, Mr. RODRIGUEZ, Ms. SÁNCHEZ, Mr. JOHNSON of Wisconsin, Mrs. CAPPS, and Mr. MALONEY of Connecticut):

H.R. 4751. A bill to amend title 38, United States Code, to establish a presumption of service connection for the occurrence of hepatitis C in certain veterans; to the Committee on Veterans' Affairs.

By Mr. SOLOMON:

H.R. 4752. A bill to prohibit the construction of any monument, memorial, or other structure at the site of the Iwo Jima Memorial in Arlington, Virginia, until such time as an environmental impact statement is prepared for the construction; to the Committee on Resources.

By Mr. STARK:

H.R. 4753. A bill to amend title XVIII of the Social Security Act to provide for coverage of outpatient prescription drugs and home infusion drug therapy under the Medicare Program; to the Committee on Ways and Means, and in addition to the Committee on

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. THOMPSON (for himself, Mr. DICKEY, Mr. STUPAK, Mr. PICKERING, and Mr. CALLAHAN):

H.R. 4754. A bill to direct the Secretary of the Interior to conduct a 12-month study of the effects of double-crested cormorants on commercial and recreational fish species, and to require the Secretary to prepare a long-term, comprehensive population management strategy for double-crested cormorants; to the Committee on Resources.

By Mr. YOUNG of Alaska:

H.R. 4755. A bill to provide for the collection and interpretation of state of the art, non-intrusive 3-dimensional seismic data on certain federal lands in Alaska, and for other purposes; to the Committee on Resources.

By Mr. SMITH of New Jersey:

H.J. Res. 132. A joint resolution commending the veterans of service in the Army who fought in the Battle of the Bulge during World War II, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. GILMAN:

H. Con. Res. 336. Concurrent resolution condemning the Taliban regime and supporting a broad based government in Afghanistan; to the Committee on International Relations.

By Mr. CAMPBELL (for himself and Mr. PAYNE):

H. Con. Res. 337. Concurrent resolution expressing the sense of Congress that the total debt owed by 31 of the 40 Heavily Indebted Poor Countries (HIPC) to the United States should be forgiven; to the Committee on Banking and Financial Services.

By Mr. CAMPBELL:

H. Con. Res. 338. Concurrent resolution expressing the sense of the Congress that the people of Taiwan deserve to be represented in international institutions; to the Committee on International Relations.

By Mr. CAMPBELL (for himself and Mr. PAYNE):

H. Con. Res. 339. Concurrent resolution concerning economic, humanitarian, and other assistance to the northern part of Somalia; to the Committee on International Relations.

By Mr. DELAY (for himself, Mr. ROHRABACHER, Mr. HEFLEY, Mr. WELDON of Pennsylvania, Mr. FORBES, Mr. BACHUS, Mr. ADERHOLT, Mr. GIBBONS, Mr. TALENT, Mr. SESSIONS, Mr. WATTS of Oklahoma, Mr. MILLER of Florida, Mr. HAYWORTH, Mr. CRANE, Mr. SALMON, Mr. JENKINS, and Mr. PETERSON of Pennsylvania):

H. Con. Res. 340. Concurrent resolution expressing the sense of the Congress that Iraq is in unacceptable and material breach of its international obligations, that the United States should insist on the removal, destruction, or otherwise rendering harmless of Iraq's programs for biological, chemical, and nuclear weapons, and that the United States should fully support the right of inspectors with the United Nations Special Commission on Iraq to unfettered and unannounced inspections of suspected weapons facilities; to the Committee on International Relations.

By Mr. DELAY (for himself, Mr. ROHRABACHER, Mr. HEFLEY, Mr. WELDON of Pennsylvania, Mr. FORBES, Mr. BACHUS, Mr. ADERHOLT, Mr. GIBBONS, Mr. TALENT, Mr. SESSIONS, Mr. WATTS of Oklahoma, Mr. MILLER of Florida, Mr. HAYWORTH, and Mr. KNOLLENBERG):

H. Con. Res. 341. Concurrent resolution expressing the sense of the Congress that the commitment made by the United States, in conjunction with South Korea and Japan, to arrange financing and construction of 2 nuclear reactors for North Korea, and to provide fuel oil and other assistance to North Korea, should be suspended until North Korea no longer poses a nuclear threat to the peace and security of Northeast Asia or the United States; to the Committee on International Relations.

By Mr. DELAY (for himself, Mr. ROHRABACHER, Mr. HEFLEY, Mr. WELDON of Pennsylvania, Mr. FORBES, Mr. BACHUS, Mr. ADERHOLT, Mr. GIBBONS, Mr. TALENT, Mr. SESSIONS, Mr. WATTS of Oklahoma, Mr. MILLER of Florida, Mr. HAYWORTH, and Mr. CRANE):

H. Con. Res. 342. Concurrent resolution expressing the sense of the Congress that the United States should impose sanctions under the Arms Export Control Act and the Iran-Iraq Arms Non-Proliferation Act of 1992 with respect to the acquisition by Iran of advanced missile technology from other countries and should take steps to expedite the development of a missile defense system for the United States and for United States forces wherever deployed to deal with the Iranian missile threat, and should assist Israel in the acquisition of a missile defense system capable of defending all Israeli territory against Iranian missile attack; referred to the Committee on International Relations, and in addition to the Committe on National Security, for a period to be subsequently determiend by the Speaker, in each case for consideration of such provisions as fall within the jurisdiciton of the committee concerned.

By Mrs. FOWLER (for herself, Mr. SPENCE, Mr. CUNNINGHAM, Mr. ROHRABACHER, Mr. SAM JOHNSON of Texas, Mr. HEFLEY, Mr. GOODLING, Mr. SMITH of Texas, Mr. DELAY, Mr. LINDER, Mr. RILEY, Mr. MCKEON, Mr. LEWIS of California, Mr. SOLOMON, Mr. MANZULLO, Mr. COBURN, Mr. BOB SCHAFFER, Mr. MCINTOSH, Mr. GRAHAM, Mr. JENKINS, Mr. NEUMANN, Mr. SUNUNU, Mr. OXLEY, Mr. MCCOLLUM, Mr. HOBSON, Mr. BEREUTER, Mr. TAUZIN, Mr. BILIRAKIS, Mr. TRAFICANT, Mr. REDMOND, Mrs. CUBIN, Ms. DUNN of Washington, Mr. HERGER, Mr. MCINNIS, Mr. LARGENT, Mr. FOLEY, Mr. SAXTON, Mr. JONES, Mr. MCCRERY, Mr. BAKER, Mr. HAYWORTH, Mr. COLLINS, Mr. BOEHNER, Mr. NETHERCUTT, Mr. DEAL of Georgia, Mr. WICKER, and Mr. STEARNS):

H. Con. Res. 343. Concurrent resolution expressing the opposition of Congress to any deployment of United States ground forces in Kosovo, a province in southern Serbia, for peacemaking or peacekeeping purposes; to the Committee on International Relations.

By Mr. PALLONE:

H. Con. Res. 344. Concurrent resolution to express the sense of the Congress regarding North Atlantic swordfish and other highly migratory species of fish; to the Committee on Resources.

By Mr. SAXTON (for himself, Mr. SALMON, and Mr. DELAY):

H. Con. Res. 345. Concurrent resolution expressing the sense of the Congress that the President should reassert the traditional opposition of the United States to the unilateral declaration of a Palestinian State; to the Committee on International Relations.

By Mr. SMITH of Oregon (for himself, Mr. BARRETT of Nebraska, Mr. THUNE, and Mr. HILL):

H. Res. 583. A resolution expressing the sense of the House with respect to barriers between the United States and Canada with regard to certain agriculture products; referred to the Committee on Ways and Means, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiciton of the committee concerned.

By Mr. SESSIONS (for himself, Mr. BONILLA, Mr. COMBEST, Mr. THORNBERRY, Mr. SMITH of Texas, Ms. GRANGER, Mr. BRADY of Texas, Mr. BARTON of Texas, and Mr. PAUL):

H. Res. 585. A resolution expressing the sense of the House of Representatives that the Health Care Financing Administration should adhere to the statutory deadlines for implementation of the prospective payment system for home health services furnished under the Medicare Program; referred to the Committee on Ways and Means, and in addition to the Committee on 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 Mrs. ROUKEMA (for herself and Ms. KAPTUR):

H. Res. 587. A resolution expressing the sense of the House of Representatives with respect to the seriousness of the national problems associated with mental illness and with respect to congressional intent to establish a mental illness task force; to the Committee on Commerce.

ADDITIONAL SPONSORS

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

H.R. 59: Mrs. WILSON.

H.R. 778: Mrs. CAPPS.

H.R. 779: Mrs. CAPPS.

H.R. 780: Mrs. CAPPS.

H.R. 857: Mr. BOSWELL.

H.R. 1711: Mr. ISTOOK.

H.R. 1816: Mr. FORBES.

H.R. 2001: Mr. SCARBOROUGH.

H.R. 2174: Mr. RANGEL.

H.R. 2397: Mr. BERRY, Mr. THORNBERRY, Mr. GOODLING, and Mr. HEFNER.

H.R. 2635: Mr. ADAM SMITH of Washington, Mr. HALL of Ohio, and Mr. BERMAN.

H.R. 2708: Mr. SMITH of Texas and Mr. NUSSLE.

H.R. 2882: Mr. SMITH of Texas.

H.R. 3333: Mr. OLVER.

H.R. 3435: Mr. ALLEN.

H.R. 3503: Mr. BLUMENAUER and Mr. PETRI.

H.R. 3511: Mr. OBERSTAR, Mr. WELDON of Florida, Mr. INGLIS of South Carolina, Mr. HULSHOF, Mrs. MINK of Hawaii, and Mr. STUPAK.

H.R. 3514: Mr. MASCARA.

H.R. 3622: Mr. ALLEN, Mr. DOYLE, Mr. ACKERMAN, and Ms. DEGETTE.

H.R. 3684: Mr. BACHUS.

H.R. 3794: Ms. MCCARTHY of Missouri, Mr. SANDLIN, Mr. MASCARA, and Mr. TIERNEY.

H.R. 3828: Mr. ALLEN, Ms. SLAUGHTER, Mr. THOMPSON, Mr. NORWOOD, Mrs. WILSON, Mr. STENHOLM, and Mr. CONDIT.

H.R. 4031: Mr. DAVIS of Illinois.

H.R. 4070: Mr. WEXLER.

H.R. 4175: Ms. KILPATRICK, Mr. WATT of North Carolina, and Ms. SLAUGHTER.

H.R. 4180: Mr. HINCHEY.

H.R. 4182: Mr. KANJORSKI and Mr. VISCLOSKY.

H.R. 4203: Mr. PAYNE, Mrs. TAUSCHER, and Mr. BALDACCI.

H.R. 4214: Mr. OLVER and Mrs. CAPPS.

H.R. 4291: Ms. DEGETTE, Mr. FROST, and Mrs. THURMAN.

H.R. 4403: Ms. DELAURO.

H.R. 4415: Mr. DAN SCHAEFER of Colorado.

H.R. 4448: Mr. FORD, Mr. HASTINGS of Florida, Mr. MCNULTY, Ms. DELAURO, and Mr. GUTIERREZ.

H.R. 4449: Mr. MORAN of Kansas, Mr. MILLER of California, and Mr. SMITH of Oregon.

H.R. 4467: Mr. GEJDENSON.

H.R. 4476: Mr. DOYLE and Mr. RUSH.

H.R. 4513: Mr. BOEHLERT.

H.R. 4538: Mrs. CAPPS and Mr. HOLDEN.

H.R. 4567: Mr. BILIRAKIS, Mr. STUMP, Mrs. NORTHUP, and Mr. SUNUNU.

H.R. 4590: Ms. KAPTUR and Mr. FORBES.

H.R. 4621: Mr. BOSWELL.

H.R. 4634: Mr. PALLONE and Mr. MCGOVERN.

H.R. 4648: Mr. DELAHUNT and Mr. TIERNEY.

H.R. 4659: Mr. ENGEL.

H.R. 4674: Mr. OLVER.

H.R. 4684: Mr. ENGLISH of Pennsylvania.

H.R. 4692: Mr. SANDLIN.

H. Con. Res. 154: Mr. MCDERMOTT.

H. Con. Res. 290: Mr. METCALF, Mr. MASCARA, Mr. BOYD, Mr. GEKAS, Mr. ADAM SMITH of Washington, Mr. MCINTOSH, Mr. BURTON of Indiana, Mr. BUYER, Mr. SHADEGG, and Mr. GIBBONS.

H. Con. Res. 313: Ms. KILPATRICK.

H. Con. Res. 328: Mr. KANJORSKI, Mr. SHIMKUS, Ms. CARSON, Mr. ACKERMAN, Mr. HOUGHTON, Mr. SANDERS, Mr. MCNULTY, and Mr. PRICE of North Carolina.

H. Res. 359: Mr. MATSUI, Mr. NEAL of Massachusetts, Mr. WALSH, Mr. WOLF, Mr. SNYDER, and Mr. MEEKS of New York.

H. Res. 460: Mr. MASCARA.

H. Res. 479: Mr. TIERNEY.

H. Res. 561: Mr. GOODLING and Mr. UNDERWOOD.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

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

H.R. 4567: Mr. ALLEN, Mr. STUPAK, and Mr. OBERSTAR.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4567

OFFERED BY: MR. THOMAS

(Amendments in the Nature of a Substitute)

AMENDMENT NO. 1: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Medicare Home Health and Veterans Health Care Improvement Act of 1998".

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

Sec. 1. Short title; table of contents.

TITLE I—MEDICARE HOME HEALTH CARE INTERIM PAYMENT SYSTEM REFINEMENT

Sec. 101. Increase in per beneficiary limits and per visit payment limits for payment for home health services.

TITLE II—VETERANS MEDICARE ACCESS IMPROVEMENT

Sec. 201. Improvement in veterans' access to services.

TITLE III—AUTHORIZATION OF ADDITIONAL EXCEPTIONS TO IMPOSITION OF PENALTIES FOR CERTAIN INDUCEMENTS

Sec. 301. Authorization of additional exceptions to imposition of penalties for providing inducements to beneficiaries.

TITLE IV—EXPANSION OF MEMBERSHIP OF THE MEDICARE PAYMENT ADVISORY COMMISSION

Sec. 401. Expansion of membership of MedPAC to 17.

TITLE V—REVENUE OFFSET

Sec. 501. Revenue offset.

TITLE I—MEDICARE HOME HEALTH CARE INTERIM PAYMENT SYSTEM REFINEMENT

SEC. 101. INCREASE IN PER BENEFICIARY LIMITS AND PER VISIT PAYMENT LIMITS FOR PAYMENT FOR HOME HEALTH SERVICES.

(a) INCREASE IN PER BENEFICIARY LIMITS.—Section 1861(v)(1)(L) of the Social Security Act (42 U.S.C. 1395x(v)(1)(L)) is amended—

(1) in the first sentence of clause (v), by inserting "subject to clause (viii)(I)," before "the Secretary";

(2) in clause (vi)(I), by inserting "subject to clauses (viii)(II) and (viii)(III)" after "fiscal year 1994"; and

(3) by adding at the end the following new clause:

"(viii)(I) In the case of a provider with a 12-month cost reporting period ending in fiscal year 1994, if the limit imposed under clause (v) (determined without regard to this subclause) for a cost reporting period beginning during or after fiscal year 1999 is less than the median described in clause (vi)(I) (but determined as if any reference in clause (v) to '98 percent' were a reference to '100 percent'), the limit otherwise imposed under clause (v) for such provider and period shall be increased by ½ of such difference.

"(II) Subject to subclause (IV), for new providers and those providers without a 12-month cost reporting period ending in fiscal year 1994, but for which the first cost reporting period begins before fiscal year 1999, for cost reporting periods beginning during or after fiscal year 1999, the per beneficiary limitation described in clause (vi)(I) shall be equal to 50 percent of the median described in such clause plus 50 percent of the sum of 75 percent of such median and 25 percent of 98 percent of the standardized regional average of such costs for the agency's census division, described in clause (v)(I). However, in no case shall the limitation under this subclause be less than the median described in clause (vi)(I) (determined as if any reference in clause (v) to '98 percent' were a reference to '100 percent').

"(III) Subject to subclause (IV), in the case of a new home health agency for which the first cost reporting period begins during or after fiscal year 1999, the limitation applied under clause (vi)(I) (but only with respect to such provider) shall be equal to 75 percent of the median described in clause (vi)(I).

"(IV) In the case of a new provider or a provider without a 12-month cost reporting period ending in fiscal year 1994, subclause (II) shall apply, instead of subclause (III), to a home health agency which filed an application for home health agency provider status under this title before September 15, 1998, or which was approved as a branch of its parent agency before such date and becomes a subunit of the parent agency or a separate agency on or after such date.

"(V) Each of the amounts specified in subclauses (I) through (III) are such amounts as adjusted under clause (iii) to reflect variations in wages among different areas.".

(b) REVISION OF PER VISIT LIMITS.—Section 1861(v)(1)(L)(i) of such Act (42 U.S.C. 1395x(v)(1)(L)(i)) is amended—

(1) in subclause (III), by striking "or";

(2) in subclause (IV)—

(A) by inserting "and before October 1, 1998," after "October 1, 1997,"; and

(B) by striking the period at the end and inserting ", or"; and

(3) by adding at the end the following new subclause:

"(V) October 1, 1998, 108 percent of such median.".

(c) EXCLUSION OF ADDITIONAL PART B COSTS FROM DETERMINATION OF PART B MONTHLY PREMIUM.—Section 1839 of such Act (42 U.S.C. 1395r) is amended—

(1) in subsection (a)(3), by inserting "(except as provided in subsection (g))" after "year that"; and

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

"(g) In estimating the benefits and administrative costs which will be payable from the Federal Supplementary Medical Insurance Trust Fund for a year for purposes of determining the monthly premium rate under subsection (a)(3), the Secretary shall exclude an estimate of any benefits and administrative costs attributable to the application of section 1861(v)(1)(L)(viii) or to the establishment under section 1861(v)(1)(L)(i)(V) of a per visit limit at 108 percent of the median (instead of 105 percent of the median), but only to the extent payment for home health services under this title is not being made under section 1895 (relating to prospective payment for home health services).".

(d) REPORTS ON SUMMARY OF RESEARCH CONDUCTED BY THE SECRETARY ON THE PROSPECTIVE PAYMENT SYSTEM.—By not later than January 1, 1999, the Secretary of Health and Human Services shall submit to Congress a report on the following matters:

(1) RESEARCH.—A description of any research paid for by the Secretary on the development of a prospective payment system for home health services furnished under the medicare care program under title XVIII of the Social Security Act, and a summary of the results of such research.

(2) SCHEDULE FOR IMPLEMENTATION OF SYSTEM.—The Secretary's schedule for the implementation of the prospective payment system for home health services under section 1895 of the Social Security Act (42 U.S.C. 1395fff).

(3) ALTERNATIVE TO 15 PERCENT REDUCTION IN LIMITS.—The Secretary's recommendations for one or more alternative means to provide for savings equivalent to the savings estimated to be made by the mandatory 15 percent reduction in payment limits for such home health services for fiscal year 2000 under section 1895(b)(3)(A) of the Social Security Act (42 U.S.C. 1395fff(b)(3)(A)), or, in the case the Secretary does not establish and implement such prospective payment system, under section 4603(e) of the Balanced Budget Act of 1997.

(e) MEDPAC REPORTS.—

(1) REVIEW OF SECRETARY'S REPORT.—Not later than 60 days after the date the Secretary of Health and Human Services submits to Congress the report under subsection (d), the Medicare Payment Advisory Commission (established under section 1805 of the Social Security Act (42 U.S.C. 1395b-6)) shall submit to Congress a report describing the

Commission's analysis of the Secretary's report, and shall include the Commission's recommendations with respect to the matters contained in such report.

(2) ANNUAL REPORT.—The Commission shall include in its annual report to Congress for June 1999 an analysis of whether changes in law made by the Balanced Budget Act of 1997, as modified by the amendments made by this section, with respect to payments for home health services furnished under the medicare program under title XVIII of the Social Security Act impede access to such services by individuals entitled to benefits under such program.

(f) GAO AUDIT OF RESEARCH EXPENDITURES.—The Comptroller General of the United States shall conduct an audit of sums obligated or expended by the Health Care Financing Administration for the research described in subsection (d)(1), and of the data, reports, proposals, or other information provided by such research.

(g) PROMPT IMPLEMENTATION.—The Secretary of Health and Human Services shall promptly issue (without regard to chapter 8 of title 5, United States Code) such regulations or program memoranda as may be necessary to effect the amendments made by this section for cost reporting periods beginning on or after October 1, 1998. In effecting the amendments made by subsection (a) for cost reporting periods beginning in fiscal year 1999, the "median" referred to in section 1861(v)(1)(L)(vi)(I) of the Social Security Act for such periods shall be the national standardized per beneficiary limitation specified in Table 3C published in the Federal Register on August 11, 1998, (63 FR 42926) and the "standardized regional average of such costs" referred to in section 1861(v)(1)(L)(v)(I) of such Act for a census division shall be the sum of the labor and nonlabor components of the standardized per-beneficiary limitation for that census division specified in Table 3B published in the Federal Register on that date (63 FR 42926) (or in Table 3D as so published with respect to Puerto Rico and Guam).

TITLE II—VETERANS MEDICARE ACCESS IMPROVEMENT

SEC. 201. IMPROVEMENT IN VETERANS' ACCESS TO SERVICES.

(a) IN GENERAL.—Title XVIII of the Social Security Act, as amended by sections 4603, 4801, and 4015(a) of the Balanced Budget Act of 1997, is amended by adding at the end the following:

"IMPROVING VETERANS' ACCESS TO SERVICES

"SEC. 1897. (a) DEFINITIONS.—In this section:

"(1) ADMINISTERING SECRETARIES.—The term 'administering Secretaries' means the Secretary of Health and Human Services and the Secretary of Veterans Affairs acting jointly.

"(2) PROGRAM.—The term 'program' means the program established under this section with respect to category A medicare-eligible veterans.

"(3) DEMONSTRATION PROJECT; PROJECT.—The terms 'demonstration project' and 'project' mean the demonstration project carried out under this section with respect to category C medicare-eligible veterans.

"(4) MEDICARE-ELIGIBLE VETERANS.—

"(A) CATEGORY A MEDICARE-ELIGIBLE VETERAN.—The term 'category A medicare-eligible veteran' means an individual—

"(i) who is a veteran (as defined in section 101(2) of title 38, United States Code) and is described in paragraph (1) or (2) of section 1710(a) of title 38, United States Code;

"(ii) who is entitled to hospital insurance benefits under part A of the medicare program and is enrolled in the supplementary medical insurance program under part B of the medicare program; and

"(iii) for whom the medical center of the Department of Veterans Affairs that is closest to the individual's place of residence is geographically remote or inaccessible from such place.

"(B) CATEGORY C MEDICARE-ELIGIBLE VETERAN.—The term 'category C medicare-eligible veteran' means an individual who—

"(i) is a veteran (as defined in section 101(2) of title 38, United States Code) and is described in section 1710(a)(3) of title 38, United States Code; and

"(ii) is entitled to hospital insurance benefits under part A of the medicare program and is enrolled in the supplementary medical insurance program under part B of the medicare program.

"(5) MEDICARE HEALTH CARE SERVICES.—The term 'medicare health care services' means items or services covered under part A or B of this title.

"(6) TRUST FUNDS.—The term 'trust funds' means the Federal Hospital Insurance Trust Fund established in section 1817 and the Federal Supplementary Medical Insurance Trust Fund established in section 1841.

"(b) PROGRAM AND DEMONSTRATION PROJECT.—

"(1) IN GENERAL.—

"(A) ESTABLISHMENT.—The administering Secretaries are authorized to establish—

"(i) a program (under an agreement entered into by the administering Secretaries) under which the Secretary of Health and Human Services shall reimburse the Secretary of Veterans Affairs, from the trust funds, for medicare health care services furnished to category A medicare-eligible veterans; and

"(ii) a demonstration project (under such an agreement) under which the Secretary of Health and Human Services shall reimburse the Secretary of Veterans Affairs, from the trust funds, for medicare health care services furnished to category C medicare-eligible veterans.

"(B) AGREEMENT.—The agreement entered into under subparagraph (A) shall include at a minimum—

"(i) a description of the benefits to be provided to the participants of the program and the demonstration project established under this section;

"(ii) a description of the eligibility rules for participation in the program and demonstration project, including any cost sharing requirements;

"(iii) a description of the process for enrolling veterans for participation in the program, which process may, to the extent practicable, be administered in the same or similar manner to the registration process established to implement section 1705 of title 38, United States Code;

"(iv) a description of how the program and the demonstration project will satisfy the requirements under this title;

"(v) a description of the sites selected under paragraph (2);

"(vi) a description of how reimbursement requirements under subsection (g) and maintenance of effort requirements under subsection (h) will be implemented in the program and in the demonstration project;

"(vii) a statement that all data of the Department of Veterans Affairs and of the Department of Health and Human Services that the administering Secretaries determine is necessary to conduct independent estimates and audits of the maintenance of effort requirement, the annual reconciliation, and related matters required under the program and the demonstration project shall be available to the administering Secretaries;

"(viii) a description of any requirement that the Secretary of Health and Human Services waives pursuant to subsection (d);

"(ix) a requirement that the Secretary of Veterans Affairs undertake and maintain outreach and marketing activities, consistent with capacity limits under the program, for category A medicare-eligible veterans;

"(x) a description of how the administering Secretaries shall conduct the data matching program under subparagraph (F), including the frequency of updates to the comparisons performed under subparagraph (F)(ii); and

"(xi) a statement by the Secretary of Veterans Affairs that the type or amount of health care services furnished under chapter 17 of title 38, United States Code, to veterans who are entitled to benefits under part A or enrolled under part B, or both, shall not be reduced by reason of the program or project.

"(C) COST-SHARING UNDER DEMONSTRATION PROJECT.—Notwithstanding any provision of title 38, United States Code, in order—

"(i) to maintain and broaden access to services,

"(ii) to encourage appropriate use of services, and

"(iii) to control costs,

the Secretary of Veterans Affairs may establish enrollment fees and copayment requirements under the demonstration project under this section consistent with subsection (d)(1). Such fees and requirements may vary based on income.

"(D) HEALTH CARE BENEFITS.—The administering Secretaries shall prescribe the minimum health care benefits to be provided under the program and demonstration project to medicare-eligible veterans enrolled in the program or project. Those benefits shall include at least all medicare health care services covered under this title.

"(E) ESTABLISHMENT OF SERVICE NETWORKS.—

"(i) USE OF VA OUTPATIENT CLINICS.—The Secretary of Veterans Affairs, to the extent practicable, shall use outpatient clinics of the Department of Veterans Affairs in providing services under the program.

"(ii) AUTHORITY TO CONTRACT FOR SERVICES.—The Secretary of Veterans Affairs may enter into contracts and arrangements with entities (such as private practitioners, providers of services, preferred provider organizations, and health care plans) for the provision of services for which the Secretary of Health and Human Services is responsible under the program or project under this section and shall take into account the existence of qualified practitioners and providers in the areas in which the program or project is being conducted. Under such contracts and arrangements, such Secretary of Health and Human Services may require the entities to furnish such information as such Secretary may require to carry out this section.

"(F) DATA MATCH.—

"(i) ESTABLISHMENT OF DATA MATCHING PROGRAM.—The administering Secretaries shall establish a data matching program under which there is an exchange of information of the Department of Veterans Affairs and of the Department of Health and Human Services as is necessary to identify veterans who are entitled to benefits under part A or enrolled under part B, or both, in order to carry out this section. The provisions of section 552a of title 5, United States Code, shall

apply with respect to such matching program only to the extent the administering Secretaries find it feasible and appropriate in carrying out this section in a timely and efficient manner.

"(ii) PERFORMANCE OF DATA MATCH.—The administering Secretaries, using the data matching program established under clause (i), shall perform a comparison in order to identify veterans who are entitled to benefits under part A or enrolled under part B, or both. To the extent such Secretaries deem appropriate to carry out this section, the comparison and identification may distinguish among such veterans by category of veterans, by entitlement to benefits under this title, or by other characteristics.

"(iii) DEADLINE FOR FIRST DATA MATCH.—The administering Secretaries shall first perform a comparison under clause (ii) by not later than October 31, 1998.

"(iv) CERTIFICATION BY INSPECTOR GENERAL.—

"(I) IN GENERAL.—The administering Secretaries may not conduct the program unless the Inspector General of the Department of Health and Human Services certifies to Congress that the administering Secretaries have established the data matching program under clause (i) and have performed a comparison under clause (ii).

"(II) DEADLINE FOR CERTIFICATION.—Not later than December 15, 1998, the Inspector General of the Department of Health and Human Services shall submit a report to Congress containing the certification under subclause (I) or the denial of such certification.

"(2) NUMBER OF SITES.—The program and demonstration project shall be conducted in geographic service areas of the Department of Veterans Affairs, designated jointly by the administering Secretaries after review of all such areas, as follows:

"(A) PROGRAM SITES.—

"(i) IN GENERAL.—Except as provided in clause (ii), the program shall be conducted in not more than 3 such areas with respect to category A medicare-eligible veterans.

"(ii) ADDITIONAL PROGRAM SITES.—Subject to the certification required under subsection (h)(1)(B)(iii), for a year beginning on or after January 1, 2003, the program shall be conducted in such areas as are designated jointly by the administering Secretaries after review of all such areas.

"(B) PROJECT SITES.—

"(i) IN GENERAL.—The demonstration project shall be conducted in not more than 3 such areas with respect to category C medicare-eligible veterans.

"(ii) MANDATORY SITE.—At least one of the areas designated under clause (i) shall encompass the catchment area of a military medical facility which was closed pursuant to either the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) or title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

"(3) RESTRICTION.—Funds from the program or demonstration project shall not be used for—

"(A) the construction of any treatment facility of the Department of Veterans Affairs; or

"(B) the renovation, expansion, or other construction at such a facility.

"(4) DURATION.—The administering Secretaries shall conduct and implement the program and the demonstration project as follows:

"(A) PROGRAM.—

"(i) IN GENERAL.—The program shall begin on January 1, 2000, in the sites designated under paragraph (2)(A)(i) and, subject to subsection (h)(1)(B)(iii)(II), for a year beginning on or after January 1, 2003, the program may be conducted in such additional sites designated under paragraph (2)(A)(ii).

"(ii) LIMITATION ON NUMBER OF VETERANS COVERED UNDER CERTAIN CIRCUMSTANCES.—If for a year beginning on or after January 1, 2003, the program is conducted only in the sites designated under paragraph (2)(A)(i), medicare health care services may not be provided under the program to a number of category-A medicare-eligible veterans that exceeds the aggregate number of such veterans covered under the program as of December 31, 2002.

"(B) PROJECT.—The demonstration project shall begin on January 1, 1999, and end on December 31, 2001.

"(C) IMPLEMENTATION.—The administering Secretaries may implement the program and demonstration project through the publication of regulations that take effect on an interim basis, after notice and pending opportunity for public comment.

"(5) REPORTS.—

"(A) PROGRAM.—By not later than September 1, 1999, the administering Secretaries shall submit a copy of the agreement entered into under paragraph (1) with respect to the program to Congress.

"(B) PROJECT.—By not later than November 1, 1998, the administering Secretaries shall submit a copy of the agreement entered into under paragraph (1) with respect to the project to Congress.

"(6) REPORT ON MAINTENANCE OF LEVEL OF HEALTH CARE SERVICES.—

"(A) IN GENERAL.—The Secretary of Veterans Affairs may not implement the program at a site designated under paragraph (2)(A) unless, by not later than 90 days before the date of the implementation, the Secretary of Veterans Affairs submits to Congress and to the Comptroller General of the United States a report that contains the information described in subparagraph (B). The Secretary of Veterans Affairs shall periodically update the report under this paragraph as appropriate.

"(B) INFORMATION DESCRIBED.—For purposes of subparagraph (A), the information described in this subparagraph is a description of the operation of the program at the site and of the steps to be taken by the Secretary of Veterans Affairs to prevent the reduction of the type or amount of health care services furnished under chapter 17 of title 38, United States Code, to veterans who are entitled to benefits under part A or enrolled under part B, or both, within the geographic service area of the Department of Veterans Affairs in which the site is located by reason of the program or project.

"(c) CREDITING OF PAYMENTS.—A payment received by the Secretary of Veterans Affairs under the program or demonstration project shall be credited to the applicable Department of Veterans Affairs medical care appropriation (and within that appropriation). Any such payment received during a fiscal year for services provided during a prior fiscal year may be obligated by the Secretary of Veterans Affairs during the fiscal year during which the payment is received.

"(d) APPLICATION OF CERTAIN MEDICARE REQUIREMENTS.—

"(1) AUTHORITY.—

"(A) IN GENERAL.—Except as provided under subparagraph (B), the program and the demonstration project shall meet all requirements of Medicare+Choice plans under part C and regulations pertaining thereto, and other requirements for receiving medicare payments, except that the prohibition of payments to Federal providers of services under sections 1814(c) and 1835(d), and paragraphs (2) and (3) of section 1862(a) shall not apply.

"(B) WAIVER.—Except as provided in paragraph (2), the Secretary of Health and Human Services is authorized to waive any requirement described under subparagraph (A), or approve equivalent or alternative ways of meeting such a requirement, but only if such waiver or approval—

"(i) reflects the unique status of the Department of Veterans Affairs as an agency of the Federal Government; and

"(ii) is necessary to carry out the program or demonstration project.

"(2) BENEFICIARY PROTECTIONS AND OTHER MATTERS.—The program and the demonstration project shall comply with the requirements of part C of this title that relate to beneficiary protections and other matters, including such requirements relating to the following areas, to the extent not inconsistent with subsection (b)(1)(B)(iii):

"(A) Enrollment and disenrollment.

"(B) Nondiscrimination.

"(C) Information provided to beneficiaries.

"(D) Cost-sharing limitations.

"(E) Appeal and grievance procedures.

"(F) Provider participation.

"(G) Access to services.

"(H) Quality assurance and external review.

"(I) Advance directives.

"(J) Other areas of beneficiary protections that the administering Secretaries determine are applicable to such program or project.

"(e) INSPECTOR GENERAL.—Nothing in the agreement entered into under subsection (b) shall limit the Inspector General of the Department of Health and Human Services from investigating any matters regarding the expenditure of funds under this title for the program and demonstration project, including compliance with the provisions of this title and all other relevant laws.

"(f) VOLUNTARY PARTICIPATION.—Participation of a category A medicare-eligible veteran in the program or category C medicare-eligible veteran in the demonstration project shall be voluntary.

"(g) PAYMENTS BASED ON REGULAR MEDICARE PAYMENT RATES.—

"(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, the Secretary of Health and Human Services shall reimburse the Secretary of Veterans Affairs for services provided under the program or demonstration project at a rate equal to 95 percent of the amount paid to a Medicare+Choice organization under part C of this title with respect to such an enrollee. In cases in which a payment amount may not otherwise be readily computed, the Secretary of Health and Human Services shall establish rules for computing equivalent or comparable payment amounts.

"(2) EXCLUSION OF CERTAIN AMOUNTS.—In computing the amount of payment under paragraph (1), the following shall be excluded:

"(A) SPECIAL PAYMENTS.—Any amount attributable to an adjustment under subparagraphs (B) and (F) of section 1886(d)(5) and subsection (h) of such section.

"(B) PERCENTAGE OF CAPITAL PAYMENTS.—An amount determined by the administering Secretaries for amounts attributable to payments for capital-related costs under subsection (g) of such section.

"(3) PERIODIC PAYMENTS FROM MEDICARE TRUST FUNDS.—Payments under this subsection shall be made—

"(A) on a periodic basis consistent with the periodicity of payments under this title; and

"(B) in appropriate part, as determined by the Secretary of Health and Human Services, from the trust funds.

"(4) CAP ON REIMBURSEMENT AMOUNTS.—The aggregate amount to be reimbursed under this subsection pursuant to the agreement entered into between the administering Secretaries under subsection (b) is as follows:

"(A) PROGRAM.—With respect to category A medicare-eligible veterans, such aggregate amount shall not exceed—

"(i) for 2000, a total of $50,000,000;

"(ii) for 2001, a total of $75,000,000; and

"(iii) subject to subparagraph (B), for 2002 and each succeeding year, a total of $100,000,000.

"(B) EXPANSION OF PROGRAM.—If for a year beginning on or after January 1, 2003, the program is conducted in sites designated under subsection (b)(2)(A)(ii), the limitation under subparagraph (A)(iii) shall not apply to the program for such a year.

"(C) PROJECT.—With respect to category C medicare-eligible veterans, such aggregate amount shall not exceed a total of $50,000,000 for each of calendar years 1999 through 2001.

"(h) MAINTENANCE OF EFFORT.—

"(1) MONITORING EFFECT OF PROGRAM AND DEMONSTRATION PROJECT ON COSTS TO MEDICARE PROGRAM.—

"(A) IN GENERAL.—The administering Secretaries, in consultation with the Comptroller General of the United States, shall closely monitor the expenditures made under this title for category A and C medicare-eligible veterans compared to the expenditures that would have been made for such veterans if the program and demonstration project had not been conducted. The agreement entered into by the administering Secretaries under subsection (b) shall require the Department of Veterans Affairs to maintain overall the level of effort for services covered under this title to such categories of veterans by reference to a base year as determined by the administering Secretaries.

"(B) DETERMINATION OF MEASURE OF COSTS OF MEDICARE HEALTH CARE SERVICES.—

"(i) IMPROVEMENT OF INFORMATION MANAGEMENT SYSTEM.—Not later than October 1, 2001, the Secretary of Veterans Affairs shall improve its information management system such that, for a year beginning on or after January 1, 2002, the Secretary of Veterans Affairs is able to identify costs incurred by the Department of Veterans Affairs in providing medicare health care services to medicare-eligible veterans for purposes of meeting the requirements with respect to maintenance of effort under an agreement under subsection (b)(1)(A).

"(ii) IDENTIFICATION OF MEDICARE HEALTH CARE SERVICES.—The Secretary of Health and Human Services shall provide such assistance as is necessary for the Secretary of Veterans Affairs to determine which health care services furnished by the Secretary of Veterans Affairs qualify as medicare health care services.

"(iii) CERTIFICATION BY HHS INSPECTOR GENERAL.—

"(I) REQUEST FOR CERTIFICATION.—The Secretary of Veterans Affairs may request the Inspector General of the Department of Health and Human Services to make a certification to Congress that the Secretary of Veterans Affairs has improved its management system under clause (i) such that the Secretary of Veterans Affairs is able to identify the costs described in such clause in a reasonably reliable and accurate manner.

"(II) REQUIREMENT FOR EXPANSION OF PROGRAM.—The program may be conducted in the additional sites under paragraph (2)(A)(ii) and cover such additional category A medicare eligible veterans in such additional sites only if the Inspector General of the Department of Health and Human Services has made the certification described in subclause (I).

"(III) DEADLINE FOR CERTIFICATION.—Not later than the date that is the earlier of the date that is 60 days after the Secretary of Veterans Affairs requests a certification under subclause (I) or June 1, 2002, the Inspector General of the Department of Health and Human Services shall submit a report to Congress containing the certification under subclause (I) or the denial of such certification.

"(C) MAINTENANCE OF LEVEL OF EFFORT.—

"(i) REPORT BY SECRETARY OF VETERANS AFFAIRS ON BASIS FOR CALCULATION.—Not later than the date that is 60 days after the date on which the administering Secretaries enter into an agreement under subsection (b)(1)(A), the Secretary of Veterans Affairs shall submit a report to Congress and the Comptroller General of the United States explaining the methodology used and basis for calculating the level of effort of the Department of Veterans Affairs under the program and project.

"(ii) REPORT BY COMPTROLLER GENERAL.—Not later than the date that is 180 days after the date described in clause (i), the Comptroller General of the United States shall submit to Congress and the administering Secretaries a report setting forth the Comptroller General's findings, conclusion, and recommendations with respect to the report submitted by the Secretary of Veterans Affairs under clause (i).

"(iii) RESPONSE BY SECRETARY OF VETERANS AFFAIRS.—The Secretary of Veterans Affairs shall submit to Congress not later than 60 days after the date described in clause (ii) a report setting forth such Secretary's response to the report submitted by the Comptroller General under clause (ii).

"(D) ANNUAL REPORT BY THE COMPTROLLER GENERAL.—Not later than December 31 of each year during which the program and demonstration project is conducted, the Comptroller General of the United States shall submit to the administering Secretaries and to Congress a report on the extent, if any, to which the costs of the Secretary of Health and Human Services under the medicare program under this title increased during the preceding fiscal year as a result of the program or demonstration project.

"(2) REQUIRED RESPONSE IN CASE OF INCREASE IN COSTS.—

"(A) IN GENERAL.—If the administering Secretaries find, based on paragraph (1), that the expenditures under the medicare program under this title increased (or are expected to increase) during a fiscal year because of the program or demonstration project, the administering Secretaries shall take such steps as may be needed—

"(i) to recoup for the medicare program the amount of such increase in expenditures; and

"(ii) to prevent any such increase in the future.

"(B) STEPS.—Such steps—

"(i) under subparagraph (A)(i) shall include payment of the amount of such increased expenditures by the Secretary of Veterans Affairs from the current medical care appropriation for the Department of Veterans Affairs to the trust funds; and

"(ii) under subparagraph (A)(ii) shall include lowering the amount of payment under the program or project under subsection (g)(1), and may include, in the case of the demonstration project, suspending or terminating the project (in whole or in part).

"(i) EVALUATION AND REPORTS.—

"(1) INDEPENDENT EVALUATION BY GAO.—

"(A) IN GENERAL.—The Comptroller General of the United States shall conduct an evaluation of the program and an evaluation of the demonstration project, and shall submit annual reports on the program and demonstration project to the administering Secretaries and to Congress.

"(B) FIRST REPORT.—The first report for the program or demonstration project under subparagraph (A) shall be submitted not later than 12 months after the date on which the Secretary of Veterans Affairs first provides services under the program or project, respectively.

"(C) FINAL REPORT ON DEMONSTRATION PROJECT.—A final report shall be submitted with respect to the demonstration project not later than 3½ years after the date of the first report on the project under subparagraph (B).

"(D) CONTENTS.—The evaluation and reports under this paragraph for the program or demonstration project shall include an assessment, based on the agreement entered into under subsection (b), of the following:

"(i) Any savings or costs to the medicare program under this title resulting from the program or project.

"(ii) The cost to the Department of Veterans Affairs of providing care to category A medicare-eligible veterans under the program or to category C medicare-eligible veterans under the demonstration project, respectively.

"(iii) An analysis of how such program or project affects the overall accessibility of medical care through the Department of Veterans Affairs, and a description of the unintended effects (if any) upon the patient enrollment system under section 1705 of title 38, United States Code.

"(iv) Compliance by the Department of Veterans Affairs with the requirements under this title.

"(v) The number of category A medicare-eligible veterans or category C medicare-eligible veterans, respectively, opting to participate in the program or project instead of receiving health benefits through another health insurance plan (including benefits under this title).

"(vi) A list of the health insurance plans and programs that were the primary payers for medicare-eligible veterans during the year prior to their participation in the program or project, respectively, and the distribution of their previous enrollment in such plans and programs.

"(vii) Any impact of the program or project, respectively, on private health care providers and beneficiaries under this title that are not enrolled in the program or project.

"(viii) An assessment of the access to care and quality of care for medicare-eligible veterans under the program or project, respectively.

"(ix) An analysis of whether, and in what manner, easier access to medical centers of the Department of Veterans Affairs affects the number of category A medicare-eligible veterans or C medicare-eligible veterans, respectively, receiving medicare health care services.

"(x) Any impact of the program or project, respectively, on the access to care for category A medicare-eligible veterans or C

medicare-eligible veterans, respectively, who did not enroll in the program or project and for other individuals entitled to benefits under this title.

"(xi) A description of the difficulties (if any) experienced by the Department of Veterans Affairs in managing the program or project, respectively.

"(xii) Any additional elements specified in the agreement entered into under subsection (b).

"(xiii) Any additional elements that the Comptroller General of the United States determines is appropriate to assess regarding the program or project, respectively.

"(2) REPORTS BY SECRETARIES ON PROGRAM AND DEMONSTRATION PROJECT WITH RESPECT TO MEDICARE-ELIGIBLE VETERANS.—

"(A) DEMONSTRATION PROJECT.—Not later than 6 months after the date of the submission of the final report by the Comptroller General of the United States on the demonstration project under paragraph (1)(C), the administering Secretaries shall submit to Congress a report containing their recommendation as to—

"(i) whether there is a cost to the health care program under this title in conducting the demonstration project;

"(ii) whether to extend the demonstration project or make the project permanent; and

"(iii) whether the terms and conditions of the project should otherwise be continued (or modified) with respect to medicare-eligible veterans.

"(B) PROGRAM.—Not later than 6 months after the date of the submission of the report by the Comptroller General of the United States on the third year of the operation of the program, the administering Secretaries shall submit to Congress a report containing their recommendation as to—

"(i) whether there is a cost to the health care program under this title in conducting the program under this section;

"(ii) whether to discontinue the program with respect to category A medicare-eligible veterans; and

"(iii) whether the terms and conditions of the program should otherwise be continued (or modified) with respect to medicare-eligible veterans.

"(j) APPLICATION OF MEDIGAP PROTECTIONS TO DEMONSTRATION PROJECT ENROLLEES.—(1) Subject to paragraph (2), the provisions of section 1882(s)(3) (other than clauses (i) through (iv) of subparagraph (B)) and 1882(s)(4) shall apply to enrollment (and termination of enrollment) in the demonstration project, in the same manner as they apply to enrollment (and termination of enrollment) with a Medicare+Choice organization in a Medicare+Choice plan.

"(2) In applying paragraph (1)—

"(A) any reference in clause (v) or (vi) of section 1882(s)(3)(B) to 12 months is deemed a reference to 36 months; and

"(B) the notification required under section 1882(s)(3)(D) shall be provided in a manner specified by the Secretary of Veterans Affairs.".

(b) REPEAL OF PLAN REQUIREMENT.—Subsection (b) of section 4015 of the Balanced Budget Act of 1997 (relating to an implementation plan for Veterans subvention) is repealed.

(c) REPORT TO CONGRESS ON A METHOD TO INCLUDE THE COSTS OF VETERANS AFFAIRS AND MILITARY FACILITY SERVICES TO MEDICARE-ELIGIBLE BENEFICIARIES IN THE CALCULATION OF MEDICARE+CHOICE PAYMENT RATES.—The Secretary of Health and Human Services shall report to the Congress by not later than January 1, 2001, on a method to phase-in the costs of military facility services furnished by the Department of Veterans Affairs or the Department of Defense to medicare-eligible beneficiaries in the calculation of an area's Medicare+Choice capitation payment. Such report shall include on a county-by- county basis—

(1) the actual or estimated cost of such services to medicare-eligible beneficiaries;

(2) the change in Medicare+Choice capitation payment rates if such costs are included in the calculation of payment rates;

(3) one or more proposals for the implementation of payment adjustments to Medicare+Choice plans in counties where the payment rate has been affected due to the failure to calculate the cost of such services to medicare-eligible beneficiaries; and

(4) a system to ensure that when a Medicare+Choice enrollee receives covered services through a facility of the Department of Veterans Affairs or the Department of Defense there is an appropriate payment recovery to the medicare program.

TITLE III—AUTHORIZATION OF ADDITIONAL EXCEPTIONS TO IMPOSITION OF PENALTIES FOR CERTAIN INDUCEMENTS

SEC. 301. AUTHORIZATION OF ADDITIONAL EXCEPTIONS TO IMPOSITION OF PENALTIES FOR PROVIDING INDUCEMENTS TO BENEFICIARIES.

(a) IN GENERAL.—Subparagraph (B) of section 1128A(i)(6) of the Social Security Act (42 U.S.C. 1320a–7a(i)(6)) is amended to read as follows:

"(B) any permissible practice described in any subparagraph of section 1128B(b)(3) or in regulations issued by the Secretary;".

(b) EXTENSION OF ADVISORY OPINION AUTHORITY.—Section 1128D(b)(2)(A) of such Act (42 U.S.C. 1320a–7d(b)(2)(A)) is amended by inserting "or section 1128A(i)(6)" after "1128B(b)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(d) INTERIM FINAL RULEMAKING AUTHORITY.—The Secretary of Health and Human Services may promulgate regulations that take effect on an interim basis, after notice and pending opportunity for public comment, in order to implement the amendments made by this section in a timely manner.

TITLE IV—EXPANSION OF MEMBERSHIP OF THE MEDICARE PAYMENT ADVISORY COMMISSION

SEC. 401. EXPANSION OF MEMBERSHIP OF MEDPAC TO 17.

(a) IN GENERAL.—Section 1805(c)(1) of the Social Security Act (42 U.S.C. 1395b–6(c)(1)), as added by section 4022 of the Balanced Budget Act of 1997, is amended by striking "15" and inserting "17".

(b) INITIAL TERMS OF ADDITIONAL MEMBERS.—

(1) IN GENERAL.—For purposes of staggering the initial terms of members of the Medicare Payment Advisory Commission (under section 1805(c)(3) of such Act (42 U.S.C. 1395b–6(c)(3)), the initial terms of the two additional members of the Commission provided for by the amendment under subsection (a) are as follows:

(A) One member shall be appointed for one year.

(B) One member shall be appointed for two years.

(2) COMMENCEMENT OF TERMS.—Such terms shall begin on May 1, 1999.

TITLE V—REVENUE OFFSET

SEC. 501. REVENUE OFFSET.

(a) IN GENERAL.—Subparagraph (B) of section 408A(c)(3) of the Internal Revenue Code of 1986 is amended by striking "relates" and all that follows and inserting "relates, the taxpayer's adjusted gross income exceeds $145,000 ($290,000 in the case of a joint return)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to distributions after December 31, 1998.